CLOSED VOLUME
See Vol. 5

FILE NO. 1/3-3-14

— INDIAN AFFAIRS BRANCH —

VOLUME 4

FROM Dec, 1967

TO Feb, 1969

SUBJECT STATUS OF INDIANS
JAY TREATY
INTERNATIONAL BORDER PRIVILEGES

FILE NO. 1/3-3-14 VOL. 4

TRANSFERRED TO P.A.R.C.

REFERENCE				DISPOSAL			
Referred To	By	Remarks	Date	PA or BF	By	Date	For C.R. Use
AM6	4	[illegible]	16-11-68	PA	AM6	16/5/68	22
AM8	25	Reg	17/5/68	PA	AM6	31/5/68	22
AM3	7	Reg	21-6-68	PA	AM3	25/6/68	22
AM3	6	Reg	8-8-68	PA	AM3	8/8/68	
AI6	16	Reg	12-9-68	PA	AI6	13/9/68	31
AI	7	(Docket) 72455	27-11-68	PA	AI	14/2/69	
~~[illegible]~~							
AI	7	(Docket) 72455	27-11-68	PA	AI	24/2/69	
AI	7	99499	5-2-69	PA	PN	7.3.69	
AM23	31	New Volume	12-3-69	PA	ACR19	13.3.69	
AM1	28	Reg	27-3-69	PA	AM1	27-3-69	
ICN	33	Reg	13/1/70	PA	[illegible]	13-1-70	
C26	16	Reg	4-3-70	PA	VN	20.5.70	
RC27	19	Reg	5/5/72	PA	[illegible]	[illegible]	
C-12	19	Reg	5/5/72				
RL27	22a	Reg		PA	[illegible]	19/7/72	
RL17	22	Reg.	17/10/72	PA	RL17	18/10/72	
HCR2	22	Reg.	20/10/72				
MR. BATTLE	10	Reg	25-10-72	[illegible]	[illegible]	2/11/72	
RL27	11	Reg	16/4/73	[illegible]	[illegible]	18/4/73	
RL17	DA	Reg	5/5/78	PA	RL21	12.6.78	
		TRANSFERRED P.A.R.C.					
						4-2-30	

CLOSED VOLUME
See Vol. 5

DO NOT WRITE BELOW THIS LINE

7530-21-023-4128

CANADA

DATED FROM 1967 FILE NO. 1/3-3-14

TO 1969 VOLUME NO. 4

CLOSED VOLUME

DO NOT PLACE ANY CORRESPONDENCE ON THIS FILE

FOR SUBSEQUENT CORRESPONDENCE SEE:

FILE NO. 1/3-3-14 VOLUME NO. 5

PLEASE KEEP ATTACHED TO TOP OF FILE

7540-21-562-8210

COPY FOR THE INDIAN-ESKIMO BUREAU
RETURN TO A1

PA

Docket: DM-41

1/3-3-14

Ottawa 4, April 23, 1969. vol 4 #12

~~CONFIDENTIAL~~

Mr. R.B. Curry,
A/Deputy Minister,
Department of Manpower and Immigration,
E.A. Bourque Memorial Bldg.,
305 Rideau Street,
Ottawa, Ontario.

Dear Mr. Curry:

Thank you for your letter of April 9, in which you outline your Department's views on the Jay Treaty.

As you now know from my letter of April ~~15~~ 14, 1969, to Mr. R.C. Labarge, copy forwarded to your Deputy Minister, my Minister is going to take this matter up with his Cabinet colleagues.

Yours sincerely,

J. A. MacDONALD

J. A. MacDonald,
Deputy Minister.

BOYD/eh

21/4/69

c.c. Deputy Under-Secretary of State for External Affairs, H.B. Robinson

c.c. Deputy Minister L.E. Couillard, Department of Manpower & Immigration

c.c. Deputy Minister & Deputy Attorney General, D.S. Maxwell

P.A.

CONFIDENTIAL

Ottawa 4,

Mr. R.C. Leburge,
Deputy Minister,
Customs and Excise,
Department of National Revenue,
Ottawa, Ontario.

Dear Mr. Leburge:

Please refer to my letter of January 31st, regarding the Jay Treaty.

My Minister has now decided to take this matter up with his Cabinet colleagues. I am, therefore, enclosing for your study and that of your Minister a copy of the Cabinet Submission.

A copy of this Submission is also being forwarded to the Deputy Ministers of Justice, Manpower and Immigration and to the Under-Secretary of State for External Affairs.

Yours sincerely,

B - 11/4/69

14/15/4/69

J. A. MacDonald,
Deputy Minister.

BOYD/eh
April 9, 1969.

13-3-14

vol 4 H2

Copy for the Indian-Eskimo Bureau
Return to A.1

PA

~~CONFIDENTIAL~~

Ottawa 4, March 5, 1969.

MINISTER WITHOUT PORTFOLIO

Attached for your information is a copy of the Submission to Cabinet on the Jay Treaty and the Customs Controversy at St. Regis. This Submission is now being considered by the Minister and will be forwarded to Cabinet as soon as he approves it.

J. A. MacDONALD

J.A. MacDonald,
Deputy Minister.

BOYD/eh

B 14-3-69

101318

CENTRAL REGISTRY

MAR 10 11 54 AM '69

INDIAN AFFAIRS

Copy for the Indian-Eskimo Bureau
Return to A.1

vol 4 H2

c.c. Deputy Under-Secretary of State for External Affairs, H.B. Robinson

c.c. Deputy Minister L.E. Couillard, Department of Manpower & Immigration

c.c. Deputy Minister & Deputy Attorney General, D.S. Maxwell

CONFIDENTIAL

Ottawa 4,

Mr. R.C. Labarge,
Deputy Minister,
Customs and Excise,
Department of National Revenue,
Ottawa, Ontario.

Dear Mr. Labarge:

Please refer to my letter of January 31st, regarding the Jay Treaty.

My Minister has now decided to take this matter up with his Cabinet colleagues. I am, therefore, enclosing for your study and that of your Minister a copy of the Cabinet Submission.

A copy of this Submission is also being forwarded to the Deputy Ministers of Justice, Manpower and Immigration and to the Under-Secretary of State for External Affairs.

Yours sincerely,

J. A. MacDonald,
Deputy Minister.

BOYD/eh
April 9, 1969.

11/4/69

003653

CENTRAL REGISTRY

APR 16 1 06 PM '69

INDIAN AFFAIRS

RECEIVED
APR 16 1969
RECORDS
INDIAN
AFFAIRS

COPY FOR INDIAN ESKIMO BUREAU
RETURN TO J. SILKANS

A1

13-3-14

P.A.

Ottawa 4,

February 27, 1969.

MINISTER

I have received a copy of a letter from Mr. Lester D. Johnson, the Commissioner of Customs in Washington, which contradicts the general impression that the United States is "honouring" the Jay Treaty.

Mr. Johnson's letter states that Article III of the Jay Treaty which gave Indians the right to pass and repass with their goods and effects into the United States without payment of duty was abrogated by the War of 1812 between the United States and Great Britain. A decision to this effect was published March 1, 1937 as T.D. 48857 by the United States Court of Customs and Patent Appeals.

In view of this decision and the fact that there are no special provisions in the present customs laws exempting Indians from payment of duty, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person. However, the United States Bureau of Customs permits Indians who reside in the Canadian portion of the reservation, who have made purchases in Cornwall or elsewhere in Canada, and who are returning to their residences on the reservation, or who are proceeding with goods from the Canadian portion of the reservation to some other place in Canada, to declare their purchases or other articles to United States Customs under an informal procedure which does not involve the payment of duty.

Representations made to us have claimed that the United States Bureau of Customs supports the Jay Treaty; however, the court decision clearly indicates that the United States Government's position corresponds with our own with respect to movement of goods across the border.

In relation to Indians crossing the border without goods, a Canadian-born Indian is not limited in the number of entries which he can make into the United States; however, American-born Indians are not accorded the same privilege by Canadian authorities.

J. A. MacDONALD

J. A. MacDonald,
Deputy Minister.

27-2-69

SILKANS/mmc
February 26, 1969

Original As is

P.A. → 1/3-3-14

The Honourable Mitchell Sharp, P.C. M.P.
Secretary of State for External Affairs,
Ottawa, Ontario.

My dear Colleague

My Executive Assistant, Mr. John Rae, has received a request dated January 24, 1969, for information on the Jay Treaty from Mr. Richard Gervais, your Special Assistant. The following information could be useful for your reply to Mr. Andras.

The Jay Treaty was contracted between the British Sovereign and the Government of the United States in 1794 to ensure amicable relations in commerce and navigation between the two governments: it was not a treaty between the Sovereign and the Indian people of North America.

The present controversy at Cornwall results from the belief of the St. Regis Indians that the Jay Treaty exempts Indians from paying customs duty on goods transported by them across the United States-Canada border at Cornwall: however, court decisions in both countries have failed to recognize that there are any special provisions in the current customs laws which would exempt Indians from payment of customs duty.

The most notable Canadian Customs case involving the Jay Treaty is that of Louis Francis of the St. Regis Reserve vs. the Queen, in which Mr. Francis lost his appeal to the Supreme Court of 1956, concerning duty paid on appliances imported from the United States. The Supreme Court judged at that time that neither the Jay Treaty nor the Indian Act exempted Canadian Indians from payment of customs duty. There is no legislation in Canada which gives Indians special border-crossing rights.

The question of United States' customs duty does not have the same significance in relation to the present controversy, because traffic in manufactured goods is mainly from the United States to Canada. However, we have been advised by the Treasury Department, Bureau of Customs, Washington, that on March 1, 1937, the United States Court of Customs and Patent Appeals decided that the provision which exempted Indians from paying customs duty had been abrogated by the War of 1812 between the United States and Great Britain. As a result of this decision, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person.

. . . 2

COPY FOR INDIAN ESKIMO BUREAU
RETURN TO J. SILKANS

1/3-3-14

Mr. Robert Stanbury, M.P.,
House of Commons,
Ottawa, Ontario.

FEB 21 1969

Dear Mr. Stanbury:

Thank you for your letter of January 21, which was acknowledged January 29, 1969 by Mr. W. J. Mussall, my Special Assistant. The following information might be useful for your reply to Mr. A. Peter Courtney.

The Jay Treaty was contracted between the British Sovereign and the Government of the United States in 1794 to ensure amicable relations between the two governments in commerce and navigation; it was not a treaty between the Sovereign and the Indian people of North America.

The present controversy at Cornwall results from the belief of the St. Regis Indians that the Jay Treaty exempts Indians from paying customs duty on goods transported by them across the United States-Canada border at Cornwall; however, court decisions in both countries have failed to recognize any special provision in the current customs laws which would exempt Indians from payment of customs duty.

The most notable Canadian Customs case involving the Jay Treaty is that of Louis Francis of the St. Regis Reserve vs. the Queen, in which Mr. Francis lost his appeal to the Supreme Court in 1956 concerning duty paid on appliances imported from the United States. The Supreme Court judged at that time that neither the Jay Treaty nor the Indian Act exempted Canadian Indians from payment of customs duty. It is because of this judgment and from the fact that legislation has not been passed giving effect to the Jay Treaty that Indians have no special rights regarding border crossings.

The question of United States' customs duty does not have the same significance in relation to the present controversy, because traffic in manufactured goods is mainly from the United States to Canada. However, we have been advised that on March 1, 1937, the United States Court of Customs and Patent Appeals rendered the decision that the provision which exempted Indians from paying customs duty had been abrogated by the War of 1812 between the United States and Great Britain. As a result of this decision, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person.

. . . 2

COPY FOR INDIAN ESKIMO BUREAU
RETURN TO J. SILKANS

1/3-3-14

Mr. Robert Stanbury, M.P.,
House of Commons,
Ottawa, Ontario.

FEB 21 1969

Dear Mr. Stanbury:

Thank you for your letter of January 21, which was acknowledged January 29, 1969 by Mr. W. J. Mussell, my Special Assistant. The following information might be useful for your reply to Mr. A. Peter Courtney.

The Jay Treaty was contracted between the British Sovereign and the Government of the United States in 1794 to ensure amicable relations between the two governments in commerce and navigation; it was not a treaty between the Sovereign and the Indian people of North America.

The present controversy at Cornwall results from the belief of the St. Regis Indians that the Jay Treaty exempts Indians from paying customs duty on goods transported by them across the United States-Canada border at Cornwall; however, court decisions in both countries have failed to recognize any special provision in the current customs laws which would exempt Indians from payment of customs duty.

The most notable Canadian Customs case involving the Jay Treaty is that of Louis Francis of the St. Regis Reserve vs. the Queen, in which Mr. Francis lost his appeal to the Supreme Court in 1956 concerning duty paid on appliances imported from the United States. The Supreme Court judged at that time that neither the Jay Treaty nor the Indian Act exempted Canadian Indians from payment of customs duty. It is because of this judgment and from the fact that legislation has not been passed giving effect to the Jay Treaty that Indians have no special rights regarding border crossings.

The question of United States' customs duty does not have the same significance in relation to the present controversy, because traffic in manufactured goods is mainly from the United States to Canada. However, we have been advised that on March 1, 1937, the United States Court of Customs and Patent Appeals rendered the decision that the provision which exempted Indians from paying customs duty had been abrogated by the War of 1812 between the United States and Great Britain. As a result of this decision, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person.

. . . 2

For several months, this Department, in consultation with representatives of the Indian people, has been reviewing all treaties and agreements affecting Indians; the Jay Treaty is being examined as part of this review. At present, Departmental officials are analyzing reports of the consultations, so that recommendations of the Indian delegates may be incorporated into our proposals to Parliament; I am reasonably confident that Parliament will be guided by our suggestions in framing appropriate legislation in the area of Indian affairs.

If I can be of any further assistance to you, please do not hesitate to write to me.

Yours sincerely,

Original Signed by
HON. JEAN CHRÉTIEN

Jean Chrétien.

STILKANS/mmc
February 18, 1969

PN
18-2-69

13-3-1

Department of Indian Affairs and Northern Development | Deputy Minister | Ministère des Affaires indiennes et du Nord canadien | Sous-ministre

P.A.

our file/notre dossier
your file/votre dossier
date

February 24, 1969.

F I L E

Telephone Call from Mr. G. Laniel, M.P.

On Friday afternoon (February 21, 1969), Mr. Laniel called me as a result of a visit to him by Chief Mitchell and Councillors of St. Regis.

He inquired as to what this Department was going to do regarding St. Regis. I said I did not have anything to add to what our Minister has already said.

Mr. Laniel asked me to call him on Monday morning (today) and inform him of new developments, if any.

R. Moses

R. Moses,
Executive Assistant,
(Social Affairs).

1867 | 1967

1/3-3-14

Mr. Robert Stanbury, M.P.,
House of Commons,
Ottawa, Ontario.

Dear Mr. Stanbury:

Thank you for your letter of January 21, which was acknowledged January 29, 1969 by Mr. A. J. Russell, my Special Assistant. The following information might be useful for your reply to Mr. A. Peter Courtney.

The Jay Treaty was contracted between the British Sovereign and the Government of the United States in 1794 to ensure amicable relations between the two governments in commerce and navigation; it was not a treaty between the Sovereign and the Indian people of North America.

The present controversy at Cornwall results from the belief of the St. Regis Indians that the Jay Treaty exempts Indians from paying customs duty on goods transported by them across the United States-Canada border at Cornwall; however, court decisions in both countries have failed to recognize any special provision in the current customs laws which would exempt Indians from payment of customs duty.

The most notable Canadian Customs case involving the Jay Treaty is that of Louis Francis of the St. Regis Reserve vs. the Queen, in which Mr. Francis lost his appeal to the Supreme Court in 1956 concerning duty paid on appliances imported from the United States. The Supreme Court judged at that time that neither the Jay Treaty nor the Indian Act exempted Canadian Indians from payment of customs duty. It is because of this judgment and from the fact that legislation has not been passed giving effect to the Jay Treaty that Indians have no special rights regarding border crossings.

The question of United States' customs duty does not have the same significance in relation to the present controversy, because traffic in manufactured goods is mainly from the United States to Canada. However, we have been advised that on March 1, 1937, the United States Court of Customs and Patent Appeals rendered the decision that the provision which exempted Indians from paying customs duty had been abrogated by the War of 1812 between the United States and Great Britain. As a result of this decision, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person.

. . . 2

For several months, this Department, in consultation with representatives of the Indian people, has been reviewing all treaties and agreements affecting Indians; the Jay Treaty is being examined as part of this review. At present, Departmental officials are analyzing reports of the consultations, so that recommendations of the Indian delegates may be incorporated into our proposals to Parliament; I am reasonably confident that Parliament will be guided by our suggestions in framing appropriate legislation in the area of Indian affairs.

If I can be of any further assistance to you, please do not hesitate to write to me.

Yours sincerely,

PM-18

Jean Chrétien.

SILKAN:/mmc
February 18, 1969

1/3-3-14

A-1
PAT

Ottawa 4, January 29, 1969.

Robert Stanbury, Esq., M.P.,
House of Commons,
O t t a w a.

Dear Mr. Stanbury:

On behalf of Mr. Chrétien, I am acknowledging receipt of your letter of January 21st enclosing a copy of a letter you received from Mr. F. Peter Cousins concerning the Indian people of the St. Regis Indian Reserve.

I shall be pleased to bring your letter to the Minister's attention and he will write to you personally at his earliest opportunity.

Yours sincerely,

William J. Russell,
Special Assistant.

pjq
cc: Social Affairs

Sent on
Office
251-8

LE SECRETAIRE D'ETAT THE SECRETARY OF STATE
CANADA

5149

CABINET DU SECRETAIRE PARLEMENTAIRE
OFFICE OF THE PARLIAMENTARY SECRETARY

O t t a w a,
January 21st, 1969.

Hon. Jean Chretien,
Minister of Indian Affairs
and Northern Development,
House of Commons,
O t t a w a.

Dear Mr. Chretien:

Enclosed is a copy of a letter received from my constituent, Mr. A. Peter Courtney, on which I would appreciate receiving your guidance to assist me in replying.

Yours sincerely,

Bob
per R

Robert Stanbury, M.P.,
York-Scarborough.

enclosure

35 Viamede Crescent
Willowdale, Ontario
January 6, 1969

Mr. Robert Stanbury
MP for York-Scarborough,
Parliament Buildings
Ottawa, Ontario.

Dear Mr. Stanbury:

I am very concerned for the situation that has recently arisen between Indians and Governments, specifically in the Cornwall area.

We stole this country from the North American Indian. And subsequent political boundaries and economic controls are quite irrelevant to an Indian.

I would be interested to know just how much is imported by Indians anyway.

I would like you to do whatever possible to uphold Jay's Treaty, and to assist these people in their cause. I think we owe it to them.

Sincerely,

A. Peter Courtney

13-2-16

PA

45 Bowhill Avenue,
Ottawa 5, Ontario,
February 20, 1969.

Mr. R. Moses,
Room 1507,
400 Laurier Street West,
Ottawa, Ontario.

Dear Mr. Moses,

I am writing to thank you very much for relinquishing a portion of your precious time to talk to Robert and me about the Indian problem on the St. Regis Reserve.

Your talk with Robert and me helped us out very much indeed and we did look at a map of this area as you suggested. This gave us a better understanding of the geographical position that the Indians are in and ultimately assisted us in winning our debate at school.

When my opponents and colleague and I decided on a topic, I thought it would be just another uninteresting project to talk about. But as I delved deeper into this problem, I became more and more aware of the Indians' situation in Canada and that led me to compile an excellent argument on behalf of the Indians - so my teacher informed me.

In closing, I wish to thank you again for your time, and I do hope the Indians come out on top or this dispute.

Yours sincerely,

Sean Kennedy

Sean Kennedy.

0 9 6 9 7 8

CENTRAL REGISTRY

FEB 24 1 59 PM '69

INDIAN AFFAIRS

0 9 6 5 5 1

CENTRAL REGISTRY

FEB 21 4 17 PM '69

INDIAN AFFAIRS

REGISTERED
FEB 24 1969
RECORDS
INDIAN
AFFAIRS

HOUSE OF COMMONS - CHAMBRE DES COMMUNES
20 II '69

FREE
16 CA ADA
FRANCO

Mr. R. Moses,
Room 1507,
400 Laurier Street West,
Ottawa, Ontario.

J.H.F

1/3-3-15

CONFIDENTIAL

February 14, 1969.

ASSISTANT DEPUTY MINISTER,
(SOCIAL AFFAIRS)

Re: I.E.A. Sponsored Meeting on Jay and Other Treaties

As instructed, I attended the meeting held February 13th at the Public Archives Building.

The meeting was billed and referred to as a "Public Hearing on the Dispute Between the Federal Government and the Indian People Regarding the Abuses of Indian Rights and Unfulfilled Provisions of Treaties such as the Jay Treaty".

The meeting was chaired and the subject introduced by Dean St. Jean Macdonald of the University of Toronto. The panelists were Mr. Ernest Benedict, St. Regis Reserve; Dr. James A. Duran, Jr., Canisius College, Buffalo, New York; Professor Peter A. Cumming, Osgoode Hall Law School, and myself. We spoke in that order.

About one hundred persons attended - mostly young people - with three Members of Parliament that I was able to identify - Dr. Martin O'Connell, Mrs. Grace MacInnis and Mr. Mark Rose.

Mr. Benedict spoke about the position of the Iroquois people from an historical point of view and contended there was a moral obligation to honour the rights set out in the Jay Treaty. Later on he made the point that the rights of Indians were not set out so that both the government and Indian people would know clearly what they were. He felt that this was required and said that the Indian Act did not do this but possibly should.

Professor Duran gave a brief resumé of the history of the Jay Treaty and the need to honour international obligations arising from Treaties. He went on to review developments in the United States, where he said legislation was passed in 1924 to abrogate Article III of the Jay Treaty, but by action of the Indian Defense League legislation was passed to restore this right and Indians have the right to pass the border freely. He referred to the Francis case and the fact Canada had not passed legislation to give effect to the Jay Treaty while it had passed legislation to give effect to the Migratory Birds Convention which restricted the Indians' right to take birds for food. He pointed out that in the United

U 9 7 0 6 4

States the government interpreted the Convention as not restricting Indians to take game birds on their reservations.

Professor Cumming gave a long address - stating there had been a long series of abuses of Indian rights and unfulfilled treaty provisions - the Jay Treaty, Treaties 8 and 11 and many others. He said there was a moral obligation to restore these rights. He also dwelt at some length on the position of Indian people - cited the statistics on this - and said there was a need to change the direction of Indian affairs. He referred to the submission by the Indian-Eskimo Association of a year or so ago on community development and so on, said the Indian Claims legislation should be brought forward immediately, that the Indian Act was disgraceful and should be abolished, and finally, that Indian rights should be confirmed and restored.

I was then asked to speak. First of all I mentioned that Mr. Chrétien had said in the House that the Jay Treaty matter was being reviewed and that he hoped to make a statement soon.

I pointed out that there were two kinds of treaties involved: those between Nations such as Great Britain and the United States and those between the Crown and Indian people in various parts of the country. I then went and briefly reviewed the treaties with Indians. After that I mentioned the Jay Treaty and using the historical data included in Justice Rand's decision in the Louis Francis customs case mentioned that apparently in the very early years there were ordinances of Lower and Upper Canada permitting goods to be brought in by Indians without custom duties but this lapsed in 1813 and no legislation has existed since that time. I also brought up what the reverse case was - of Indians crossing into the United States. Again referring to Mr. Justice Rand's decision I said that it was stated there that the last statutory provision in the United States dealing with goods brought in by Indians was repealed in 1897. I also mentioned that the United States Court of Customs and Patent Appeals in a case involving Mrs. Garrow of the St. Regis Band had declared that Article III had been abrogated by the War of 1812 and that this decision had been based on a decision of the United States Supreme Court. My reason for making this point is that Dr. Duran, in various statements and speeches which I had read, had been making the point that the United States had honoured the obligations of the Jay Treaty by legislation while Canada had not. (The only right accorded under United States law is for the Indian person but not his goods to pass and repass the border.)

Finally I paraphrased the information, without indicating the source, that the United States Commissioner of Customs had sent to Miss Kahn-Tineta Horn to the effect that there are no special provisions in the current customs laws and regulations exempting Indians from the payment of duty on merchandise brought into the United States. I again said that the matter was being reviewed and indeed there had been a good deal of public discussion among Indians about treaties, the Migratory Birds Convention Act and, also, the Indian Act.

. . . . 3

A question period followed where either oral or written questions were submitted. There were a number on such matters as whether it was true, as I had stated, that there were two types of treaties and these were different. Professor Cumming said they were of different categories. Also whether it was true that the United States had repealed its customs provisions relating to Indians in 1897. Dr. Duran seemed to hedge on this but admitted they had been but felt the general law was so generous as to permit Indians to take their personal goods and effects across the border.

There were questions about membership, hereditary rights, whether the treatment of Indians was white racism and so on. Most of the questions were referred to other members of the panel.

When the question arose as to what should be done Mr. Ernest McEwen was asked to make a comment and particularly on the proposal which had been advanced by the Indian-Eskimo Association a year ago about a new structure, community development, etc. He said they had written to Prime Minister Pearson - who was on the point of retirement - and they had not got very far. I believe he said the matter had been referred to the Minister of Indian Affairs. They had again referred the matter to Prime Minister Trudeau. He went on to say that every time a proposal was put to the Government it seemed that the evaluation of it was done by the Minister of Indian Affairs.

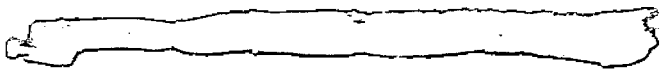
Mrs. Grace MacInnis, M.P. said more Indian people should refer their problems to their Members, to the Government and to such organizations as the Indian-Eskimo Association.

There was one written question submitted on whether the Indian-Eskimo Bureau would be of help to the Indian people. (The Chairman as an aside asked me if I wanted to comment but I told him I would prefer not to.)

Mr. Mark Rose, M.P. made the comment that he was not satisfied with the way the Bureau Chief had been selected and went on to suggest the need for greater communication between the Indian people, Government, Members, etc.

Finally, to conclude the meeting a resolution was proposed written by Professor Cumming I believe as follows:

> "Resolved by the persons attending this public hearing that the Government of Canada be requested to immediately bring before Parliament the necessary legislation whereby the rights of Indian people as recognized by the provisions of the Jay Treaty and the provisions of various treaties in respect to hunting and fishing rights be confirmed and restored."



. . . . 4

There was one young lady who said it should not read "confirmed and restored" but the matter should be discussed. She said she did not agree with the Jay Treaty part but did with the part on hunting and fishing rights. One Indian said he would abstain as he did not think there were enough Indians present or enough discussion.

The question being put there were 75 for, none against, and 5 abstentions.

I take it the Indian-Eskimo Association will be forwarding the resolution to the Government.

Incidentally, John Barbarash and John Yesno from Indian News Magazine, C.B.C., were there and taped the proceedings. I heard informally that he thought the "Government" spokesman at the meeting should have been a Minister of the Crown. My own personal view is that in these kinds of meetings a public servant should not be the Government spokesman or representative because of the very nature of the meeting and the policy kind of questions that inevitably are asked.

ORIGINAL SIGNED BY
C. I. FAIRHOLM

C. I. Fairholm,
Director,
Policy, Planning and Programming.

P.S. I asked John McGilp to attend as I thought there might be something raised specifically on the incidents at St. Regis.

c.c. Chief, Indian-Eskimo Bureau.

1/2-3-1/

PA

February 24, 1969.

F I L E

Telephone Call from Mr. G. Laniel, M.P.

On Friday afternoon (February 21, 1969), Mr. Laniel called me as a result of a visit to him by Chief Mitchell and Councillors of St. Regis.

He inquired as to what this Department was going to do regarding St. Regis. I said I did not have anything to add to what our Minister has already said.

Mr. Laniel asked me to call him on Monday morning (today) and inform him of new developments, if any.

Original Signed
By
R. Moses

R. Moses,
Executive Assistant,
(Social Affairs).

MOSES/pml

FOR TRANSLATION

Mr. Aurélien Noel, M.P.,
House of Commons,
Ottawa, Ontario.

Dear Mr. Noel:

Thank you for your letter of February 3, 1969, concerning the Jay Treaty. The following information could be useful for your reply to Mr. Arnold F. Doucette.

The Jay Treaty was contracted between the British Sovereign and the Government of the United States in 1794 to ensure amicable relations in commerce and navigation between the two governments; it was not a treaty between the Sovereign and the Indian people of North America.

The present controversy at Cornwall results from the belief of the St. Regis Indians that the Jay Treaty exempts Indians from paying customs duty on goods transported by them across the United States-Canada border at Cornwall; however, court decisions in both countries have failed to recognize any special provisions in the current customs laws which would exempt Indians from payment of customs duty.

The most notable Canadian Customs case involving the Jay Treaty is that of Louis Francis of the St. Regis Reserve vs. the Queen, in which Mr. Francis lost his appeal to the Supreme Court in 1956 concerning duty paid on appliances imported from the United States. The Supreme Court judged at that time that neither the Jay Treaty nor the Indian Act exempted Canadian Indians from payment of customs duty. There is no legislation in Canada which gives Indians special border-crossing rights.

The question of United States' customs duty does not have the same significance in relation to the present controversy, because traffic in manufactured goods is mainly from the United States to Canada. However, we have been advised that on March 1, 1937, the United States Court of Customs and Patent Appeals rendered the decision that the provision which exempted Indians from paying customs duty had been abrogated by the War of 1812 between the United States and Great Britain. As a result of this decision, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person.

For several months, this Department, in consultation with representatives of the Indian people, has been reviewing all treaties and agreements affecting Indians; the Jay Treaty is being examined as part of this review. Until this review has been completed and the Government has fully considered the matter, there is no further information that I can provide at this time.

If I can be of any further assistance to you, please do not hesitate to write to me.

Yours sincerely,

B-24-2-69

Jean Chrétien.

silkens/mma
[illegible]
Feb. 24, 1969

PA

file on

Fox Treaty

file.

Policy & Planning Division

44166
67

(2)

IN REPLY REFER TO:

1473 (6183)

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

Vol 4 #2 1/3-14 PA ~~Vol 7~~ ~~P143~~

FEB 3 1969

~~F #143~~

Mr. Joseph W. Scott
Director for Relations
with Canada
Department of State
Washington, D. C. 20520

Dear Mr. Scott:

Your letter of January 17 requests our views and comments on four questions posed by the Canadian Embassy in Washington concerning United States immigration and customs law applicable to North Americans passing back and forth across the United States-Canada border. It also seeks information on the Indians found along the border and the communities in which they reside.

I

143

We turn first to the questions raised by the Canadians:

1. Has customs or immigration legislation been enacted by the United States implementing the relevant sections of the Jay Treaty concerning North American Indians?

Yes. Both types of legislation have been enacted. Since each has a somewhat different history, we shall consider them separately.

a. Immigration legislation: Article III of the Jay Treaty of November 19, 1794 (8 Stat. 116), provided, in part:

> It is agreed that it shall at all times be free to His Majesty's subjects, and to the citizens of the United States, and also to the Indians dwelling on either side of the said boundary line, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two parties, on the continent of America * * *.

The first codification of immigration measures enacted by the Congress, the Act of February 5, 1917 (39 Stat. 874), contained no reference to the Jay Treaty provision or to Indians generally. The Immigration Act of 1924 (43 Stat. 152) similarly failed to provide for the exemption of Indians crossing the border from Canada. The consequences of this omission were discussed in United States ex Rel. Diablo v. McCandless,

Fairholm
Chamb

18 F.2d 282 (D.C. Pa. 1927), aff'd 25 F. 2d 71 (C.A. 3rd Cir. 1928), in which the court found that a full-blooded Iroquois Indian resident of Canada was not subject to deportation for failure to comply with the 1924 Act because Article III of the Jay Treaty had exempted American Indians from the operation of the immigration laws of the United States. That holding became statutory law with the Act of April 2, 1928 (45 Stat. 401; formerly 8 U.S.C. 226a), which provided:

> 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.

Thereafter, Indians born in Canada were permitted to enter the United States without inspection under the immigration laws. In United States ex Rel. Goodwin v. Karnuth, 74 F. Supp. 660 (D.C.N.Y. 1947), the Court noted that the exemption of "American Indians born in Canada" was applicable to persons of Indian blood generally and not just to members of a tribe, since it was premised on racial and not political considerations.

That exemption, slightly modified, has been carried forward into immigration legislation presently in effect. Section 289 of the Immigration and Naturalization Act of June 27, 1952 (66 Stat. 234; 8 U.S.C. 1359) provides:

> Nothing in this subchapter shall be construed to affect the right of Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race.

In short, the provision made in Article III of the Jay Treaty for the free passage of Indians from Canada into the United States has been and is now implemented by legislation. In the present form, however, that legislation extends the right accorded in the treaty only to those Indians born in Canada who are of at least one-half Indian blood.

b. Customs Legislation: Following the above cited provision for the immigration of Indians from Canada to the United States, Article III of the Jay Treaty stated:

> No duty of entry shall ever be levied by either party on peltries brought by land or inland

> navigation into said territories respectively, nor shall the Indians passing or repassing with their own proper goods and effects of whatever nature, pay for same any impost or duty whatever. But goods in bales, or other large packages unusual among Indians, shall not be considered as goods belonging bona fide to Indians.

That provision was carried verbatim into the Tariff Act of March 2, 1799 (1 Stat. 627), which was in effect at the time the War of 1812 broke out. At the close of the war, the Treaty of Ghent, signed on December 24, 1814 (8 Stat. 218) stated in Article IX:

> 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 ratifiacation; and forthwith to 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.

The Jay Treaty provision exempting the Indians' "own proper goods and effects of whatever nature" from customs duties continued to appear unchanged in tariff acts until October 1, 1890. On that date, a slightly modified version of the provision was enacted, authorizing the Secretary of the Treasury to prescribe regulations governing the matter. Tariff Act of October 1, 1890, § 2, paragraph 674 (26 Stat. 567). This version was repeated in the Tariff Act of August 27, 1894, as Paragraph 582, §2 (28 Stat. 509). However it was omitted from the Tariff Act of July 24, 1897 (30 Stat. 151), which made no reference to Indian goods whatsoever and repealed "all Acts or parts of Acts inconsistent with the provisions of this Act * * *." Subsequent tariff legislation has been equally silent on the matter.

In 1938, the Court of Customs and Patent Appeals held in United States v. Garrow, 88 F.2d 318 (CC.P.A; 1937), that since current statutes failed to specifically provide an exemption for Indian goods, baskets brought into the United States for sale by a full-blooded Indian woman of the St. Regis Tribe of Canada were subject to the same duty as other similar baskets. That decision was cited with approval by the U. S. Court of Appeals, Ninth Circuit a year later in Guiles v. United States, 100 F.2d 47 (C.A. 9 Cir. 1938). As far as we are aware, no Court has directly considered the question of whether Indian goods brought into the United States from Canada are dutiable, since the Garrow decision in 1937.

Although there is no longer an express statutory provision for the importation of Indian goods duty-free, there is some possibility that the right accorded in the Jay Treaty remains intact.

In the McCandless decision, the Court held that Article III of the Jay Treaty had not been abrogated by the War of 1812, and, alternatively, even if it had been, Article IX of the Treaty of Ghent had restored it. A year later, in 1929, the Supreme Court had occasion to consider the question in Karnuth v. United States, 279 U.S. 231 (1929), a habeas corpus proceeding brought by two resident aliens of Canada (non-Indians) seeking to cross into the United States daily to work. In holding that the respondents were quota immigrants under Section 3 of the Immigration Act of 1924, supra, the Court stated:

> * * * the privilege accorded by Article III is one created by the treaty, having no obligatory existence apart from that instrument * * *. It is in no sense a vested right.
>
> * * * * *
>
> [It is] our conclusion that the provision of the Jay Treaty now under consideration was brought to an end by the War of 1812, leaving the contracting parties discharged from all obligation in respect thereto, and, in absence of a renewal, free to deal with the matter as their views of national policy, respectively, might from time to time dictate.

While it is true that the Court was not specifically considering those portions of Article III applicable to Indians, and thus its decision did not explicitly overrule McCandless, we find nothing in its opinion to indicate that it was not considering Article III as a whole or that it viewed the provisions dealing with Indians as subject to any different legal principles. The Court of Customs and Patent Appeals specifically rejected the argument that some distinction should be made between members of an Indian tribe and the non-Indian immigrants involved in the Karnuth case, when it held in United States v. Garrow, supra, that the right accorded Indians to bring goods into the United States duty-free under Article III of the Jay Treaty ended with the War of 1812 and was not revived by Article IX of the Treaty of Ghent, which was merely a promise by the United States that it would in the future restore certain rights to the Indians. Presumably it was not thought necessary to act on that promise insofar as the importation of goods from Canada was concerned, because provision had already been made for such in the Tariff Act of March 2, 1799, supra. As discussed above, that provision was eventually repealed.

In light of the foregoing, it is difficult to conclude that the rights accorded under Article III of the Jay Treaty may be relied upon today by Indians seeking to bring goods into the United States from Canada.

2. Can a North American Indian born and residing in Canada carry Canadian goods duty-free into the United States (a) as a landed immigrant and (b) as a visitor?

As noted above, current customs laws provide no specific exemption for North American Indians. Thus, goods brought into the United States by such Indians are presumably subject to the same customs duties as are imposed upon similar goods imported by any other landed immigrant or visitor. Specific personal exemptions from customs duties for non-residents are found in Part 2 of Schedule 8 of the Tariff Act of 1930 (46 Stat. 590, 672, 8 U.S.C. 1202), as amended by the Act of October 11, 1962 (76 Stat. 882) and the Act of June 30, 1965 (79 Stat. 208), specifically, Item Nos. 810.10, 810.20, 811.10, 812.10, 812.20, 812.25, 812.30 and 812.40. These provisions exempt from the payment of duty and from the payment of any internal revenue tax imposed by reason of importation enumerated articles brought into the United States by or for the account of any person emigrating from a foreign country or not a returning resident. Generally, immigrants are permitted to import duty-free household effects and tools of trade; visitors, as well as immigrants, may bring in personal effects and limited quantities of tobacco, alcoholic beverages, and gifts. Articles intended for sale are specifically excluded from these exemptions.

3. Can a North American Indian born and residing in the United States carry goods duty-free into the United States (a) after residing for some time in Canada, (b) after a mere temporary visit to Canada of less than 24 or 48 hours, or (c) after a mere temporary visit to Canada in excess of 24 or 48 hours?

Persons born in the United States to a member of an Indian, Eskimo, Aleutian or other aboriginal tribe are citizens and nationals of the United States at birth. Immigration and Naturalization Act of June 27, 1952 (66 Stat. 235; 8 U.S.C. 1401(a)(2)). Consequently, goods carried into the United States by North American Indians born and residing in the United States are basically subject to the same customs duties as goods imported by other citizens. Personal exemptions for residents returning to the United States are found in Part 2 of Schedule 8 of the Tariff Act of 1930, supra, as amended, specifically, Item Nos. 810.10, 810.20, 813.15, 813.20, 813.25, 813.30, and 813.31. Generally, these provisions exempt from the payment of duty and of any internal

revenue tax imposed by reason of importation all household and personal effects taken abroad, limited quantities of alcoholic beverages and cigars, and articles not over $100 in aggregate fair retail value in the country of acquisition. When such articles are brought in from a contiguous country which maintains a free zone or free port, such as Canada, the duration of the returning resident's absence from the United States is immaterial.

4. Does United States Customs legislation provide a general exemption from United States customs duties for (a) North American Indians residing in the United States, (b) North American Indians born in Canada who are going to the United States for a temporary visit, (c) all North American Indians?

As discussed in the above three questions, current customs legislation contains no general exemption for North American Indians, regardless of the place of their residence or the length of their stay in the United States.

II

In response to your request for information regarding the Indians currently residing along the United States-Canada border, we enclose a copy of a memorandum prepared by the Bureau of Indian Affairs on January 28, 1969, concerning the number of Indians and acreage of federal reservations located in counties or districts contiguous with or within one hundred miles of the border. It reports that as of 1960, the latest date for which such figures are available, there were 31,000 Indians living in United States counties contiguous with the border and an additional 27,500 Indians within one hundred miles of it. Thus more than 58,500 persons within the United States would be potentially involved in any amendment of Federal or Canadian immigration and customs policies toward American Indians. Unfortunately, because this Department keeps no statistics on border crossings by Indians, we can offer no information on such relevant matters as the frequency and number of such crossings, the status of the entrants (visitor, immigrant, returning resident), their purpose (business, pleasure), and the number of dutiable items they bring into the United States or Canada.

III

With regard to the immediate problem at hand, that of the protest lodged by the Mohawk Indians of the St. Regis Reservation, we cannot furnish any detailed information. The United States has had minimal contact with the Indians of New York since it granted both civil and criminal jurisdiction over Indians on Indian reservations in the State of New York to the State. The Act of July 2, 1948 (62 Stat. 1224; 25 U.S.C.

232)(criminal jurisdiction); the Act of September 13, 1950 (64 Stat. 845; 25 U.S.C. 233) (civil jurisdiction). None of the ten reservations presently located within the State, including St. Regis, was created by federal treaty, statute or executive order. The State of New York furnishes virtually all governmental services to New York Indians.

We stand ready to assist in this matter in any way possible, and would be pleased to participate in a meeting with other concerned agencies.

Sincerely yours,

Richmond F. Allan

Acting

Solicitor

Enclosure

cc: BIA (2), Tribal Operations w/incoming correspondence

TRANSLATION 396
C.P.

1/3-3-14

HOUSE OF COMMONS
CANADA

Ottawa
February 3rd, 1969

Personal and
Confidential

Sir:

I am enclosing, for your information, an extremely interesting letter which I received from an Outremont constituent, Mr. Arnold F. Doucette, 826, avenue Dollard, Outremont.

Mr. Doucette seems very concerned about the fate of the Mohawk Indians and finds it deplorable that the latter have no free right-of-way to the Canadian border: he gives several reasons to support his plea in their favour on this matter.

I feel certain that your Department is doing everything in its power and more, to improve the lot of the Canadian Indian, or perhaps I should say the North American Indian.

If you could send me clarification on the point he raises, I will be glad to pass it on to him. He does not ask for this in his letter, of course.

Yours truly,

Aurélien Noël, M.P.
for Outremont.

Encl.
(my acknowledgement)

Honourable Jean Chrétien, P.C., M.P.
Minister of Indian Affairs & Northern Development
House of Commons
OTTAWA.

396

315-8

5.169

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Personnelle et
confidentielle

Ottawa
le 3 février 1969

Mon cher Ministre,

Je vous transmets, pour votre information, une lettre très intéressante que j'ai reçue d'un commettant d'Outremont, Monsieur Arnold F. Doucette, du 826 avenue Dollard, Outremont.

Monsieur Doucette semble très près du sort des indiens Mohawk et déplore que ces derniers n'aient pas droit de passage gratuit à la frontière canadienne; il donne plusieurs raisons pour appuyer son plaidoyer en leur faveur, à ce sujet.

Je suis convaincu que votre Ministère fait tout en son pouvoir et plus, pour améliorer le sort de l'indien canadien, ou devrais-je dire l'indien de l'amérique du nord?

Si vous pouvez m'accorder une mise au point, à la suite de son exposé, je serais heureux de pouvoir la lui faire suivre. Toutefois, sa lettre n'en demande pas tant.

Recevez l'expression de mes meilleurs sentiments.

Sincèrement,

Aurélien Noël,
Député d'Outremont.

pce jte
(mon accusé)

L'Honorable Jean Chrétien, c.p., m.p.
Ministre des Affaires Indiennes et du Nord Canadien
Chambre des Communes
Ottawa.

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

January 31, 1969

Mr. Arnold F. Doucette
826, Dollard Avenue
Outremont
Montreal 154, P.Q.

Dear Mr. Doucette,

Thank you for your letter in which you discussed the Jay Treaty relative to the border-crossing rights of the Mohawk Indians.

I really believe that the matter is in good hands, and that good faith will always be met with good faith, in our instance of goodwill.

Your defence on behalf of all, is quite knowledgeable and makes for good relations, and you may rest assured that your thoughts will be read by the authorities responsible for the department. They are anxious, as you appear to be, to promote understanding in this field of their responsibilities.

May I thank you for your interest and extend sincere good wishes to you and yours.

Very truly yours,

Aurélien Noël,
M.P. Outremont.

826 Dollard Avenue,
Outremont 154, Québec,
January 1,1969.

Aurelien Noël, M.P.,
c/o Parliament Buildings,
Ottawa, Canada.

Dear Sir,

Please allow me to pass on these few thoughts on the current dispute involving the border-crossing rights of the Mohawk Indians:

It would appear that the leaders of the St. Regis Mohawks are correct in their assertion that the Jay Treaty is in force and obligates Canada to honour their free border-crossing rights. Several Associated Press reports have cited "Canadian officials" as declaring that the Jay Treaty is not in effect "because Canada has never been a party to the Jay Treaty, ratified by the United States and Great Britain in 1794 before Canada became a nation." (New York Times Dec.19 and 20.)

Such reasoning has very serious implications for United States-Canadian relations since 28 treaties are in force.

Certainly, Article III of the Jay Treaty and Article IX of the Treaty of Ghent, which guarantee the free border-crossing rights of the Indians, are in force according to the official publication of the U.S. State Department, "Treaties in Force." Moreover, the United States, after having voided provisions of this treaty by the Immigration Act of 1924, responded to the persistent efforts of Indian leaders led by Chief Clinton Rickard of the Tuscaroras by passing legislation in 1928 restoring the Jay Treaty border-crossing rights.

Thus the United States recognised the treaty in question as one in force. Moreover, on June 22,1964, the Legal Advisor of the Office of the Under Secretary of State for the Canadian Ministry of External Affairs wrote to Lehigh Antoine, Grand Secretary of the Indian Defence League of America, that "there has never been, to our knowledge, any formal abrogation of these particular articles or of the treaty as a whole."

Canadian officials have also referred to the voiding of these rights by the Canadian Supreme Court in the decision, FRANCIS vs. THE QUEEN (1956). After having studied the decision, my conclusion is that the Supreme Court did not declare the treaty null and void but states that the clauses of the Jay Treaty were not in effect because the Government of Canada had not passed the legislation necessary to implement them.

For five years the Indian leaders of the Indian Defence League of America have been beseeching Canadian authorities to pass the necessary legislation, but to no avail.

The reported statements of Canadian officials violate basic principles of international law on the responsibilities of successor states, on the obligation to implement treaty commitments in good faith, and on the illegality of a single party unilaterally abrogating a bilateral international treaty.

Certainly the Liberal government possesses the majority to implement its treaty obligations in good faith. By their mild demonstrations the St. Regis Mohawks have gained publicity for a cause which deeply concerns North American Indians on both sides of the border.

Sincerely yours,

Arnold F. Doucette

Arnold F. Doucette

AFD/hs

Inclosed letter from
Mr Arnold F Lancette re
concerned over Indians having
to pay duty fees at Canadian
borders.

315-20

5369

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Personnelle et
confidentielle

Ottawa
le 3 février 1969

Mon cher Ministre,

Je vous transmets, pour votre information, une lettre très intéressante que j'ai reçue d'un commettant d'Outremont, Monsieur Arnold F. Doucette, du 826 avenue Dollard, Outremont.

Monsieur Doucette semble très près du sort des indiens Mohawk et déplore que ces derniers n'aient pas droit de passage gratuit à la frontière canadienne; il donne plusieurs raisons pour appuyer son plaidoyer en leur faveur, à ce sujet.

Je suis convaincu que votre Ministère fait tout en son pouvoir et plus, pour améliorer le sort de l'indien canadien, ou devrais-je dire l'indien de l'amérique du nord?

Si vous pouvez m'accorder une mise au point, à la suite de son exposé, je serais heureux de pouvoir la lui faire suivre. Toutefois, sa lettre n'en demande pas tant.

Recevez l'expression de mes meilleurs sentiments.

Sincèrement,

Aurélien Noël,
Député d'Outremont.

pce jte
(mon accusé)

L'Honorable Jean Chrétien, c.p., m.p.
Ministre des Affaires Indiennes et du Nord Canadien
Chambre des Communes
Ottawa.

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

January 31, 1969

Mr. Arnold F. Doucette
826, Dollard Avenue
Outremont
Montreal 154, P.Q.

Dear Mr. Doucette,

Thank you for your letter in which you discussed the Jay Treaty relative to the border-crossing rights of the Mohawk Indians.

I really believe that the matter is in good hands, and that good faith will always be met with good faith, in our instance of goodwill.

Your defence on behalf of all, is quite knowledgeable and makes for good relations, and you may rest assured that your thoughts will be read by the authorities responsible for the department. They are anxious, as you appear to be, to promote understanding in this field of their responsibilities.

May I thank you for your interest and extend sincere good wishes to you and yours.

Very truly yours,

Aurélien Noël,
M.P. Outremont.

826 Dollard Avenue,
Outremont 154, Québec,
January 1,1969.

Aurelien Noël, M.P.,
c/o Parliament Buildings,
Ottawa, Canada.

Dear Sir,

Please allow me to pass on these few thoughts on the current dispute involving the border-crossing rights of the Mohawk Indians:

It would appear that the leaders of the St. Regis Mohawks are correct in their assertion that the Jay Treaty is in force and obligates Canada to honour their free-border-crossing rights. Several Associated Press reports have cited "Canadian officials" as declaring that the Jay Treaty is not in effect "because Canada has never been a party to the Jay Treaty, ratified by the United States and Great Britain in 1794 before Canada became a nation." (New York Times Dec.19 and 20.)

Such reasoning has very serious implications for United States-Canadian relations since 28 treaties are in force.

Certainly, Article III of the Jay Treaty and Article IX of the Treaty of Ghent, which guarantee the free border-crossing rights of the Indians, are in force according to the official publication of the U.S. State Department, "Treaties in Force." Moreover, the United States, after having voided provisions of this treaty by the Immigration Act of 1924, responded to the persistent efforts of Indian leaders led by Chief Clinton Rickard of the Tuscaroras by passing legislation in 1928 restoring the Jay Treaty border-crossing rights.

Thus the United States recognised the treaty in question as one in force. Moreover, on June 22,1964, the Legal Advisor of the Office of the Under Secretary of State for the Canadian Ministry of External Affairs wrote to Lehigh Antoine, Grand Secretary of the Indian Defence League of America, that "there has never been, to our knowledge, any formal abrogation of these particular articles or of the treaty as a whole."

Canadian officials have also referred to the voiding of these rights by the Canadian Supreme Court in the decision, FRANCIS vs. THE QUEEN (1956). After having studied the decision, my conclusion is that the Supreme Court did not declare the treaty null and void but states that the clauses of the Jay Treaty were not in effect because the Government of Canada had not passed the legislation necessary to implement them.

For five years the Indian leaders of the Indian Defence League of America have been beseeching Canadian authorities to pass the necessary legislation, but to no avail.

The reported statements of Canadian officials violate basic principles of international law on the responsibilities of successor states, on the obligation to implement treaty commitments in good faith, and on the illegality of a single party unilaterally abrogating a bilateral international treaty.

Certainly the Liberal government possesses the majority to implement its treaty obligations in good faith. By their mild demonstrations the St. Regis Mohawks have gained publicity for a cause which deeply concerns North American Indians on both sides of the border.

Sincerely yours,

Arnold F. Doucette

Arnold F. Doucette

AFD/hs

→ PA 1/3-3-14

For several months, this Department, in consultation with representatives of the Indian people, has been reviewing all treaties and agreements affecting Indians; the Jay Treaty is being examined as part of this review. Until this review has been completed and the Government has fully considered the matter, there is no further information that my Minister or I can provide at this time.

If I can be of any further assistance to you, please do not hesitate to write to me.

Yours sincerely,

SILKANS/kar
February 21, 1969.

William J. Russell,
Special Assistant.

NOTE:
2nd page
of letter
to Mr. Antone
Niagara Falls

(retyped)
eh

c.c. Office of the Prime Minister
c.c. Office of the Minister

Ottawa 4, February 20, 1969

P. A. ⟶ 1/3-3-14

Mr. C. Phelps,
145 West 29th Street,
New York, New York 10024,
U.S.A.

Dear Mr. Phelps:

Your recent letter to the Prime Minister concerning the Jay Treaty has been referred to this Department for reply. My Minister, the Honourable Jean Chrétien has asked me to thank you for your letter and to write to you on his behalf.

The Jay Treaty was contracted between the British Sovereign and the Government of the United States in 1794 to ensure amicable relations between the two governments in commerce and navigation; it was not a treaty between the Sovereign and the Indian people of North America.

The present controversy at Cornwall results from the belief of the St. Regis Indians that the Jay Treaty exempts Indians from paying customs duty on goods transported by them across the United States-Canada border at Cornwall; however, court decisions in both countries have failed to recognise any special provisions in the current customs laws which would exempt Indians from payment of customs duty.

The most notable Canadian Customs case involving the Jay Treaty is that of Louis Francis of the St. Regis Reserve vs. the Queen, in which Mr. Francis lost his appeal to the Supreme Court in 1956 concerning duty paid on appliances imported from the United States. The Supreme Court judged at that time that neither the Jay Treaty nor the Indian Act exempted Canadian Indians from payment of customs duty. It is because of this judgment and from the fact that legislation has not been passed giving effect to the Jay Treaty that Indians have no special rights regarding border crossings.

. . . 2

The question of United States' customs duty does not have the same significance in relation to the present controversy, because traffic in manufactured goods is mainly from the United States to Canada. However, we have been advised that on March 1, 1937, the United States Court of Customs and Patent Appeals rendered the decision that the provision which exempted Indians from paying customs duty had been abrogated by the War of 1812 between the United States and Great Britain. As a result of this decision, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person.

For several months, this Department, in consultation with representatives of the Indian people, has been reviewing all treaties and agreements affecting Indians; the Jay Treaty is being examined as part of this review. At present, Departmental officials are analyzing reports of the consultations, so that recommendations of the Indian delegates may be incorporated into our proposals to Parliament; I am reasonably confident that Parliament will be guided by our suggestions in framing appropriate legislation in the area of Indian affairs.

It is difficult for me to understand your charge concerning the treatment of North American Indians in view of statements made recently by Mr. Chrétien and within the context of the present development programs of this Department. If you have any further questions concerning the treatment of Indians in Canada, please do not hesitate to write to me.

Yours sincerely,

R. B. Boyd,
Chief, Indian-Eskimo Bureau.

JS/mmc

2670

Referred by direction of The Prime Minister
Transmis à la demande du Premier ministre

To The Minister of Indian Affairs & Northern Development
Au Ministre d (Att'n: Mr. John Rae, Executive Ass't)*

FOR INFORMATION AND ANY NECESSARY ACTION
POUR EXAMEN ET DECISION PERTINENTE

Dept. of Indian Affairs & Northern Development
JAN 28 1969
OFFICE OF THE MINISTER

Also referred to:
Également transmis à

*For consideration and reply. No acknowledgment has gone out from this office.

Mrs. Olga Maxwell,
Correspondence Secretary

Ottawa, Jan. 27, 1969

A1 PAO

A1 22-1 H6

267

145 West 79th St
NY - NY 10024

Prime Minister Pierre Trudeau
Ottowa...

Honored Sir:....

I strongly plead that you and Canada respect the Jay Treaty ... of the Mohawk Indian Nation ..... It is truly shocking that the Government should extract money from the Indians crossing the bridge in their own reserve... and contrary

(1)

to human rights .... The treatment of the White Race of the Original inhabitants of this great continent ... is truly so horrifying in its history ... Let us not continue the injustices ....

Very sincerely

Clarence Phelps

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
MINISTÈRE DES AFFAIRES INDIENNES ET DU NORD CANADIEN
CANADA

TEMPORARY FILE SLIP
FICHE TEMPORAIRE DE DOSSIER

NOTE: This slip to be used for passing correspondence when the main file is charged out or is not required, and must not be removed but will be attached to the main file as soon as possible.

REMARQUE: *La présente fiche sert à transmettre la correspondance lorsque le dossier principal est sorti ou n'est pas demandé; ne pas l'enlever, mais la fixer au dossier principal dès que possible.*

BRANCH - DIRECTION

FILE NO. - DOSSIER N° 1/3-3-14

SUBJECT - SUJET

MAIN FILE IS CHARGED TO - DOSSIER PRINCIPAL INSCRIT AU NOM DE A1 27-11

REFERENCE - RENVOI				ACTION TAKEN - MESURES PRISES			
REFERRED TO DESTINATAIRE	BY PAR	REMARKS REMARQUES	DATE	P.A. DATE — DATE DE RANGEMENT	B.F. DATE — DATE DE RAPPEL	BY PAR	FOR C.R. USE ONLY AU SEUL USAGE DES ARCHIVES
A1	21	955-94	18-2-69	PA	20-2-69	A1	
P.O.T.		Noted		21-2-69		[illegible]	

NOTE: If action cannot be taken without the file, please make statement to that effect and return paper to Central Registry.
REMARQUE: *Si l'on ne peut procéder sans le dossier, prière de la déclarer et de renvoyer la correspondance aux archives.*

000342

IAND 10-87 (8-67) 7530-21-023-4487

Referred by *ction of* The Prime Minister
nsm *la demande du* Premier ministre

To The Minister of Indian Affairs
Au Ministre d Attention: J. Rae, Executive Assistant

FOR INFORMATION AND ANY NECESSARY ACTION
POUR EXAMEN ET DÉCISION PERTINENTE

Also referred to:
Également transmis à

For information

Ottawa, February 10, 1969

Mrs. Olga Maxwell
Correspondence Secretary

COPY
COPIE

1/3-3-14

CANADA

OFFICE OF THE PRIME MINISTER • CABINET DU PREMIER MINISTRE

PA
PA 21/2/69

Ottawa (4)
February 10, 1969

Dear Miss Jumano:

On behalf of the Prime Minister, I wish to acknowledge receipt of your letter of 14 January. I regret that the exceptionally high volume of mail received by the Prime Minister in recent weeks has delayed our reply until now.

We have taken careful note of your views and comments regarding Cornwall Island and payment of duty at the Canada-United States border.

Your concern in writing is appreciated.

Yours sincerely,

Original signed by
Original signé par
MRS. OLGA MAXWELL

Mrs. Olga Maxwell,
Secretary.

Miss Rose Jumano
55 Perkins Road
Massena, New York
U.S.A.

OM:jbn
cc: Minister of Indian Affairs and Northern Development
(Attention: J. Rae, Executive Assistant[x])

[x]For information.

A1 27-11

OFFICE OF THE PRIME MINISTER • CABINET DU PREMIER MINISTRE

CANADA

55 Perkins Road
Massena, New York
January 14, 1969

Honorable Pierre Elliot Trudeau
Prime Minister of Canada
Ottawa, Ontario

Honorable Trudeau:

I am writing to you about a very important matter concerning the Indians. According to the Jay Treaty of 1794, between the United States and Great Britain, the Indians do not have to pay any duties. Great Britain is Canada's mother country; ~~If~~ and she should honor and respect everything she has done. This includes the treaties she has signed. If Canada rejects the part of the treaty concerning the Indians, then she does not respect the rest of it, ~~the~~ part which states the border between United States and Canada. You can't go and reject certain parts of treaties and also say that the treaty is good.

Also Cornwall Island should not have been annexed to the City of Cornwall without the consent of the Indians. After all, it is their ~~p~~ land and one can't go barging into other people's property and taking whatever they wish without the owner's consent.

I would like to know why, after so many years, has Canada done this? Also what are you going to do about this, if anything? I would like to hear your views on this matter.

Thank you for giving attention to this.

Sincerely,
Miss Rose Jumano

P.A. ⟶ 1/3-3-14

Mr. Lehigh Antone,
Grand Secretary,
Indian Defense League of America,
Box 305,
Niagara Falls, New York.

Dear Mr. Antone:

This will refer to your letter of January 14, 1969, concerning the Jay Treaty, to the Honourable John Turner, Minister of Justice. Mr. Hayes, who replied to you January 22, 1969, has asked me to thank you again for your letter and to write direct to you.

The Jay Treaty was contracted between the British Sovereign and the Government of the United States in 1794 to ensure amicable relations between the two governments in commerce and navigation; it was not a treaty between the Sovereign and the Indian people of North America.

The ~~present~~ recent controversy at Cornwall has resulted from the ~~belief of the St. Regis Indians~~ claim that the Jay Treaty exempts Indians from paying customs duty on goods transported by them across the United States-Canada border at Cornwall; however, court decisions in both countries have failed to recognize any special provisions in the current customs laws which would exempt Indians from payment of customs duty.

The most notable Canadian Customs case involving the Jay Treaty is that of Louis Francis of the St. Regis Reserve vs. the Queen, in which Mr. Francis lost his appeal to the Supreme Court in 1956 concerning duty paid on appliances imported from the United States. The Supreme Court judged at that time that neither the Jay Treaty nor the Indian Act exempted Canadian Indians from payment of Customs duty. There is no legislation in Canada which gives Indians special rights regarding border crossings.

The question of United States' customs duty does not have the same significance in relation to the present controversy, because traffic in manufactured goods is mainly from the United States to Canada. However, we have been advised that on March 1, 1937, the United States Court of Customs and Patent Appeals rendered the decision that the provision which exempted Indians from paying customs duty had been abrogated by the War of 1812 between the United States and Great Britain. As a result of this decision, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person.

. . . 2

For several months, this Department, in consultation with representatives of the Indian people, has been reviewing all treaties and agreements affecting Indians; the Jay Treaty is being examined as part of this review. At present, Departmental officials are analysing reports of the consultations, so that recommendations of the Indian delegates may be incorporated into our proposals to Parliament; I am reasonably confident that Parliament will be guided by our suggestions in framing appropriate legislation in the area of Indian affairs.

If I can be of any further assistance to you, please do not hesitate to write to me.

Yours sincerely,

William J. Russell,
Special Assistant.

SILKAN:/smc
February 19, 1969

PM
19-2-69

1/3-3-14

A-1
PA

Indian Affairs
207-S

MINISTER OF JUSTICE AND
ATTORNEY GENERAL OF CANADA

MINISTRE DE LA JUSTICE ET
PROCUREUR GÉNÉRAL DU CANADA

Ottawa 4, January 22, 1969.

Mr. John A. Rae,
Executive Assistant to the
Minister of Indian Affairs and
Northern Development,
Ottawa, Ontario.

Dear John:

I enclose, for your information, copy of a letter dated January 14, 1969 from Mr. Lehigh Antone, Grand Secretary of the Indian Defense League of America, and a copy of my reply thereto.

Yours sincerely,

Dick

Richard D. Hayes,
Executive Assistant.

Encls.

A1 27-11

088719

Ne Skenno, Ne Gai Wuo, Ne Gasha Sa — *Peace, Prosperity, Power and Equality to All*

Indian Defense League of America

Home Office, Box 305, Niagara Falls, N.Y.

CHIEF CLINTON RICKARD
President
DAVID HILL
First Vice Grand President
MR. LEHIGH ANTONE
Grand Secretary

CHIEF DES-KA-HEH
Grand Chaplain
R.R. 1, Ohsweken, Ont.
Six Nation Reservation
LYNETTE JUSTIANA
Treasurer and Assistant Secretary

Annual Border Crossing Celebration Every 3rd Saturday of July, Niagara Falls, N.Y., and Niagara Falls, Ontario

PLEASE PREPARE REPLY
FOR THE ~~MINISTER'S~~ E.A.'S SIGNATURE

January 14, 1969

Honourable John N. Turner
Minister of Justice and Attorney General
Government House
Ottawa, Canada

Dear Mr. Turner;

I have been instructed to write a letter of inquiry regarding a request involving the right of North American Indians to cross the Border between the United States and Canada as stipulated in Jay's Treaty and confirmed by the Treaty of Ghent.

The request was directed to you on September 21, 1967. Will you please advise if any action has been taken on the problem.

Respectfully

Lehigh Antone, Secty.

Ottawa 4, January 22, 1969.

Mr. Lehigh Antone,
Grand Secretary,
Indian Defense League of America,
Box 305,
Niagara Falls, New York,
U.S.A.

Dear Mr. Antone:

The Minister of Justice has asked me to acknowledge and thank you for your letter dated January 14, 1969 which makes reference to the Jay Treaty which recognized the right of the North American Indians to freely cross and re-cross the border between the United States and Canada.

This claim, as you know, has been the subject of litigation and was indeed considered by the Supreme Court of Canada in the case of Louis Francis v. The Queen, 1956 S.C.R. 618. This right, as we now see it, is one which would have to be recognized by our domestic law before it could be said to be effective and this in turn raises important policy considerations that fall outside the sphere of the Minister of Justice. I am taking the liberty of referring your letter to the Department of Indian Affairs and Northern Development.

I should also mention that your letter makes reference to an earlier letter dated September 21, 1967 which is a date well prior to the date upon which the present Minister of Justice assumed office. Unfortunately, I am unable to find any record of that letter.

Yours sincerely,

Original Signé par
Original Signed by

Richard D. Hayes,
Executive Assistant.

Ottawa 4, February 19, 1969

PA → 1/3-3-14

Mr. F. N. McNechnn,
R.R. 1,
Lone Butte, British Columbia.

Dear Mr. McNechnn:

My Minister, the Honourable Jean Chrétien, has asked me to thank you for your letter of January 21, 1969, concerning the Jay Treaty and to write to you on his behalf.

The Jay Treaty was contracted between the British Sovereign and the Government of the United States in 1794 to ensure amicable relations between the two governments in commerce and navigation; it was not a treaty between the Sovereign and the Indian people of North America.

The present controversy at Cornwall results from the belief of the St. Regis Indians that the Jay Treaty exempts Indians from paying customs duty on goods transported by them across the United States-Canada border at Cornwall; however, court decisions in both countries have failed to recognize any special provisions in the current customs laws which would exempt Indians from paying of customs duty.

The most notable Canadian Customs case involving the Jay Treaty is that of Louis Francis of the St. Regis Reserve vs. the Queen, in which Mr. Francis lost his appeal to the Supreme Court in 1956 concerning duty paid on appliances imported from the United States. The Supreme Court judged at that time that neither the Jay Treaty nor the Indian Act exempted Canadian Indians from payment of customs duty. There is no legislation in Canada which gives Indians special rights regarding border crossings.

The question of United States' customs duty does not have the same significance in relation to the present controversy, because traffic in manufactured goods is mainly from the United States to Canada. However, we have been advised that on March 1, 1937, the United States Court of Customs and Patent Appeals rendered the decision that the provision which exempted Indians from paying customs duty had been abrogated by the War of 1812 between the United States and Great Britain. As a result of this decision, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person.

. . . 2

For several months, this Department, in consultation with representatives of the Indian people, has been reviewing all treaties and agreements affecting Indians; the Jay Treaty is being examined as part of this review. At present, Departmental officials are analyzing reports of the consultations, so that recommendations of the Indian delegates may be incorporated into our proposals to Parliament; I am reasonably confident that Parliament will be guided by our suggestions in framing appropriate legislation in the area of Indian affairs.

I hope that this information will help you to appreciate the position of this Department with regard to the situation at Cornwall. If you have any further comments, please do not hesitate to write to me.

Yours sincerely,

E. J. Dunn
for E. E. Boyd,
Chief, Indian-Eskimo Bureau.

JS/mmc

232-S

R R 1,
Lone Butte, B. C.
January 21, 1969

1/3-3-14

The Honorable Jean Chretien,
Minister of Indi an Affairs and Northern Development
Ottawa, Ontario

Dear Sir:

This is an open letter.

We have been hearing a good deal recently about the controversy concerning Indian rights under the Jay (spelling ?) treaty under which Indians are alleged to have certain rights of passage between Canada and United States, together with certain rights to transport personal property over the boundary line without impediment.

It is alleged that this treaty was drawn up between the British and the Americans at a time when such matters were handled by the British rather than Canadian authority, and that it was subsequently ratified by the United States but has never been ratified by a Canadian Government, and that the Canadian Government is now taking the stand (supported) by Court decision) that because it has not, nor had its predecessors, ratified the treaty it does not apply.

This appears to be taking unfair advantage of a technicality. Canadians inherited from the British the potential wealth and benefits of a potentially rich land which had been wrested from its former Indian occupants by conquests which some times involved agreements (negotiated by the Indians under duress) granting certain rights to the former Indian occupants.

It would seem to me and I hope to other Canadians that if we enjoy the benefits of this inheritance we should also assume or redeem the obligations incurred by those from whom we derived it and that agreements by our predecessors should be honored regardless of formal ratification, or lack of it, by our Government.

Further it is alleged that the terms of the treaty have been, until recently, tacitly observed. It seems to me that if this is so the Canadian Government has in fact given de facto agreement to the treaty and that to renege on it now is an act of bad faith of dubious legality. (Court deflsions are not necessarily infallible and many of them are reversed from time to time by higher ones)

Canadian justice should not be based on an ability to take advantage of technicalities.

Yours truly,

F. N. McMechan

A1 37-11

COPY FOR THE INDIAN-ESKIMO BUREAU
(Return to A.1)

PA
20-2-69

Ottawa 4, February 17, 1969.

Mr. Raymond C. Labarge,
Deputy Minister,
Department of National Revenue,
Customs and Excise,
Connaught Building,
Ottawa 2, Ontario.

Dear Mr. Labarge:

Thank you for your letter of February 6th, regarding the Jay Treaty and for the photostat copy of the letter which the Commissioner of Customs sent to Miss Horn.

Yours sincerely,

J. A. MacDONALD

J.A. MacDonald,
Deputy Minister.

BOYD:ac

0 9 5 3 0 5

CENTRAL REGISTRY

FEB 18 11 24 AM '69

INDIAN AFFAIRS

Copy for the Indian - Eskimo Bureau
Return to A.1

Ottawa 4, February 17, 1969.

Mr. Raymond C. Labarge, Dept of
Deputy Minister, ~~of~~ National Revenue,
Customs and Excise,
Connaught Building,
Ottawa 2, Ontario.

Dear ~~Raymond:~~ Mr. Labarge:

Thank you for your letter of February 6, regarding the Jay Treaty and for the photostat copy of the letter which the Commissioner of Customs sent to Miss Horn.

The Commissioner's letter explains his government's position in a very straight forward manner.

Thank you for forwarding me a copy.

Yours sincerely,

J.A. MacDonald,
Deputy Minister.

BOYD/eh

B 13-2-69

Retyped 14.2.69.

1/3-3-14

P.A.

Ottawa 4, February 17, 1969.

Mr. Raymond C. Labarge,
Deputy Minister,
Department of National Revenue,
Customs and Excise,
Connaught Building,
Ottawa 2, Ontario.

Dear Mr. Labarge:

Thank you for your letter of February 6th, regarding the Jay Treaty and for the photostat copy of the letter which the Commissioner of Customs sent to Miss Horn.

Yours sincerely,

J.A. MacDonald,
Deputy Minister.

BOYD:ac

094578

ROUTE SLIP

PASS TO:

1. PA ✓
2. JAY Treaty
3. file
4.

Date B

Initials

17/2/69

ek

IA-716 (10-67) 7530-21-023-4277

1/3-3-14

Ar cle 3, Paragraph 3 of the Jay Treaty, 1794

(Malloy's Treaties and Conventions, Vol. 1, P. 590, Government Printing Office, Washington, 1910)

"It is agreed that it shall, at all times be free to His Majesty's subjects and to the Citizens of the United States, and also to the Indians dwelling on either side of the boundary line, freely to pass and repass by land, inland navigation, into the respective territories and countries of the two parties on the Continent of America (the country within the limits of the Hudson's Bay Company only excepted) and to navigate all the lakes, rivers and waters thereof, and freely to carry on trade and commerce with each other."

"No duty of entry shall ever be levied by either party on peltries brought by land or inland navigation into the said territories respectively nor shall the Indians passing or repassing with their own proper goods and effects of whatever nature, pay for the same any impost or duty whatever, but goods in bales or other large packages unusual among Indians shall not be considered as goods belonging bona fide to Indians."

Supplemented under date of May 4th, 1796, (DO. P. 607) by an explanatory article declaring:

"That no stipulation in any treaty subsequently concluded by either of the contracting parties, with any other State or Nation, or with any Indian tribe can be understood to derogate in any manner from the rights of free intercourse and commerce, secured by the aforesaid third Article of the treaty of Amity, Commerce and Navigation, to the subjects of His Majesty and to the Citizens of the United States, and to the Indians dwelling on either side of the boundary line aforesaid, but that all the said persons shall remain at full liberty to pass and repass, by land or inland navigation into the respective territories and countries of the contracting parties on either side of the boundary line, and freely to carry on trade and commerce with each other, according to the stipulation of the Third Article of the said treaty of Amity, Commerce and Navigation."

Following the War of 1812 between Great Britain and the United States came the Treaty of Ghent in 1814
(Malloy's Treaties and Conventions, Vol. 1, P. 612 - Printed 1912)
Article 9

"The United States of America engage to put an end immediately after the ratification of the present treaty to all hostilities with all the tribes of 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 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; provided always that such tribes or nations shall agree to desist from all hostilities, against the United States of America, their Citizens and subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly, and His Britannic Majesty engage on His part, to put an end, immediately after the ratification and forthwith to 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; provided always that such tribes or nations shall agree to desist from all hostilities against His Majesty and his subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly."

Farholm

He had no business upholding the U/S & Cdn abrogation of the Jay Treaty

He defended it that there is no law to let Indians bring goods across the Border

He is upholding the apparent expectation of both Countries

I thought we should show the Indians & public that we intend to give justice to the Natives

He held out no hope or promise of anything for Natives

He seemed to Defend Draper Elegant

Why did Farholm not give any hope or idea of what Depti is Trying To Do

Tell E.E. Boyd to check on Farholms notes

Who gave Farholm the Mandate.

Farholm

Question on the Postal aspect as tied by Internal Economy

A Mr McEwen

Peeped about letter to P.M. Henry

answered by I.A.N.D.

P.A. 1/3-3-14

Ottawa 4, February 13, 1969.

Mr. E.L.R. Williamson,
Nepean High School,
Broadview Avenue,
Ottawa, Ontario.

Dear Mr. Williamson:

In reference to your request for a copy of the Jay Treaty, I regret to inform you that we are unable to supply you with this document.

At present, copies of the Jay Treaty available to our Department are insufficient to permit distribution to the general public.

I would suggest that you consult Samuel Flagg Bemis' Jay's Treaty, A Study in Commerce and Diplomacy published in New York, by The MacMillan Co., (1923); a reproduction of the Treaty is included in the Appendix.

If we can be of further assistance to you in this matter do not hesitate to contact. I am attaching a resume of the relevant articles.

Yours sincerely,

ORIGINAL SIGNED BY
E. E. BOYD

Eric E. Boyd,
Chief, Indian-Eskimo Bureau.

LESLIE/BOYD/ eh

P.A.

1/3-3-14

Ottawa 4, February 13, 1969.

Dr. Eleanor Sutherland,
Indian-Eskimo Association,
732 Fraser Street,
Ottawa, Ontario.

Dear Dr. Sutherland:

Please refer to your telephone conversation of February 6, with Mr. Battle and your letter of February 5 to the Honourable Mr. Chretien, regarding a meeting being arranged by the Ottawa Branch of the Indian-Eskimo Association to discuss the Jay Treaty.

Unfortunately, neither Mr. Chretien or Mr. Battle will be able to attend this meeting. However, Mr. Cy Fairholm, the Director of Policy and Planning for Social Affairs, will attend and will be prepared to make a statement on the Jay Treaty and the Customs Controversy at Cornwall.

Yours sincerely,

ORIGINAL SIGNED BY
E. E. BOYD

Eric E. Boyd,
Chief, Indian-Eskimo Bureau.

BOYD/eh

1/3-3-14

732 Fraser Street,
Ottawa, Ontario.

February 5, 1969.

Mr. R. F. Battle,
Assistant Deputy Minister
(Social Affairs),
Department of Indian Affairs
and Northern Development,
Centennial Tower,
400 Laurier Avenue W.,
Ottawa.

Dear Mr. Battle:

Further to our telephone conversation, I attach a copy of my letter to your Minister concerning the meeting on Thursday, February 13th.

I hope that you will be able to attend.

Yours sincerely,

Eleanor H. Sutherland MD.

(Dr. Eleanor Sutherland)
Indian Eskimo Association.

SEEN BY
E. A.

Attach.

Berger

CANADIAN BROADCASTING CORPORATION

732 Fraser Street,
Ottawa, Ontario.

February 5, 1969.

Hon. Jean Chrétien,
Minister of Indian Affairs
and Northern Development,
Centennial Tower,
400 Laurier Avenue W.,
Ottawa.

Dear Mr. Chrétien:

The Ottawa Branch of the Indian-Eskimo Association of Canada plans to hold a public meeting on Thursday, February 13th, in the auditorium of the Public Archives, 395 Wellington Street, at which allegations by the Indian people that the Canadian Government has broken treaty undertakings with them will be discussed. The most recent and most prominent of these charges concerns the Jay Treaty.

The speakers will be Mr. Ernest Benedict of the St. Regis Reserve, Dr. Duran of Canisius College, New York State, and Professor Cumming of Osgood Hall. The chairman will be Dr. Simmons, President of Trent University.

If you yourself cannot attend, perhaps the legal officer of your Department, or some other officer competent to present the Government's point of view could be present.

I have also informed Mr. R.F. Battle of the meeting.

Yours sincerely,

(Dr. Eleanor Sutherland)
Indian Eskimo Association.

P.S.

Due to a change in plans, the chairman is yet to be announced.

COPY

DRAFT

February 11, 1969.

Dr. Eleanor Sutherland,
Indian Eskimo Association,
732 Fraser Street,
Ottawa, Ontario.

The Minister of Indian Affairs and Northern Development has asked me to make the following statement regarding the Customs Contravention and the Jay Treaty.

Dear Dr. Sutherland:

Further to our telephone conversation of February 6 and your letters of February 5 to the Honourable Mr. Chretien and to me regarding a meeting being arranged by the Ottawa Branch of the Indian Eskimo Association of Canada, I would like to outline for you our Department's understanding of the Jay Treaty.

The Treaty in question is formerly known as the Treaty of Amity, Commerce and Navigation. It was made in 1794 and proclaimed in 1796. The Treaty was entered into by the British Sovereign and the Government of the United States to insure amicable relations between the respective Governments in matters concerning commerce and navigation; it was not a Treaty between the Sovereign and the Indian people of North America.

Three classes of persons are referred to in the Treaty, namely:

> "His Majesty's subjects ... citizens of the United States, and ... Indians dwelling on either side of the boundary line." A section of Article III dealing with the transport of goods by Indian people reads as follows, "... nor shall the Indians passing or repassing with their own proper goods and effects of whatever nature, pay for the same any import duty whatever. But goods in bales, or other large packages, unusual among Indians, shall not be considered as goods belonging bona fide to Indians". It is on this section that the Indian claim to customs duty exemption is based.

The most notable Canada Customs case involving this issue is that of Mr. Louis Francis (St. Regis) vs. the Queen, in which Mr. Francis, a member of the St. Regis Band, lost his appeal to the Supreme Court in 1956 concerning duty assessed on an electric washing machine, an oil-burner and a refrigerator, which articles were brought to his home on the reserve from the United States. The Supreme Court judgement held that neither the Jay Treaty nor anything in the Indian Act had the effect of exempting an Indian living on a reserve from Canadian customs duties. Five of the seven Supreme Court judges who heard the case thought that the Jay Treaty lies within the class of ordinary treaties between nations so that it would not operate within Canada unless brought into force by appropriate legislation; of these five judges two thought that

.../2

changing circumstances, notably the movement of the Indian population after 1794, had rendered the relevant article inoperative. The remaining two judges made no comment on the treaty, but dealt only with the question whether the Indian Act did exempt an Indian person from customs duties. It is because of this judgement and from the fact that legislation has not been passed giving effect to the Jay Treaty, that Indians have no special rights regarding border crossings. ~~(A copy of the Supreme Court Decision is attached)~~.

The question of United States' customs duty does not have the same significance in relation to the present controversy as traffic in manufactured goods is mainly from the United States to Canada. However, we have been advised that in a decision rendered on March 1, 1937, published as TD 48857, Article III of the Jay Treaty, which granted Indians the right to pass and repass with their goods and effects was held by the United States court of customs and patent appeals to have been abrogated by the War of 1812 between the United States and Great Britain. As a result of this decision and the fact that there are no special provisions in the current customs' laws and regulations exempting Indians from the payment of duty, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person. It is, however, the practice of the American authorities to permit Indians who reside in the Canadian portion of the reserve, who have made purchases in Cornwall or elsewhere in Canada and who are returning to their residence on the reserve or who are proceeding with goods from the Canadian portion of the reserve to some other place in Canada to declare their purchases or other articles to United States customs under an informal procedure which does not involve the payment of duty.

~~With respect to the importation of goods, Canadian Indians employed in the United States or living on border reserves generally have been dealt with leniently throughout the years except in cases of flagrant violation. However, as stated recently by the Honourable Robert K. Andras, the Canadian Government is reviewing all treaties which affect directly or indirectly the Indian people, and the Jay Treaty is being thoroughly examined as a part of this review.~~

The Canadian government is very aware of the obligations of government obligations of Treaties which have been concluded with the Indian people. They have therefore

answers to assure that all obligations to the Indian people are met and that all obligations as a result of other Treaties which indirectly affect the Indian people would be respected

...13

~~I trust that this letter will clearly explain our position on this matter, Dr. Sutherland, and I am sure you will appreciate that~~ Therefore until the Canadian Government finalizes its review of all treaties, ~~the~~ it would be inappropriate for the Minister or a representative of his to make any further statements pertaining to this matter.

R.F. Battle,
Assistant Deputy Minister,
(Social Affairs.)

BOYD/eh

Therefore, until this review has been completed and the Government has fully considered the matter, ~~there is nothing further~~ there is no further information that my minister or I can provide at this time. However, my minister would be pleased to receive any ~~further~~ representations that might develop ~~on~~ from ~~a result of your~~ this meeting.

30

As the Canadian government is very anxious to ensure that all its obligations and liabilities to the Indian people as regards treaties which have been signed with them Indian people are met and that any obligation it may have ~~as a matter of~~ to Indian people as a result of the treaties and out-of-Treaties called for a complete review of all treaties and directly or indirectly affecting the Indian people, that any Treaty is now being examined as part of this review

As has been indicated previously the aim is review all limits aspects of Indian people and the Indian Act is being examined as a part of this review.

COPY FOR INDIAN-ESKIMO BUREAU
Return A.8

P. A.

1/3-3-14

FEB 12 1969

Mr. Clint J. Keller,
Executive Assistant to the
Minister of Finance,
Ottawa, Ontario.

Dear Mr. Keller:

Your letter of January 13 addressed to my Minister's Executive Assistant, Mr. John A. Rae, has been referred to me for attention.

You enclosed a letter from Mr. H. S. Hughes of Kingston, Ontario, who has expressed his concern about a number of matters pertaining to the Indians of Canada.

The first question raised by Mr. Hughes in his letter concerned customs duties and border crossing at the St. Regis Indian Reserve near Cornwall with specific reference to the Jay Treaty. We have received representations on the Jay Treaty on a number of occasions and the subject was raised at meetings held during the past year on revisions to the Indian Act. This matter, along with others related to Indian Treaties and agreements, is being thoroughly examined. In relation to the Jay Treaty, we are not in a position to indicate what the outcome of the review will be because this is a matter which will have to be carefully considered by the Government.

I have noted Mr. Hughes' comments on the voting rights of Indians in Canada. He appears to be misinformed on this subject; actually, in 1960 Indians received the right to vote in federal elections on the same basis as other citizens. With regard to voting in provincial elections, Indians are governed by the laws of the province in which they reside. Indians vote in provincial elections in every province except Quebec, and in territorial elections in the Yukon and Northwest Territories. In the Province of Quebec, Indians who are resident on Indian reserve lands are not entitled to vote in provincial elections. People of Indian ancestry in Newfoundland (Labrador) vote as provincial citizens in the elections of that province.

. . . 2

0 9 6 1 0 8

CENTRAL REGISTRY

FEB 20 4 23 PM '69

INDIAN AFFAIRS

REGISTERED
FEB 20 1969
RECORDS
INDIAN
AFFAIRS

Mr. Hughes suggested that any long term solution to the problems faced by Indians should be reached through full consultation with Indian leaders and with their consent and co-operation. We agree completely with this proposal. Consultations are now being held between officials of this Department and representatives of the Indian people across Canada to ascertain the latter's wishes concerning amendments to the Indian Act. When the discussions have been completed, legislation to amend the Act will be introduced in Parliament. The establishment of an Indian Claims Commission is also under consideration.

We have also set up Regional Advisory Councils across Canada composed of members chosen by Indians. There is a National Advisory Council chosen by the Regional Councils from among themselves to consult with and advise the Minister on matters relating to the welfare of the Indian people.

I should add that both the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development and the Honourable Robert Andras, Minister Without Portfolio, have had numerous meetings this past year with representatives of Indian bands and Indian organizations. A number of Indian leaders who have been organizing the new National Indian Brotherhood of Canada, met with the Prime Minister, Mr. Chrétien and Mr. Andras early in December, and consideration is currently being given to their proposals in the hope of establishing good relationships and continuing dialogue between the Federal Government and the Indian people.

I trust that the foregoing information will enable you to prepare a suitable reply to Mr. Hughes.

Yours sincerely,

ORIGINAL SIGNED BY
W.J. MUSSELL
W. J. Mussell,
Special Assistant.

GILCHRIST/mmc
February 6, 1969

7-2-69

Deputy Minister of Indian Affairs and Northern Development

Sous-ministre des Affaires indiennes et du Nord canadien

TO: A: ER[redacted] BOYD

Date 11-2-69

- [ ] Approval / Approbation
- [ ] Signature
- [ ] Comment / Commentaire
- [ ] Action / Donner suite
- [ ] Direct Reply / Répondre directement
- [ ] Copy for this office / Copie pour ce bureau
- [ ] Preparation of reply by / Réponse d'ici le

.....

- [ ] May we discuss / Discussion avec nous
- [ ] As requested / Selon indications
- [ ] Note / Noter
- [ ] Note and return / Noter et retourner
- [ ] Note and forward to / Noter et faire suivre à

.....

- [x] Information
- [ ] .....

ERIC —

FOR YOUR INFORMATION

Russ.

000378

IAND 22-14 (9-67) 7530-21-023-4472

P-A 12/2/69 1/3-3-19

INDIAN-ESKIMO ASSOCIATION OF CANADA

A CITIZENS' ORGANIZATION

Honourary Patron

His Excellency the Right Honourable Roland Michener, C.C. C.D. Governor-General of Canada

IEA

277 VICTORIA STREET
TORONTO 2, ONTARIO
TELEPHONE 362-5937

PUBLIC HEARING ON
ABROGATION OF INDIAN TREATIES

The Ottawa Branch of the Indian-Eskimo Association of Canada invites you to attend and participate in a Public Hearing on the dispute between the Federal Government and the Indian people regarding the abuses of Indian rights and the unfulfilled provisions of Treaties.

The attached material will give fuller information on this meeting.

Yours sincerely,

Dr. E. W. Sutherland
Chairman
Ottawa Branch

From: The Indian-Eskimo Association of Canada
277 Victoria Street
Toronto 2, Ontario.

FOR IMMEDIATE RELEASE

A public hearing on the dispute between the Federal Government and the Indian people of Canada on the abuses of Indian rights and the unfulfilled provisions of treaties such as the Jay Treaty will be held in the Auditorium of the Public Archives and National Library, 395 Wellington Street, on Thursday, February 13th, at 8:00 p.m.

Speakers will include Ernest Benedict of the St. Regis Reserve, Cornwall, Ontario; Dr. James A. Duran Jr., Historian and former United States diplomat, now of Canisius College, Buffalo, New York; and Professor Peter A. Cumming of Osgoode Hall and York University.

Ernest Benedict, a Mohawk, is founder of the North American Indian Travelling College which will attempt to take Indian culture and education to the reservations.

Dr. Duran has publicly supported the Mohawk Indians of the St. Regis Reserve in the present controversy regarding the Indian's right to import goods from the United States free of duty. Professor Duran has stated, "They are correct and the Canadian Government is wrong". Professor Peter Cumming has done research on a number of Indian treaties and is considered one of the leading authorities in Canada on the subject.

-30-

Press contact: Dr. E. W. Sutherland
Ottawa - Phone 722-1982
Chairman I.E.A. Ottawa Branch

PUBLIC HEARING

ON

DISPUTE BETWEEN THE FEDERAL GOVERNMENT AND THE INDIAN PEOPLE REGARDING THE ABUSES OF INDIAN RIGHTS AND THE UNFULFILLED PROVISIONS OF TREATIES SUCH AS THE JAY TREATY

DATE: Thursday, 13th of February, 1969, 8:00 p.m.

PLACE: Public Archives Building
395 Wellington Street
Ottawa, Ontario

OPEN TO THE PUBLIC

Sponsored by the Ottawa
Branch of the Indian-Eskimo
Association of Canada

PURPOSE OF HEARING

a) to obtain a fuller understanding of the disputes between the Indian people of Canada and the Federal Government over unfulfilled provisions of Treaties and abuses of Indian rights;

b) to explore approaches in resolving the problems; and

c) to creat public awareness of what can and should be done to assure a just and fair settlement of the dispute.

A G E N D A

8:00 p.m. Opening statement by the Chairman - To be announced

8:10 p.m. The Indian point of view - Ernest Benedict
St. Regis, Ontario

8:30 p.m. The historical background - Dr. James A. Duran, Jr.
Professor of History
Canisius College
Ransomville, New York

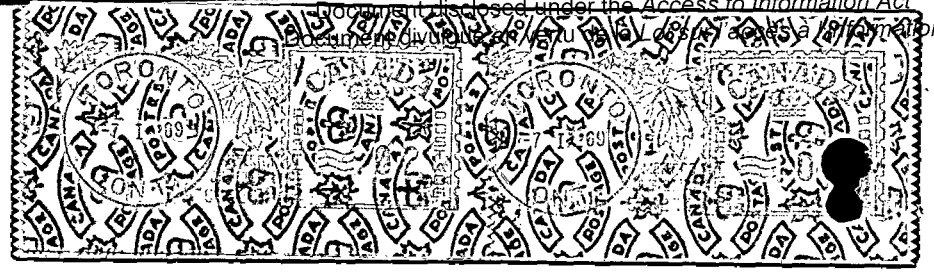
9:00 p.m. The Legal factors and considerations in the dispute

- Position of Indian people - Professor Peter A. Cumming
Osgoode Hall Law School
York University, Toronto

(The government of Canada has been invited to name a spokesman)

9:45 p.m. Open discussion - Follow up needed

INDIAN-ESKIMO ASSOCIATION OF CANADA
277 VICTORIA ST. - TORONTO 2, ONT.



INDIAN-ESKIMO ASSOCIATION OF CANADA
277 VICTORIA STREET
TORONTO 2, ONTARIO, CANADA

MR. R. F. BATTLE
ASSIST. DEP. MINISTER (SOCIAL AFFAIRS)
DEPT. INDIAN AFFAIRS & NORTHERN DEVELOP
CENTENNIAL TOWER
400 LAURIER AVENUE W.
OTTAWA, CANADA

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
MINISTÈRE DES AFFAIRES INDIENNES ET DU NORD CANADIEN

TEMPORARY FILE SLIP
FICHE TEMPORAIRE DE DOSSIER

NOTE: This slip to be used for passing correspondence when the main file is charged out or is not required, and must not be removed but will be attached to the main file as soon as possible.

REMARQUE: *La présente fiche sert à transmettre la correspondance lorsque le dossier principal est sorti ou n'est pas demandé; ne pas l'enlever, mais la fixer au dossier principal dès que possible.*

BRANCH - DIRECTION

FILE NO. - DOSSIER N° 1/3-3-14

SUBJECT - SUJET

MAIN FILE IS CHARGED TO - DOSSIER PRINCIPAL INSCRIT AU NOM DE A1 27-11

REFERENCE - RENVOI				ACTION TAKEN - MESURES PRISES			
REFERRED TO DESTINATAIRE	BY PAR	REMARKS REMARQUES	DATE	P.A. DATE / DATE DE RANGEMENT	B.F. DATE / DATE DE RAPPEL	BY PAR	FOR C.R. USE ONLY AU SEUL USAGE DES ARCHIVES
A.1 PAT	M	92647	12-2-69				
Mrs Lam	PN.	Please act. as necessary		PA	A.16		

NOTE: If action cannot be taken without the file, please make statement to that effect and return paper to Central Registry.
REMARQUE: *Si l'on ne peut procéder sans le dossier, prière de la déclarer et de renvoyer la correspondance aux archives.*

000385

IAND 10-87 (8-67) 7530-21-023-4487

Referred by direction of The Prime Minister
Transmis à la demande du Premier ministre

To The Minister of Indian Affairs and Northern Development,
Au Ministre d Attention: Mr. John A.Rae, Executive Assistant.

FOR INFORMATION AND ANY NECESSARY ACTION
POUR EXAMEN ET DÉCISION PERTINENTE

Also referred to:
Également transmis à

William G. Morris,
Senior Correspondence Secretary.

Ottawa, February 5, 1969

COPY
COPIE

1/3-3-14

OFFICE OF THE PRIME MINISTER • CABINET DU PREMIER MINISTRE

Ottawa (4),
February 5, 1969.

Dear Mrs. Campbell:

On behalf of the Prime Minister, I wish to acknowledge receipt of your communication regarding the incident at Cornwall. I very much regret that the exceptionally high volume of mail received in recent weeks has delayed our reply until now.

Your comments have been carefully noted and we appreciate your interest and concern with respect to the Indians. Your representation will receive careful consideration.

Yours sincerely,
Original signé par
W. G. MORRIS
William G. Morris,
Secretary.

No 69
13-2-69

Mrs. D. Campbell,
Box 728,
Cornwall, Ontario.

c.c. Minister of Indian Affairs and Northern Development,
Attention: Mr. John A. Rae, Executive Assistant.*

*For information.

A1 27-11

Dec. 15/68

Sir

I wish to express my opinion in regards to the Indian situation at Cornwall.

The Indians are asking very little, I think their cause should be considered. Where is the Dept. of Indian Affairs when it is needed?

Yours truly
(Mrs.) D. Campbell
Box 728, Cornwall, Ont.

1/3-8

Department of consumer and corporate affairs/Ministère de la consommation et des corporations

1/3-3-14

Ottawa 4,
February 26, 1969

vol 4 H2

Mr. J. A. MacDonald,
Deputy Minister of Indian Affairs
and Northern Development,
Ottawa.

Dear Mr. MacDonald:

Thank you for your letter of February 18 about the letters written by Miss V. Skerl. We are of course aware of Miss Skerl's habit of writing letters of this kind. We have, however, seen no evidence that she does this in government time or with the use of government facilities. Moreover she does not appear to write in her capacity as a government employee. In short, we have found no occasion to take official notice of her correspondence since she appears to write as a private citizen.

Yours sincerely,

J. F. Grandy

J. F. Grandy

Office of the Deputy Minister
Bureau du sous-ministre

099917

P.A.

6-25-45

~~CONFIDENTIAL~~

Ottawa 4, February 18, 1969.

Mr. J.F. Grandy,
Deputy Minister,
Department of Consumer & Corporate Affairs,
Canadian Building,
219 Laurier Avenue, West,
O t t a w a.

Dear Mr. Grandy:

I am attaching a copy of a letter written by Miss V. Skerl to the Premiers of the Provinces of Manitoba, Alberta, and British Columbia. I believe Miss Skerl is an employee of your Department. We, of course, welcome interest in the work of this Department on the part of Government employees, but are dismayed by the writer's lack of knowledge of the programs and policies of the Government in the field of Indian and Eskimo affairs. We have tried on many occasions to provide Miss Skerl with the facts and, indeed, if she were to really examine the "Book of Estimates" mentioned in her letter, she would soon discover that she has completely misrepresented the facts outlined therein.

The purpose of my letter is simply to let you know that Miss Skerl writes profusely in this same vein. We shall continue to try to enlighten her, but I do not expect we shall be very successful.

Yours sincerely,

J. A. MacDONALD

J.A. MacDonald,
Deputy Minister.

BATTLE:AC

1/3-8 5

To: Messrs. Weir, Strom, Bennett 7th Feb. 1969

Messrs. Chretien, Min for Indian Affairs and N.D.
Mr. Trudeau

The Genocide and injustices towards our Indians and Eskimos

Please

Before you I ask that you investigate this Dept. The budget is $2.50m. (see book of estimates) and this is mostly spent on welfare for the white-s in this dept. There are about 7000 whites scattered across Canada. This is the ultimate in perversion when this dept. exists for the whites and not for the Indians and Eskimos, for big business and oil development, and to perpetuate injustices and discrimination.

There is $5m. or more to help Indian commercial projects, but the poor Indians cannot get the money. They are tight fisted in Indians Affairs. Visit 400 Laurier West the 2 last executive floor (there are 17 floors) and see the luxury around, the army of fat bureaucrats, McDonald, Bergevin et al. The space alone cost to the taxpayers $4.50 pers sq. yd. while the Indians cannot get their welfare cheques, orthair homes ($10m. in the fund for this). When does Mr. Chretien or Mr. McDonald, pep. Minister for N.D. bother to go and visit the north when a whole family commits suicide, when an Indian girl is killed, or where a whole family if hacked to pieces, or when children die of malnutrition. Mr. Cretien says "he is too young to be a father to the Indians", or "let them take the case to court", though he is a lawyer and there are lawyers in the dep.t. I understand the legal section is the worst, and I have met at least three that have left there in disgust because of indifference and apathy towards the natives.

$250m. should be turned partly over to the provinces and invested in an industrial fund instead of keep ing 7000 whites on welfare. Letters like this are not read by Chretien so will you please bring it to his notice. V. Sherl.

P.S. Of course we dont like the way some of the western provinces treat the Indians. The rough police in Winnipeg or taking Indian land by Hydro. Cretien should have spoken out about this. Ihhuman.

C O P Y

TREASURY DEPARTMENT

BUREAU OF CUSTOMS

WASHINGTON

AIR MAIL

Jan. 21, 1969.

Princess Kahn-Tineta Horn
Caughnawaga, P.Q.
Canada

Dear Princess Horn:

In your letter of December 22, 1968, addressed to the Custom House, Massena, New York, you ask whether Indians are required to pay duty on merchandise which they bring with them into the United States from Canada. It is your understanding that such merchandise is exempt from duty under the Jay Treaty.

Article III of the Treaty of Amity, Commerce and Navigation concluded between the United States and Great Britain on November 19, 1794, commonly known as the Jay Treaty, granted Indians the right to pass and repass with their goods and effects into the United States without the payment of duty.

In a decision rendered on March 1, 1937, published as T. D. 48857, this provision of the Jay Treaty was held by the United States Court of Customs and Patent Appeals to have been abrogated by the War of 1812 between the United States and Great Britain. A copy of that decision, which is binding on this Bureau, is enclosed in order that, if you are not already familiar with it, you may see for yourself what the Court had to say about this point.

In view thereof and the fact that there are no special provisions in the current customs laws and regulations exempting Indians from the payment of duty, merchandise brought into the United States by Indians is treated in the same manner as merchandise brought in by any other person. However, it is our practice to permit Indians who reside in the Canadian portion of the reservation, who have made purchases in Cornwall or elsewhere in Canada, and who are returning to their residences on the reservation or who are proceeding with goods from the Canadian portion of the reservation to some other place in Canada to declare their purchases or other articles to United States Customs under an informal procedure which does not involve the payment of duty. I have no reason to make any change in that practice.

Sincerely yours,

(Signed)

Commissioner of Customs

Enclosure

COPY FOR INDIAN ESKIMO BUREAU
RETURN TO A.1

1/3-3-14
PA vol 4 H2

c.c. Deputy Minister of Justice
c.c. Deputy Minister of Manpower and Immigration
c.c. Under-Secretary of State for External Affairs

CONFIDENTIAL

PA 5/2/69

Ottawa 4, January 31, 1969.

Mr. R. C. Labarge,
Deputy Minister,
Customs and Excise,
Department of National Revenue,
Ottawa, Ontario.

Dear Mr. Labarge:

As a result of the recent controversy regarding the payment of customs duties by the Indian people at Cornwall and their demand that the Jay Treaty by recognized, I had a briefing paper prepared for my Minister. In the paper I outlined the history of the Jay Treaty and its application to Canada and the U.S.A. and presented three possible courses of action.

I am attaching a copy of this paper and I would appreciate receiving your views on it and those of your Minister before I take any further action.

I am also forwarding copies of this letter and the attached paper to the Deputy Ministers of Justice, Manpower and Immigration and to the Under-Secretary of State for External Affairs.

Yours sincerely,

J. A. MacDONALD

J. A. MacDonald,
Deputy Minister.

BOYD//mmc

c.c. Deputy Minister of Justice
c.c. Deputy Minister of Manpower and Immigration
c.c. Under-Secretary of State for External Affairs

~~CONFIDENTIAL~~

Ottawa 4, January 31, 1969

PA vol 4
H2

P.A. → 1/3-3-14

Mr. R. C. Labarge,
Deputy Minister,
Customs and Excise,
Department of National Revenue,
Ottawa, Ontario.

Dear Mr. Labarge:

As a result of the recent controversy regarding the payment of custom duties by the Indian people at Cornwall and their demand that the Jay Treaty be recognized, I had a briefing paper prepared for my Minister. In the paper I outlined the history of the Jay Treaty and its application to Canada and the U.S.A. and presented three possible courses of action. The Minister, after receiving the paper, instructed me to proceed with alternative three, which reads as follows:

> "Use Order-in-Council action under Section 22 of the Financial Administration Act for remission of taxes concerning custom duties paid by the Cornwall Island and St. Regis Indians. In conjunction with this action a statement would be made to the effect that the whole question of the Jay Treaty as it affects all North American Indians is being reviewed."

In approving this action the Minister also instructed me to provide him with more details pertaining to the ramifications of passing legislation to officially recognize the Jay Treaty. It may well be that following the receipt of this information he will, at a later date, decide to follow up the procedure outlined in alternative three with action to recognize the principles of the Treaty as they pertain to the Indian people.

Before I take any further action on this matter I would like to receive your Minister's views. A copy of the paper which I had prepared for my Minister is attached. I am also forwarding copies of this letter and the attached paper to the Deputy Ministers of Justice, Manpower and Immigration and to the Under-Secretary of State for External Affairs.

Yours sincerely,

J. A. MacDonald,
Deputy Minister.

BOYD/mmc

089663

CENTRAL REGISTRY

JAN 31 9 17 AM '69

INDIAN AFFAIRS

1/3-3-14

P.A. → PA vol 4 H2

c.c. Deputy Minister of Justice
c.c. Deputy Minister of Manpower and Immigration
c.c. Under-Secretary of State for External Affairs

5/2/69

[redacted]

Ottawa 4, January 31, 1969.

Mr. R. C. Labarge,
Deputy Minister,
Customs and Excise,
Department of National Revenue,
Ottawa, Ontario.

Dear Mr. Labarge:

As a result of the recent controversy regarding the payment of custom duties by the Indian people at Cornwall and their demand that the Jay Treaty be recognized, I had a briefing paper prepared for my Minister. In the paper I outlined the history of the Jay Treaty and its application to Canada and the U.S.A. and presented three possible courses of action.

The Minister, after receiving the paper, instructed me to have a draft cabinet submission, outlining the situation and recommending a course of action, prepared so that he could discuss it with his colleagues. I am attaching a copy of this submission and I would appreciate receiving your views and those of your Minister along with your recommendations before I take any further action.

I am forwarding copies of this letter and the attached submission to the Deputy Ministers of Justice, Manpower and Immigration and to the Under-Secretary of State for External Affairs.

Yours sincerely,

J. A. MacDonald,
Deputy Minister.

BOYD/mmc

DE. RTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

MINISTÈRE DES AFFAIRES INDIENNES ET DU NORD CANADIEN

OFFICE OF THE PUBLIC INFORMATION ADVISER

BUREAU DU CONSEILLER EN INFORMATION PUBLIQUE

CLIPPING FROM COUPURE DE Ottawa Journal DATE Feb 12/69

Jay Treaty Hassle

Chretien Promises Statement Soon

(By The CP) — Indian Affairs Minister Jean Chretien said Tuesday he will make a statement "in the near future" on a dispute involving a 175-year-old treaty which has erupted on the St. Regis reserve at Cornwall.

Indians on the reserve, which straddles the St. Lawrence River, have had American-bought goods seized by Canadian customs officials. The Indians argue that the Jay Treaty of 1794 between Britain and the U.S., named after the U.S. foreign secretary of the day, allows them to take goods across the border without duties.

Former Conservative leader John Diefenbaker asked Mr. Chretien in the Commons what is being done to assure that treaty rights are kept sacred. Although the Supreme Court of Canada had ruled the treaty not minding on Canada, Mr. Diefenbaker said, didn't the minister feel that treaties involving Indians should be upheld "to preserve relations with our first citizens."

The minister said the Jay treaty is different than others entered into by Canada because it was signed between the U.S. and Britain before Confederation.

P.A. 21/3-3-64

Copy for the Indian-Eskimo Bureau
Return to A.1

Ottawa 4, February 12, 1969.

MINISTER

As you are meeting today with the Honourable Mr. Lamoureux and with representatives of the City of Cornwall, to discuss matters pertaining to the St. Regis Reserve, the following information is provided to make you aware of the annexation which took place in 1956.

As you know the determination of the boundaries of municipalities in Ontario is a matter entirely within Provincial jurisdiction and does not require approval of the Federal Government. In this instance, the City of Cornwall applied to the province in 1956 to extend its boundaries to include, among other things, portions of the Cornwall Island Indian Reserve. Neither the Department, nor the St. Regis Indians received prior notice of the intention of the City of Cornwall to annex portions of the Reserve. It was not until we learned about the decision of the Ontario municipality board on February 22nd, 1956, to approve the city's applications that we become aware of what had transpired.

The St. Regis Indians objected to this annexation and efforts by both the Band members and the Department were unsuccessful.

In May, 1960, the Department attempted to have the 1956 Annexation Order amended to exclude Reserve lands, again without success. The Ontario Government's position was that the Reserve of necessity would form part of some municipality, either the City of Cornwall or the Township of Cornwall.

Prior to the 1956 annexation, the Cornwall Island Reserve was within the boundaries of the Township of Cornwall, now it lies within the boundaries of the City of Cornwall. This change does not alter the status of the land nor does it adversely affect Indian rights and priveleges under the terms of the Indian Act. However, when the City of Cornwall annexed this area they were automatically bound by law to provide police protection and also fire protection for the total area within their boundaries. The determination of municipal boundaries is a matter over which the Crown Federal has no jurisdiction as it is entirely within the purview of the provincial legislature concerned. The boundaries of Cornwall are therefore legally determined by the legislature of the Province of Ontario.

E. E. Boyd
for R.F. Battle,
Assistant Deputy Minister,
(Social Affairs.)

BOYD/eh

0 9 3 6 7 5

CENTRAL REGISTRY

FEB 12 2 52 PM '69

INDIAN AFFAIRS

REGISTERED
FEB 12 1969
RECORDS
INDIAN
AFFAIRS

P.A. 1/3-3-14

Mr. Allen Monaghan,
Paradise Valley,
Alberta.

Dear Mr. Monaghan:

My Minister has asked me to reply to your letter of January 19 in which you commented on the Jay Treaty and other treaties which concern Indians.

As you know there has been a great deal of publicity recently in connection with the customs duties and border crossing incidents at St. Regis, Ontario. We have received representations on the Jay Treaty on a number of occasions and the subject was raised at meetings held during the past year on revisions to the Indian Act. I can only say that this matter, along with others relating to Indian Treaties and agreements, is being thoroughly examined. In relation to the Jay Treaty, I am unable to indicate what the outcome of the review will be because this is a matter which will have to be carefully considered by the Government.

Thank you for your interest in the Indian people of Canada.

Yours sincerely,

W. J. Russell,
Special Assistant.

GILCHRIST/ltn
February 7, 1969

1/3-3-14

A-1
PA

Paradise Valley, Alberta
January 19, 1969

Hon. Jean Chretien,
Minister of Indian Affairs and Northern Development,
Ottawa, Canada.

212-S

Dear Mr. Chretien,

Just a line to let you know that I am paying close attention to the discussions taking place concerning the Jay Treaty and other treaties which concern Indians.

I think we should "bend over backwards" to honor the treaties that have been made with these people. I take very seriously any suggestion that the Canadian government is finding ways of not honoring them treaties. If treaties can be broken that were made between us and the Indians, what hope is there that we can gradually move toward a peaceful international order?

Very sincerely,

Allen Ronaghan

27-11

088789

P. A. → 1/3-3-14

Mr. Clint J. Keller,
Executive Assistant to the
Minister of Finance,
Ottawa, Ontario.

Dear Mr. Keller:

Your letter of January 13 addressed to my Minister's Executive Assistant, Mr. John A. Rae, has been referred to me for attention.

You enclosed a letter from Mr. H. S. Hughes of Kingston, Ontario, who has expressed his concern about a number of matters pertaining to the Indians of Canada.

The first question raised by Mr. Hughes in his letter concerned customs duties and border crossing at the St. Regis Indian Reserve near Cornwall with specific reference to the Jay Treaty. We have received representations on the Jay Treaty on a number of occasions and the subject was raised at meetings held during the past year on revisions to the Indian Act. This matter, along with others related to Indian Treaties and agreements, is being thoroughly examined. In relation to the Jay Treaty, we are not in a position to indicate what the outcome of the review will be because this is a matter which will have to be carefully considered by the Government.

I have noted Mr. Hughes' comments on the voting rights of Indians in Canada. He appears to be misinformed on this subject; actually, in 1960 Indians received the right to vote in federal elections on the same basis as other citizens. With regard to voting in provincial elections, Indians are governed by the laws of the province in which they reside. Indians vote in provincial elections in every province except Quebec, and in territorial elections in the Yukon and Northwest Territories. In the Province of Quebec, Indians who are resident on Indian reserve lands are not entitled to vote in provincial elections. People of Indian ancestry in Newfoundland (Labrador) vote as provincial citizens in the elections of that province.

. . . 2

Mr. Hughes suggested that any long term solution to the problems faced by Indians should be reached through full consultation with Indian leaders and with their consent and co-operation. We agree completely with this proposal. Consultations are now being held between officials of this Department and representatives of the Indian people across Canada to ascertain the latter's wishes concerning amendments to the Indian Act. When the discussions have been completed, legislation to amend the Act will be introduced in Parliament. The establishment of an Indian Claims Commission is also under consideration.

We have also set up Regional Advisory Councils across Canada composed of members chosen by Indians. There is a National Advisory Council chosen by the Regional Councils from among themselves to consult with and advise the Minister on matters relating to the welfare of the Indian people.

I should add that both the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development and the Honourable Robert Andras, Minister Without Portfolio, have had numerous meetings this past year with representatives of Indian bands and Indian organizations. A number of Indian leaders who have been organizing the new National Indian Brotherhood of Canada, met with the Prime Minister, Mr. Chrétien and Mr. Andras early in December, and consideration is currently being given to their proposals in the hope of establishing good relationships and continuing dialogue between the Federal Government and the Indian people.

I trust that the foregoing information will enable you to prepare a suitable reply to Mr. Hughes.

Yours sincerely,

W. J. Massell,
Special Assistant.

GILCHRIST/mmc
February 6, 1969

1/3-3-14

Act
Pat

Sent office
5133

CANADA

Minister of Finance
Ministre des Finances

Ottawa 4,
January 13, 1969.

Mr. John A. Rae,
Executive Assistant to the Minister of
Indian Affairs and Northern Development,
Ottawa, Ontario.

Dear John:

Attached, herewith, is a copy of a letter, date of January 4, 1969, received by my Minister on which I would appreciate receiving your comments.

A similar request has been made to Ovila Benoit, Executive Assistant to the Minister of National Revenue.

Most sincerely,

Clint

Clint J. Keller,
Executive Assistant.

Hon.E.J.Benson.
M.P. for Kingston.

270, McEwen Dr.,
Kingston.
4 January 1969.

Dear Sir,

I am writing as an individual with little legal knowledge but a great concern for justice, to enquire into certain recent events at the Indian reserve near Cornwall and the Thousand Islands bridge.

As I understand it, judging by the accounts given in the Whig Standard, the Indians are protesting against the imposition of custom duties against them. This imposition, I am told, is contrary to the rights guaranteed them in the Jay Treaty of 1796. I am also informed that the imposition of these duties was authorised by the Supreme Court of Canada in 1956. These are, I believe, the facts as stated by the Indians, and since the majority of Indians I have met have been extremely truthfull people, I am inclined to accept this account.

It appears to me that the Jay Treaty was an international agreement, in the sense that it was entered into by the then Government of Canada(i.e. the British Government) and the Government of the Indians (i.e. the Chiefs and Tribal Council). If this is so, it is most reprehensible, and indeed politically immoral that any of the terms or provisions of this treaty should be unilaterally abrogated by the present Canadian Government. However,we seem to have got around this obstacle very nicely by treating the whole matter as a domestic one, and turning it over to the supreme court. The government of the day (1956) seemed content like Pontius Pilate to wash its hands, and allow the Supreme court to bear the odium.

It may, I suppose, be plausibly argued that the matter is a domestic one, since by treaty the Indians became wards of the Crown; and the ruling of the Supreme Court can be defended by the arguement that all residents of Canada should be treated equally. This, however is merely a legal quible. All residents of Canada are not equal. Canadians who are not of indian or Esquimo decent, and all residents who are British subjects can vote to elect represemtatives to both Provincial and Federal Parliaments, who, at least in theory, are supposed to safeguard the rights of their constituents. Indians have no such voting rights, and if they had, they constitute such a small minority that the few representatives they might succeed in electing would accomplish little good on their behalf. The situation is therefore similar to that of the American Colonies before the War of Independence, namely taxation without representation. It is difficult to see any justice in this situation, and it is particularly disturbing since it has been brought about by the Supreme Court of Canada, which is supposed to be the fountain head of justice in this country. If Indians cannot get justice from our Supreme Court, to whom are they supposed to turn? And which will be the next minority group to receive similar treatment?

Increasingly, from all parts of the nation, one hears warnings by Indian leaders that the racial situation could very soon develope into the explosive type now pertaining in the United States, if something is not done now. I understand that at the prestnt time the Federal Government is working to find a long term solution to the problem. This is fine, provided that it is found in full consultation with Indian leaders, and with their full consent and co-operation, and not merely a solution imposed on them by the government by superior force. However, this seems to me to be insifficient. there should also be some machinery to right grievances such as the one I have outlined as and when they arise, and it should not be necessary for people to have to resort to the blockade of international bridges in order to bring their grievances to light. I for one am not eager to find myself, in a few years, forced into the position of having to injure or kill Indians whom I have never seen and

with whom I have no quarrel, merely because of the apathy of the government which I helped to elect. After all, this government was elected on the slogan of a just society, and in order to secure that goal it is not sufficient that justice prevail for the majority, it must prevail for all.

I hope it may be possible for the Government to have this matter investigated by an official of sufficient rank to settle it on an equitable and just basis. May I please receive a reply giving the Government view on this matter, and informing me as to what, if anything, is being done?

I think it is only fair to inform you that it is my intention to make public the contents of this letter and that of any reply I may receive, since in my opinion it is not sufficient for justice to be done. It must also be made apparent that justice is being done, and the facts be made public.

I am,

Yours sincerely,

H. S. Hughes (H.S.HUGHES).

O/SSEA
O/USSEA
Parl.Secy.
Press Office
File
Diary
Div.Diary

USA Div.
Dept.of Ind.Affairs & Nor.Develop.
(Mr. Boyd)

Legal Div./J.S.Stanford/zs

PA 6/2/69 RPM 1/3-3-14

George Brown copies Cohen

Ottawa,

My dear Colleague,

I acknowledge your letter of January 7 enclosing a copy of a letter from Mr. J. Duran, Junior, concerning the application of the provisions of the Jay Treaty to Canadian Indians.

Mr. Duran has asked for details of the recent incidents involving the application of Canadian customs regulations to Canadian Indians crossing into Canada from the United States. This information is available in the Department of Indian Affairs and Northern Development. I understand that a similar enquiry originating with Mr. Duran is already in the hands of that Department and that they are in the process of preparing a reply.

Yours sincerely,

MITCHELL SHARP
Mitchell Sharp.

The Honourable Robert Andras,
Minister without Portfolio,
House of Commons,
OTTAWA, Ontario.

Ottawa 4, February 5, 1969

P. A. ⟹ 1/3-3-14

Mr. Paul Harris,
1333 South Park Street, Apt. 211,
Halifax, Nova Scotia.

Dear Mr. Harris:

I refer to your post card of January 18 in which you express your views concerning the Jay Treaty.

As you know, there has been a great deal of publicity recently about the customs duties and border crossing at St. Regis. We have received representations on the Jay Treaty on a number of occasions and the subject was raised at meetings held during the past year on revisions to the Indian Act. I can only say that this matter, along with others relating to Indian Treaties and agreements, is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, in relation to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

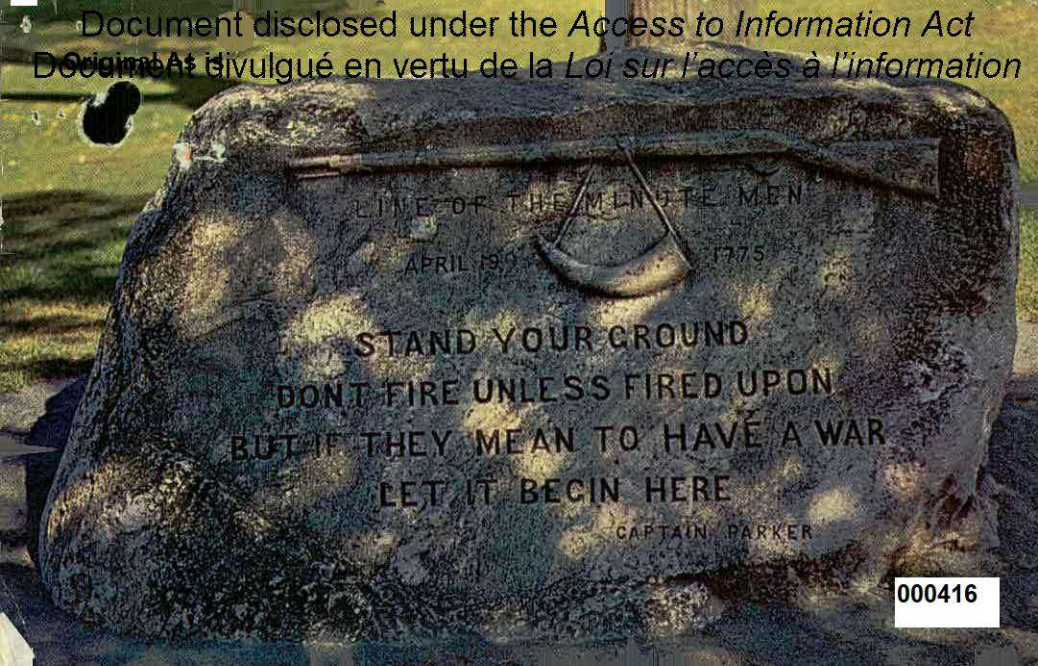
I appreciate your interest in the welfare of the Indian people of Canada.

Yours sincerely,

ORIGINAL SIGNED BY
E. E. BOYD

E. E. Boyd,
Chief, Indian-Eskimo Bureau.

IEC/ltn



B-3

January 18, 1969

LINE OF THE MINUTE MEN
LEXINGTON, MASS.

Where on Apr. 19, 1775 Capt. Parker and 77 Minute Men stood ground against 600 the British troops Eight Minute Men gave their lives, when the British disregarded Major Pitcairn's orders not to fire.

SPECIAL DELIVERY

APARTMENT NUMBERS

Dear Sir:

I am in favor of Canada supporting and living up to the Jay treaty. I believe that Canada, then in the name of England, did sign the treaty.

Sincerely,

Paul Harris

1333 South Park St., Apt. 211
Halifax, Nova Scotia

A-1
PAID 1/3-3-1

POSTES POSTAGE
6 CANADA
1965

Post Card

Director of Indian Affairs

Ottawa, Ontario

Canada.

000417

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
MINISTÈRE DES AFFAIRES INDIENNES ET DU NORD CANADIEN

CANADA

TEMPORARY FILE SLIP
FICHE TEMPORAIRE DE DOSSIER

NOTE: This slip to be used for passing correspondence when the main file is charged out or is not required, and must not be removed but will be attached to the main file as soon as possible.

REMARQUE: *La présente fiche sert à transmettre la correspondance lorsque le dossier principal est sorti ou n'est pas demandé; ne pas l'enlever, mais la fixer au dossier principal dès que possible.*

BRANCH - DIRECTION

FILE NO. - DOSSIER N° 1/3-3-14

SUBJECT – SUJET

MAIN FILE IS CHARGED TO – DOSSIER PRINCIPAL INSCRIT AU NOM DE A1 27-11-68

REFERENCE – RENVOI				ACTION TAKEN – MESURES PRISES			
REFERRED TO DESTINATAIRE	BY PAR	REMARKS REMARQUES	DATE	P.A. DATE DATE DE RANGEMENT	B.F. DATE DATE DE RAPPEL	BY PAR	FOR C.R. USE ONLY AU SEUL USAGE DES ARCHIVES
A1	M	98296	11-2-69	PA		A1	11-2-69

NOTE: If action cannot be taken without the file, please make statement to that effect and return paper to Central Registry.
REMARQUE: *Si l'on ne peut procéder sans le dossier, prière de la déclarer et de renvoyer la correspondance aux archives.*

000418

IAND 10-87 (8-67) 7530-21-023-4487

Deputy Minister of Indian Affairs and Northern Development

Sous-ministre des Affaires indiennes et du Nord canadien

TO: [redacted] Affairs
A:

Date

- [ ] Approval / Approbation
- [ ] Signature
- [ ] Comment / Commentaire
- [ ] Action / Donner suite
- [ ] Direct Reply / Répondre directement
- [ ] Copy for this office / Copie pour ce bureau
- [ ] Preparation of reply by / Réponse d'ici le

.....

- [ ] May we discuss / Discussion avec nous
- [ ] As requested / Selon indications
- [ ] Note / Noter
- [ ] Note and return / Noter et retourner
- [ ] Note and forward to / Noter et faire suivre à

.....

- [ ] Information
- [ ] .....

A1

R. Bonnitcall

000419

IAND 22-14 (9-67) 7530-21-023-4472

Indian Affairs #3248

DONALD M. ROBINSON

38 PROSPECT AVENUE
NEWMARKET, ONTARIO

February 3, 1969.

SEEN BY MINISTER

The Hon. Jean Chretien,
Minister of
Northern Affairs and
Northern Development.

Dear Minister:

Thank you for your reply to my telegram to Mr. John Roberts, M.P. regarding the Indians in the Cornwall area.

It is comforting to know as a Canadian there are men like you willing to take the time and write to interested citizens.

I must admit my conscience bothers me every time I hear of Indians being mistreated. It seems we owe them more than we have given them. I'm certain there must be many people who feel the same way.

Keep up the interest in their affairs. They deserve better. I think as Canadians we can set an example to the Indian situation in the United States.

I will be following your reports with the greatest of interest.

Sincerely,

Donald M. Robinson

Donald M. Robinson.

91 27-11

Copy For Indian-Eskimo Bureau
Return to A.8

P. A. 1/3-3-14

FEB 13 1969

Mr. Allen Ronaghan,
Paradise Valley,
Alberta.

Dear Mr. Ronaghan:

My Minister has asked me to reply to your letter of January 19 in which you commented on the Jay Treaty and other treaties which concern Indians.

As you know there has been a great deal of publicity recently in connection with the customs duties and border crossing incidents at St. Regis, Ontario. We have received representations on the Jay Treaty on a number of occasions and the subject was raised at meetings held during the past year on revisions to the Indian Act. I can only say that this matter, along with others relating to Indian Treaties and agreements, is being thoroughly examined. In relation to the Jay Treaty, I am unable to indicate what the outcome of the review will be because this is a matter which will have to be carefully considered by the Government.

Thank you for your interest in the Indian people of Canada.

Yours sincerely,

ORIGINAL SIGNED BY
W.J. MUSSELL

W. J. Mussell,
Special Assistant.

GILCHRIST/ltn
February 7, 1969

B 7/2/69

0 9 6 1 1 1

CENTRAL REGISTRY

FEB 20 4 23 PM '69

INDIAN AFFAIRS

c.c. Mr. Len Marchand, M.P.

P.A. → 1/3-3-14

Ottawa 4, January 31, 1967

Mr. Donald Moses,
3245 Renfrew Street,
Vancouver 12,
British Columbia.

Dear Mr. Moses:

In a letter dated January 14, Mr. Len Marchand, M.P., asked this Department to provide you with information about the recent border crossing incidents at St. Regis involving Mohawk Indians.

As you know the two border crossing incidents at St. Regis, which involved the payment of customs duties by Canadian Indians, gave rise to a great deal of publicity. We have received representations on the Jay Treaty on a number of occasions and the subject was raised at meetings held during the past year on revisions to the Indian Act.

The Indian claim to custom duty exemption is based on a section of the Jay Treaty. The provisions of this section have not been given effect by the Parliament of Canada and therefore do not have the force of law within this country. I may say, however, that this matter, along with others related to Indian Treaties and agreements, is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, in relation to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

Yours sincerely,

R. F. Battle,
Assistant Deputy Minister,
(Social Affairs).

GILCHRIST/ltn

1/3-3-14

~~AT~~
PA

4839

Ottawa 4, January 16, 1969.

Len Marchand, Esq., M.P.,
House of Commons,
O t t a w a.

Dear Len:

This is just a note to acknowledge receipt of your letter of January 14th to the Minister concerning Don Moses' request for information on the Jay Treaty.

I shall be pleased to bring your letter to the Minister's attention and he will write to Mr. Moses at his earliest opportunity.

Kindest regards.

Yours sincerely,

ORIGINAL SIGNED BY
W.J. MUSSELL

Bill Mussell,
Special Assistant.

pjg
cc: Social Affairs

27-11

Social Affairs 00 ✓
5137

HOUSE OF COMMONS
CANADA

January 14, 1969.

Dear Jean:

I received a letter under date of December 29th from Mr. Donald Moses, President of the North American Indian Brotherhood asking for information about the Mohawk Cornwall Border incident regarding the Jay Treaty.

I would be grateful if you would write to Mr. Moses advising him the details of this incident and your Department's views on the whole matter. Mr. Moses' address is 3245 Renfrew Street, Vancouver 12, B.C.

It would also be helpful if you would let me have a copy of your letter to Mr. Moses.

Yours sincerely,

Len.
L. S. Marchand, M.P.,
Kamloops-Cariboo.

The Hon. Jean Chretien, P.C., M.P.,
Minister of Indian Affairs
and Northern Development,
House of Commons,
O T T A W A .

c.c. Mr. John Roberts M.P.

Copy for Indian-Eskimo Bureau
Return to A, 8

1/3-3-14

P. A. JAN 31 1969

Mr. Donald M. Robinson,
38 Prospect Avenue,
Newmarket, Ontario.

Dear Mr. Robinson:

Your telegram of January 9 to Mr. John Roberts, M.P., has been forwarded to me for attention.

You expressed your concern for the Indians in the Cornwall area, namely the Indians who reside on the St. Regis Reserve. As you know, there has been a great deal of publicity recently about the customs duties and border crossing at St. Regis. We have received representations on the Jay Treaty on a number of occasions and the subject was raised at meetings held during the past year on revisions to the Indian Act. I can only say that this matter, along with others relating to Indian Treaties and agreements, is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, in relation to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

I appreciate your interest in the welfare of the Indian people of Canada.

Yours sincerely,

Original Signed by
HON. JEAN CHRÉTIEN

Jean Chrétien.

GILCHRIST/jl
January 24, 1969.

091432

CENTRAL REGISTRY

FEB 5 4 34 PM '69

INDIAN AFFAIRS

REGISTERED
FEB 5 1969
RECORDS
INDIAN
AFFAIRS

c.c. Mr. Len Marchand, M.P.

COPY FOR INDIAN-ESKIMO BUREAU
Return to A.8

P. A. 1/3-3-14

Ottawa 4, January 31, 1969

Mr. Donald Moses,
3245 Renfrew Street,
Vancouver 12,
British Columbia.

Dear Mr. Moses:

In a letter dated January 14, Mr. Len Marchand, M.P., asked this Department to provide you with information about the recent border crossing incidents at St. Regis involving Mohawk Indians.

As you know the two border crossing incidents at St. Regis, which involved the payment of customs duties by Canadian Indians, gave rise to a great deal of publicity. We have received representations on the Jay Treaty on a number of occasions and the subject was raised at meetings held during the past year on revisions to the Indian Act.

The Indian claim to customs duty exemption is based on a section of the Jay Treaty. The provisions of this section have not been given effect by the Parliament of Canada and therefore do not have the force of law within this country. I may say, however, that this matter, along with others related to Indian Treaties and agreements, is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, in relation to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

Yours sincerely,

Original Signed by
R. F. BATTLE

R. F. Battle,
Assistant Deputy Minister,
(Social Affairs).

GILCHRIST/ltn

Ottawa 4, January 30, 1969.
P. A. 1/3-3-14(A8)

Miss Susan Spadafore,
16 Highland Avenue,
Massena,
New York,
U.S.A.

Dear Miss Spadafore:

Your letter of January 11 addressed to the Prime Minister has been referred to this office for attention and reply.

You expressed your concern about the necessity for Indians to pay customs duties on goods purchased in the United States and brought into Canada. I would like to point out that, apart from special provisions in the Indian Act, Indians are subject to federal and provincial laws in the same manner as other Canadian citizens. The imposition of customs duties comes under the jurisdiction of the Federal Government and applies to Indians and non-Indians alike in all areas of Canada.

As you know there has been a great deal of publicity recently about the customs duties and border crossing at St. Regis. We have received representations on the Jay Treaty on a number of occasions and the subject was raised at meetings held during the past year on revisions to the Indian Act. I can only say that this matter, along with others relating to Indian Treaties and agreements, is being thoroughly examined. We are not in a position to indicate what the outcome of the review will be, in relation to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

Yours sincerely,

ORIGINAL SIGNED BY
E. E. BOYD

E.E. Boyd,
Chief, Indian-Eskimo Bureau.

MG/jl

1/3-3-14

PAT

Referred by direction of The Prime Minister
Transmis à la demande du Premier ministre

Social affairs

170-S

To The Minister of Indian Affairs and Northern Development
Au Ministre d Attention: Mr. John A. Rae,
Executive Assistant.

FOR INFORMATION AND ANY NECESSARY ACTION
POUR EXAMEN ET DÉCISION PERTINENTE

Also referred to:
Également transmis à

For attention and any necessary action.
No acknowledgement has been sent from this office.

Dept. of Indian Affairs & Northern Development
OTTAWA
JAN 20 1969
OFFICE OF THE MINISTER

William G. Morris,
Senior Correspondence Secretary.

Ottawa, January 16, 1969.

PF:sd

A1
27/11

4558

'69 JAN 15 PM 2 36

16 Highland Avenue
Massena, New York
January 11, 1969

Pierre Elliot Trudeau
Prime Minister of Canada
Ottawa, Ontario

Dear Sir:

The Indian Reservation on Cornwall Island is protesting against having to pay duties on goods carried across the International bridge between Canada and the United States.

Why after all these years haven't duties been imposed before upon the Indians?

What relationship does Canada have with the Jay Treaty?

Who initiated the imposition of duties upon the Indians?

As a student in Massena Central High School, and being so near to the Canadian border, I am protesting in the injustice being done to the Indians on Cornwall Island.

As a student of American Government, I would like to know the situation as you see it and what your thoughts are about the subject.

Sincerely,
Miss Susan Spadafore

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
MINISTÈRE DES AFFAIRES INDIENNES ET DU NORD CANADIEN

CANADA

TEMPORARY FILE SLIP
FICHE TEMPORAIRE DE DOSSIER

NOTE: This slip to be used for passing correspondence when the main file is charged out or is not required, and must not be removed but will be attached to the main file as soon as possible.

REMARQUE: *La présente fiche sert à transmettre la correspondance lorsque le dossier principal est sorti ou n'est pas demandé; ne pas l'enlever, mais la fixer au dossier principal dès que possible.*

BRANCH - DIRECTION

FILE NO - DOSSIER N° 1/3-3-14

SUBJECT - SUJET

MAIN FILE IS CHARGED TO - DOSSIER PRINCIPAL INSCRIT AU NOM DE A1 27/11

REFERENCE - RENVOI				ACTION TAKEN - MESURES PRISES			
REFERRED TO DESTINATAIRE	BY PAR	REMARKS REMARQUES	DATE	P.A. DATE DATE DE RANGEMENT	B.F. DATE DATE DE RAPPEL	BY PAR	FOR C.R. USE ONLY AU SEUL USAGE DES ARCHIVES
A1	16	87615	23-1				
Brown				4.2.69			

NOTE: If action cannot be taken without the file, please make statement to that effect and return paper to Central Registry.
REMARQUE: *Si l'on ne peut procéder sans le dossier, prière de la déclarer et de renvoyer la correspondance aux archives.*

000436

IAND 10-87 (8-67) 7530-21-023-4487

ROUTE SLIP

PA TO:

1. .....

2. .....

3. .....

4. .....

Date 24/1/69

Initials MRG

IA-716 (10-67) 7530-21-023-4277

P.A. → 1/3-3-14

Mr. Donald M. Robinson,
38 Prospect Avenue,
Newmarket, Ontario.

Dear Mr. Robinson:

Your telegram of January 9 to Mr. John Roberts, M.P. has been forwarded to me for attention.

You expressed your concern for the Indians in the Cornwall area, namely the Indians who reside on the St. Regis Reserve. As you know, there has been a great deal of publicity recently about the customs duties and border crossing at St. Regis. We have received representations on the Jay Treaty on a number of occasions and the subject was raised at meetings held during the past year on revisions to the Indian Act. I can only say that this matter, along with others relating to Indian Treaties and agreements, is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, in relation to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

I appreciate your interest in the welfare of the Indian people of Canada.

Yours sincerely,

Jean Chrétien.

GILCHRIST/jl
January 24, 1969.

1/3-3-14

A-1 PDT

Social affairs
S 110

4898

January 9th, 1969.

Mr. Donald M. Robinson,
38 Prospect Avenue,
Newmarket, Ontario.

Dear Mr. Robinson:

Thank you for your telegram. I have forwarded it to the Minister of Indian Affairs and I expect that he will write you in the near future.

I am not sufficiently expert to say what the rights and wrongs are concerning this specific case of the Jay Treaty, but I am convinced that Canada has in the past greatly mistreated the Indian people, and I am anxious that we should rectify these wrongs as soon as possible.

Yours sincerely,

John Roberts

John Roberts, M.P.
(York-Simcoe)

A1
27-11

John Roberts
Member of Parliament
YORK SIMCOE

House of Commons, Ottawa - Telephone 613-992-4593

Box 311, King City, Ont. - Telephone 416-895-8125 (Newmarket)

CANADIAN NATIONAL ∘ CANADIAN PACIFIC

TELECOMMUNICATIONS

CANADIEN NATIONAL ∘ CANADIEN PACIFIQUE

6115B(12-67)

MOA068 MO

TNA990 62/60 NL 7 EXTRA

NL GG.

60 JUN 7 AM 2 25

CNT FD TORONTO ONT 6

MR JOHN ROBERTS MP FOR YORK NORTH

PARLIAMENT BLDGS OTTAWA ONT

I'M CONCERNED FOR THE NORTH AMERICAN INDIANS AND THE MANNER IN WHICH THEY ARE BEING TREATED IN THE CORNWALL AREA. THESE PEOPLE ARE TRUE NORTH AMERICANS, THEY KNOW NO BOUNDARIES BETWEEN UNITED STATES OF AMERICA AND CANADA. PLEASE DO EVERYTHING IN YOUR POWER TO ASSIST THESE PEOPLE IN THE CAUSE.OF THE JAY TREATY

DONALD M ROBINSON 38 PROSPECT AVE NEW MARKET ONTARIO

38

(42).

Ottawa 4, January 22, 1969.
1/3-3-14 (A8)

P.A.

Mr. I. Carroll,
P.O. Box 1183,
Station "B",
Ottawa, Ontario.

Dear Mr. Carroll:

Your letter of January 9 addressed to the Minister, the Honourable Jean Chrétien, has been passed to me for attention and direct reply.

We have noted your comments with respect to the payment of customs duties by Indians. As you know, there has been a great deal of publicity recently about customs duties and border crossing at St. Regis. So far as the Jay Treaty is concerned, this is a subject on which representations have been received on a number of occasions. Indeed, the subject was raised at meetings held during the past year on revisions to the Indian Act. I can only say that this matter, along with others related to Indian Treaties and agreements, is being thoroughly examined, I am not in a position to indicate what the outcome of the review will be, as it relates particularly to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

I appreciate your concern for the welfare of the Indian people in Canada.

Yours sincerely,

ORIGINAL SIGNED BY
E.S. BOYD

E.S. Boyd,
Chief, Indian-Eskimo Bureau.

mcb

MMC/kar

P.O. Box 1183
Station "B", Ottawa

Indian Affairs

4815

January 9, 1969.

The Hon. J. Chrétien,
Minister of
Indian Affairs and Northern Development,
House of Commons,
Ottawa, Ontario.

Re: Indians residing in Canada being required to pay Customs Duty on goods purchased in U.S.

Dear Mr. Chrétien:

Must we force the Indians to pay Customs Duty on purchases made in United States?

As a Canadian of "non-native" background, I feel badly that we should INSIST upon these people paying Customs Duty.

It is difficult to understand why the Jay Treaty of 1794, which gave Indians certain privileges in this respect, should not still be recognized, and how the Superior Court of Canada could have the power to nullify these previous provisions.

I feel that the Indians are a rather special people and that we owe them the respect of honouring treaties--however old they may be--that seem so important to them.

The Indians have suffered much, through the coming of white settlers, by having their land taken away and white man's ways forced upon them, and I think that we should be charitable enough now to recognize them "as a people", and a people with rights.

Yours respectfully,

H Carroll

PA 1/3-3-14

P.A. →

Ottawa 4,

January 14, 1969

MINISTER

Re: St. Regis - Customs Controversy

On January 7 Miss Kahn-Tineta Horn wrote to you and to Mr. Andras requesting that you attend a meeting on the Cornwall Island International Bridge at 11 a.m. on Saturday, January 11.

On Friday, January 10, Mr. Boyd of the Indian-Eskimo Bureau sent a telegram to Miss Horn informing her that discussions regarding the negotiations between the Seaway Authority and the St. Regis Band Council is a matter which should be properly dealt with by the elected Band Council. In the telegram he also informed her that neither you nor Mr. Andras had anything further to add to the statement that the Jay Treaty is being reviewed in conjunction with an overall review of all treaties which affect the Indian people and that because of this review it would not be appropriate for either you or Mr. Andras to attend or have a representative attend Miss Horn's meeting on January 11.

On January 11 another telegram addressed to you was received from Miss Horn. In this telegram she requested that the Departmental employees who attended a meeting between the St. Regis Band and the Seaway Authority on December 8, 1956, be asked to attend another meeting at St. Regis on Sunday, January 12. Mr. Boyd replied to this telegram stating that it would not be possible for the Departmental officials who attended the December 8, 1956, meeting to be present at St. Regis on January 12. He also stated that matters relating to St. Regis and the Seaway negotiations are now being handled by a solicitor nominated by the St. Regis Band Council and that when this solicitor or the Band Council request the attendance of Departmental officials in respect to these negotiations, the Department will be pleased to co-operate.

R. F. Battle,
Assistant Deputy Minister,
(Social Affairs).

BOYD/mmc

PA

Ottawa 4, January 14, 1969

P. A → 1/3-3-14

Mr. Benjamin Paul,
Confederation of Native Indians of British Columbia,
615 Blundell,
Richmond, British Columbia.

Dear Mr. Paul:

I have the telegram of December 18 sent by your Association and others to the Right Honourable Pierre Elliott Trudeau and forwarded to this Department as indicated in the telegram of December 27 from Mr. Trudeau's Secretary.

We have noted your expression of support for the members of the Iroquois of St. Regis Indian Band who have protested against the payment of customs duties at the International Bridge at Cornwall, Ontario. The Minister is giving consideration to the representations of this group. As regards Indian claims under various treaties and agreements, the Minister is aware of past claims that have been made and he plans to have the whole situation carefully studied and examined. In this study and review of the treaties, representatives of the Indian people will be called upon to participate and express their views.

Yours sincerely,

OFFICIAL SIGNED BY
E. BOYD

E.E. Boyd,
Chief, Indian-Eskimo Bureau.

IEB/kar

Copy for the Prime Minister's Office

Ottawa 4, January 14, 1969.

P. A. → 1/3-3-14

Chief Forrest Walkem,
Box 54,
Cook's Ferry Indian Band,
Spence's Bridge, British Columbia.

Dear Chief Walkem

Your telegram of December 19 to the Right Honourable Pierre Elliott Trudeau has been forwarded to this Department as indicated in the reply of December 27 from Mr. Trudeau's Secretary.

The representations of members of the Iroquois of St. Regis Band who are protesting the payment of custom duties at the International Bridge at Cornwall, Ontario, are being given consideration by the Minister. I may add that the Minister is aware of other claims made by the Indian people in regard to various treaties and in order that the situation may be carefully examined he intends to have all the treaties reviewed and studied. In this review representatives of the Indian people will be called upon to participate.

Yours sincerely,

ORIGINAL SIGNED BY
E. E. BOYD

E.E. Boyd,
Chief, Indian-Eskimo Bureau.

LEB/mar

Ottawa 4, January 14, 1969

P. A. 1/3-3-14

Mr. Don Moses,
President, North American Indian Brotherhood
for British Columbia,
Vancouver City College,
Vancouver, British Columbia.

Dear Mr. Moses:

Your telegram of December 19 addressed to the Right Honourable Pierre Elliott Trudeau has been sent to this Department for attention as indicated in the reply of December 27 from Mr. Trudeau's Secretary.

You have referred to the protests of members of the Iroquois of St. Regis Indian Band against the payment of customs duties at the International Bridge at Cornwall, Ontario. The Minister is giving careful consideration to the representations of this group. In addition, he is aware of past claims made by the Indian people in regard to various treaties and he plans to have the whole situation reviewed and studied. In this process of review, representatives of the Indian people will be called upon to participate.

Yours sincerely,

ORIGINAL SIGNED BY
E. E. BOYD

E.E. Boyd,
Chief, Indian-Eskimo Bureau.

LHO/kar

R [illegible] *direction of* The Prime Minister
T[illegible] *smis a la demande du* Premier ministre

To The Minister of Indian Affairs and Northern Development
Au Ministre d

Attention: Mr. John A. Rae,
Executive Assistant.

FOR INFORMATION AND ANY NECESSARY ACTION
POUR EXAMEN ET DÉCISION PERTINENTE

Also referred to:
Également transmis à

For further consideration.

Ottawa, December 27, 1968

William G. Morris, 000450
Senior Correspondence Secretary.

CN Telecommunications

send this message subject to the terms on back
dépêche à expédier aux conditions énoncées au verso

OTTAWA, DECEMBER 27, 1968.

Social Affairs #704

MR. BENJAMIN PAUL,
CONFEDERATION OF NATIVE INDIANS
OF BRITISH COLUMBIA,
615 BLUNDELL,
RICHMOND, BRITISH COLUMBIA.

RE: YOUR TELEGRAM RECEIVED DECEMBER 19 CONCERNING THE ST REGIS RESERVE, CORNWALL, ONTARIO, YOUR REMARKS HAVE BEEN CAREFULLY NOTED AND COPY OF YOUR MESSAGE IS BEING REFERRED TO THE HONOURABLE JEAN CHRETIEN, MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT, FOR HIS FURTHER CONSIDERATION.

WILLIAM G. MORRIS,
SECRETARY.

cc: Minister of Indian Affairs and Northern Development
Attention: Mr. John A. Rae,*
Executive Assistant.

* For further consideration.

check / mots	full rate / plein tarif X		night letter / lettre de nuit	tolls / coût
charge account no. / numéro du compte 2-200-54610	cash number / numéro de caisse			
sender's name for reference only / nom de l'expéditeur pour référence seulement	Prime Minister's Office			
address and telephone / adresse, téléphone East Block 992-8362				000451 610

CNT-6102b (6-67)

Canadian National Railway Company (Telecommunications Department)

Hereinafter called the Company.

H. J. Clarke, general manager, Toronto.

Terms and conditions upon which telegraph and cable messages shall be transmitted are prescribed by Order No. 49274, dated December 5th, 1932, of the Board of Transport Commissioners for Canada and published in The Canada Gazette.

It is agreed between the sender of the message on the face of this form and this Company that said Company shall not be liable for damages arising from failure to transmit or deliver, or for any error in the transmission or delivery of any unrepeated telegram, whether happening from negligence of its servants or otherwise, or for delays from interruptions in the working of its lines, for errors in cipher or obscure messages, or for errors from illegible writing, beyond the amount received for sending the same.

To guard against errors, the Company will repeat back any telegram for an extra payment of one-half the regular rate; and, in that case, the Company shall be liable for damages suffered by the sender to an extent not exceeding $200.00, due to the negligence of the Company in the transmission or delivery of the telegram.

Correctness in the transmission and delivery of messages can be insured by contract in writing, stating agreed amount of risk, and payment of premium thereon at the following rates, in addition to the usual charge for repeated messages, viz.: one per cent for any distance not exceeding 1,000 miles, and two per cent for any greater distance.

This Company shall not be liable for the act or omission of any other Company, but will endeavour to forward the telegram by any other Telegraph Company necessary to reaching its destination, but only as the agent of the sender and without liability therefor. The Company shall not be responsible for messages until the same are presented and accepted at one of its transmitting offices; if a message is sent to such office by one of the Company's messengers, he acts for that purpose as the sender's agent; if by telephone, the person receiving the message acts therein as agent of the sender, being authorized to assent to these conditions for the sender. This Company shall not be liable in any case for damages, unless the same be claimed, in writing, within sixty days after receipt of the telegram for transmission.

No employee of the Company shall vary the foregoing.

La Compagnie des Chemins de fer Nationaux du Canada (Service des Télécommunications)

Ci-après nommée la Compagnie.

H. J. Clarke, directeur général, Toronto.

Les termes et conditions suivant lesquels les télégrammes et câblogrammes doivent être transmis sont prescrits par les ordonnances nos 49274 et 57471 de la Commission des Transports du Canada portant respectivement la date du 5 décembre 1932 et du 22 mai 1939, et publiées dans la Gazette du Canada.

Il est convenu entre la Compagnie et l'expéditeur de la dépêche écrite au verso que ladite Compagnie n'encourra aucune responsabilité au delà du montant perçu pour la transmission de ladite dépêche, à l'égard de tous dommages pouvant résulter du défaut de transmission ou de livraison, ou d'une erreur dans la transmission ou la livraison de toute dépêche non répétée, que ces dommages soient imputables à la négligence des employés de ladite Compagnie ou autrement, ou à des retards causés par une interruption dans le fonctionnement de ses lignes, ou à toute erreur dans des dépêches chiffrées ou de sens obscur, ou à toute [illegible] due à une écriture illisible.

Pour éviter tout risque d'erreur, la Compagnie répétera toute dépêche moyennant un versement supplémentaire de la moitié du tarif régulier, et dans ce cas, la responsabilité de la Compagnie vis-à-vis de l'expéditeur sera limitée à $200 à l'égard de tous dommages dus à la négligence de la Compagnie dans la transmission ou la livraison de la dépêche.

On peut s'assurer contre tout risque d'erreur dans la transmission et la livraison des dépêches, au moyen d'un contrat écrit stipulant le montant de l'assurance, et sur paiement (en sus du taux ordinaire pour les dépêches répétées) d'une prime calculée sur la base suivante: soit, 1 p. 100 du montant assuré, pour toute distance n'excédant pas 1,000 milles, et 2 p. 100 pour toute distance plus grande.

Ladite Compagnie ne sera pas responsable du fait ou de l'omission d'une autre Compagnie mais s'efforcera de transmettre toute dépêche par toute Compagnie de télégraphe dont il faudra se servir afin de faire parvenir la dépêche à destination, mais la Compagnie n'agira en ce cas qu'en qualité d'agent de l'expéditeur et sans assumer de responsabilité. La Compagnie n'assumera de responsabilité qu'à l'égard des dépêches présentées et acceptées à l'un de ses bureaux d'expédition; lorsqu'une dépêche est expédiée à un tel bureau par un messager de la Compagnie, ce messager sera sensé être l'agent de l'expéditeur; lorsqu'une dépêche est communiquée par téléphone, la personne qui la reçoit sera sensée agir pour l'expéditeur et avoir l'autorité nécessaire pour consentir aux présentes en son nom. La Compagnie ne répondra d'aucuns dommages, à moins qu'avis ne lui en soit donné par écrit dans les 60 jours qui suivront la remise de la dépêche pour transmission.

Aucun employé de la Compagnie n'a le droit de changer les présentes conditions.

TELECOMMUNICATIONS
CANADIEN NATIONAL • CANADIEN PACIFIQUE
6115B(12-67)

1968 DEC 19 AM 7 45

MOA143 VA117
V CPB050 137 NL 19 EX
CNT VANCOUVER BC DEC 18
PRIME MINISTER PIERRE ELLIOTT TRUDEAU
OTTAWA

WE HEREBY ENDORSE THE TELEGRAM SUBMITTED BY FOREST WALKEM OF SPENCES BRIDGE IN REGARDS TO THE ILL TREATMENT OF THE MOHAWK PEOPLE OF THE ST. REGIS RESERVE IN ONTARIO. THIS IS THE RESULT OF THE INDIANS OF CANADA THAT HAVE A VOTE BUT NO VOICE IN ALL LEVELS OF GOVERNMENT PROVINCIAL AND FEDERAL. WE STRONGLY FEEL THAT ALL TREATIES AGREEMENTS MADE BY THE PROVINCIAL AND FEDERAL GOVERNMENT WITH THE INDIANS OF CANADA MUST BE HONOURED. WE STRONGLY URGE YOU TO HONOUR PROTECT AND ACT ON BEHALF OF THE INDIAN PEOPLE RATHER THAN EXTERMINATE THEM.

THE INDIANS OF CANADA WANT THEIR RIGHTS TO BE RECOGNIZED IN EVERY COURT OF LAW AND NOT BE ABROGATED BY THE POWER AT BE.

CANADIAN NATIONAL • CANADIAN PACIFIC
TELECOMMUNICATIONS
CANADIEN NATIONAL • CANADIEN PACIFIQUE
6115B(12-67)

BENJAMIN PAUL CONFEDERATION OF NATIVE INDIANS OF BRITISH COLUMBIA 615 Blundell, Richmond, B.C.

MRS. ROSE CHARLIE PRESIDENT OF THE BRITISH COLUMBIA HOMEMAKERS ASSOCIATION unable to locate address

DON MOSES PRESIDENT OF THE NORTH AMERICAN INDIAN BROTHERHOOD unable to locate address

CFM WALKEM POWERS AT BE PER COPY

Re[illegible] b[illegible] irection of The Prime Minister
Transmis à la demande du Premier ministre

To The Minister of Indian Affairs and Northern Development
Au Ministre d

Attention: Mr. John A. Rae,
Executive Assistant.

FOR INFORMATION AND ANY NECESSARY ACTION
POUR EXAMEN ET DÉCISION PERTINENTE

Also referred to:
Également transmis à

For consideration.

Ottawa, December 27, 1968

William G. Morris,
Senior Correspondence Secret[illegible]

CN Telecommunications

send this message subject to the terms on back
dépêche à expédier aux conditions énoncées au verso

OTTAWA, DECEMBER 27, 1968.

Social affairs

NORTH AMERICAN INDIAN
BROTHERHOOD OF BRITISH COLUMBIA,
303 EAST 38TH AVENUE,
VANCOUVER 15, BRITISH COLUMBIA.

RE: YOUR TELEGRAM RECEIVED DECEMBER 20 CONCERNING THE ST REGIS RESERVE, CORNWALL, ONTARIO, YOUR REMARKS HAVE BEEN CAREFULLY NOTED AND COPY OF YOUR MESSAGE IS BEING REFERRED TO THE HONOURABLE JEAN CHRETIEN, MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT, FOR HIS FURTHER CONSIDERATION.

WILLIAM G. MORRIS,
SECRETARY.

cc: Minister of Indian Affairs and Northern Development
Attention: Mr. John A. Rae,*
Executive Assistant.

* For consideration.

check / mots	full rate / plein tarif X		night letter / lettre de nuit	tolls / coût
charge account no. / numéro du compte 2-200-54610	cash number / numéro de caisse			
sender's name for reference only / nom de l'expéditeur pour référence seulement	Prime Minister's Office			
address and telephone / adresse, téléphone East Block	992-8362			610 000455

CNT-6102b (6-67)

Canadian National Railway Company (Telecommunications Department)

Hereinafter called the Company.

H. J. Clarke, general manager, Toronto.

Terms and conditions upon which telegraph and cable messages shall be transmitted are prescribed by Order No. 49274, dated December 5th, 1932, of the Board of Transport Commissioners for Canada and published in The Canada Gazette.

It is agreed between the sender of the message on the face of this form and this Company that said Company shall not be liable for damages arising from failure to transmit or deliver, or for any error in the transmission or delivery of any unrepeated telegram, whether happening from negligence of its servants or otherwise, or for delays from interruptions in the working of its lines, for errors in cipher or obscure messages, or, for errors from illegible writing, beyond the amount received for sending the same.

To guard against errors, the Company will repeat back any telegram for an extra payment of one-half the regular rate; and, in that case, the Company shall be liable for damages suffered by the sender to an extent not exceeding $200.00, due to the negligence of the Company in the transmission or delivery of the telegram.

Correctness in the transmission and delivery of messages can be insured by contract in writing, stating agreed amount of risk, and payment of premium thereon at the following rates, in addition to the usual charge for repeated messages, viz.: one per cent for any distance not exceeding 1,000 miles, and two per cent for any greater distance.

This Company shall not be liable for the act or omission of any other Company, but will endeavour to forward the telegram by any other Telegraph Company necessary to reaching its destination, but only as the agent of the sender and without liability therefor. The Company shall not be responsible for messages until the same are presented and accepted at one of its transmitting offices; if a message is sent to such office by one of the Company's messengers, he acts for that purpose as the sender's agent; if by telephone, the person receiving the message acts therein as agent of the sender, being authorized to assent to these conditions for the sender. This Company shall not be liable in any case for damages, unless the same be claimed, in writing, within sixty days after receipt of the telegram for transmission.

No employee of the Company shall vary the foregoing.

La Compagnie des Chemins de fer Nationaux du Canada (Service des Télécommunications)

Ci-après nommée la Compagnie.

H. J. Clarke, directeur général, Toronto.

Les termes et conditions suivant lesquels les télégrammes et câblogrammes doivent être transmis sont prescrits par les ordonnances nos 49274 et 57471 de la Commission des Transports du Canada portant respectivement la date du 5 décembre 1932 et du 22 mai 1939, et publiées dans la Gazette du Canada.

Il est convenu entre la Compagnie et l'expéditeur de la dépêche écrite au verso que ladite Compagnie n'encourra aucune responsabilité au delà du montant perçu pour la transmission de ladite dépêche, à l'égard de tous dommages pouvant résulter du défaut de transmission ou de livraison, ou d'une erreur dans la transmission ou la livraison de toute dépêche non répétée, que ces dommages soient imputables à la négligence des employés de ladite Compagnie ou autrement, ou à des retards causés par une interruption dans le fonctionnement de ses lignes, ou à toute erreur dans des dépêches chiffrées ou de sens obscur, ou à toute erreur due à une écriture illisible.

Pour éviter tout risque d'erreur, la Compagnie répétera toute dépêche moyennant un versement supplémentaire de la moitié du tarif régulier, et dans ce cas, la responsabilité de la Compagnie vis-à-vis de l'expéditeur sera limitée à $200 à l'égard de tous dommages dus à la négligence de la Compagnie dans la transmission ou la livraison de la dépêche.

On peut s'assurer contre tout risque d'erreur dans la transmission et la livraison des dépêches, au moyen d'un contrat écrit stipulant le montant de l'assurance, et sur paiement (en sus du taux ordinaire pour les dépêches répétées) d'une prime calculée sur la base suivante: soit, 1 p. 100 du montant assuré, pour toute distance n'excédant pas 1,000 milles, et 2 p. 100 pour toute distance plus grande.

Ladite Compagnie ne sera pas responsable du fait ou de l'omission d'une autre Compagnie mais s'efforcera de transmettre toute dépêche par toute Compagnie de télégraphe dont il faudra se servir afin de faire parvenir la dépêche à destination, mais la Compagnie n'agira en ce cas qu'en qualité d'agent de l'expéditeur et sans assumer de responsabilité. La Compagnie n'assumera de responsabilité qu'à l'égard des dépêches présentées et acceptées à l'un de ses bureaux d'expédition; lorsqu'une dépêche est expédiée à un tel bureau par un messager de la Compagnie, ce messager sera sensé être l'agent de l'expéditeur; lorsqu'une dépêche est communiquée par téléphone, la personne qui la reçoit sera sensée agir pour l'expéditeur et avoir l'autorité nécessaire pour consentir aux présentes en son nom. La Compagnie ne répondra d'aucuns dommages, à moins qu'avis ne lui en soit donné par écrit dans les 60 jours qui suivront la remise de la dépêche pour transmission.

Aucun employé de la Compagnie n'a le droit de changer les présentes conditions.

TELECOMMUNICATIONS
CANADIEN NATIONAL • CANADIEN PACIFIQUE
6115B(12-67)

1968 DEC 19 PM 6 25

MOB303 VA397
V CPA081 #4/69 NL 7 EXTRA
GG.
CPCN FD VANCOUVER BC 19
PRIME MINISTER PIERRE TRUDEAU
PARLIAMENT BLDGS OTTAWA ONT

c.c. G. Robinson Dec 20

WHILE UNITED STATES ON AMERICA CONTINUE TO RECOGNIZE THE JAY TREATY OF 1794 AND WHILE THE CANADIAN GOVERNMENT CONTINUE TO SHOW DISRESPECT OF THE SAME TREATY WE ARE IN SUPPORT OF THE CAUSE OF TWENTY MEN WOMEN AND CHILDREN ARRESTED AT CORNWALL ONTARIO PROTESTING THE RECENT IMPOSITION OF CUSTOM DUTIES ON GOODS BOUGHT IN THE UNITED STATES AND BROUGHT BACK TO CANADA

NORTH AMERICAN INDIAN BROTHERHOOD OF BRITISH COLUMBIA
[illegible] 4TH AVE VANCOUVER [illegible]

L

3

Referred by direction of The Prime Minister
Transmis à la demande du Premier ministre

To The Minister of Indian Affairs and Northern Development
Au Ministre d

Attention: Mr. John A. Rae,
Executive Assistant.

FOR INFORMATION AND ANY NECESSARY ACTION
POUR EXAMEN ET DÉCISION PERTINENTE

Also referred to:
Également transmis à

For consideration.

Ottawa, December 27, 1968

William G. Morris,
Senior Correspondence Secr

CN Telecommunications

send this message subject to the terms on back
dépêche à expédier aux conditions énoncées au verso

3

OTTAWA, DECEMBER 27, 1968.

Social Affairs 000

CHIEF FORREST WALKEM,
COOK'S FERRY INDIAN BAND,
SPENCES BRIDGE, B.C.

RE: YOUR TELEGRAM RECEIVED DECEMBER 19 CONCERNING THE ST REGIS RESERVE, CORNWALL, ONTARIO, YOUR REMARKS HAVE BEEN CAREFULLY NOTED AND COPY OF YOUR MESSAGE IS BEING REFERRED TO THE HONOURABLE JEAN CHRETIEN, MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT, FOR HIS FURTHER CONSIDERATION.

WILLIAM G. MORRIS,
SECRETARY.

cc: Minister of Indian Affairs and Northern Development
Attention: Mr. John A. Rae*
Executive Assistant

* For consideration.

W.G.M.

check / mots	full rate / plein tarif X		night letter / lettre de nuit	tolls / coût
charge account no. / numéro du compte 2-200-54610	cash number / numéro de caisse			
sender's name for reference only / nom de l'expéditeur pour référence seulement	Prime Minister's Office			
address and telephone / adresse, téléphone	East Block	992-8362		

610 000459

CNT-6102b (6-67)

Canadian National Railway Company (Telecommunications Department)

Hereinafter called the Company.

H. J. Clarke, general manager, Toronto.

Terms and conditions upon which telegraph and cable messages shall be transmitted are prescribed by Order No. 49274, dated December 5th, 1932, of the Board of Transport Commissioners for Canada and published in The Canada Gazette.

It is agreed between the sender of the message on the face of this form and this Company that said Company shall not be liable for damages arising from failure to transmit or deliver, or for any error in the transmission or delivery of any unrepeated telegram, whether happening from negligence of its servants or otherwise, or for delays from interruptions in the working of its lines, for errors in cipher or obscure messages, or for errors from illegible writing, beyond the amount received for sending the same.

To guard against errors, the Company will repeat back any telegram for an extra payment of one-half the regular rate; and, in that case, the Company shall be liable for damages suffered by the sender to an extent not exceeding $200.00, due to the negligence of the Company in the transmission or delivery of the telegram.

Correctness in the transmission and delivery of messages can be insured by contract in writing, stating agreed amount of risk, and payment of premium thereon at the following rates, in addition to the usual charge for repeated messages, viz.: one per cent for any distance not exceeding 1,000 miles, and two per cent for any greater distance.

This Company shall not be liable for the act or omission of any other Company, but will endeavour to forward the telegram by any other Telegraph Company necessary to reaching its destination, but only as the agent of the sender and without liability therefor. The Company shall not be responsible for messages until the same are presented and accepted at one of its transmitting offices; if a message is sent to such office by one of the Company's messengers, he acts for that purpose as the sender's agent; if by telephone, the person receiving the message acts therein as agent of the sender, being authorized to assent to these conditions for the sender. This Company shall not be liable in any case for damages, unless the same be claimed, in writing, within sixty days after receipt of the telegram for transmission.

No employee of the Company shall vary the foregoing.

La Compagnie des Chemins de fer Nationaux du Canada (Service des Télécommunications)

Ci-après nommée la Compagnie.

H. J. Clarke, directeur général, Toronto.

Les termes et conditions suivant lesquels les télégrammes et câblogrammes doivent être transmis sont prescrits par les ordonnances nos 49274 et 57471 de la Commission des Transports du Canada portant respectivement la date du 5 décembre 1932 et du 22 mai 1939, et publiées dans la Gazette du Canada.

Il est convenu entre la Compagnie et l'expéditeur de la dépêche écrite au verso que ladite Compagnie n'encourra aucune responsabilité au delà du montant perçu pour la transmission de ladite dépêche, à l'égard de tous dommages pouvant résulter du défaut de transmission ou de livraison, ou d'une erreur dans la transmission ou la livraison de toute dépêche non répétée, que ces dommages soient imputables à la négligence des employés de ladite Compagnie ou autrement, ou à des retards causés par une interruption dans le fonctionnement de ses lignes, ou à toute erreur dans des d[illegible]hes chiffrées ou de sens obscur, o[illegible] tou[illegible]e[illegible] due à une écriture illisible.

Pour éviter tout risque d'erreur, la Compagnie répétera toute dépêche moyennant un versement supplémentaire de la moitié du tarif régulier, et dans ce cas, la responsabilité de la Compagnie vis-à-vis de l'expéditeur sera limitée à $200 à l'égard de tous dommages dus à la négligence de la Compagnie dans la transmission ou la livraison de la dépêche.

On peut s'assurer contre tout risque d'erreur dans la transmission et la livraison des dépêches, au moyen d'un contrat écrit stipulant le montant de l'assurance, et sur paiement (en sus du taux ordinaire pour les dépêches répétées) d'une prime calculée sur la base suivante: soit, 1 p. 100 du montant assuré, pour toute distance n'excédant pas 1,000 milles, et 2 p. 100 pour toute distance plus grande.

Ladite Compagnie ne sera pas responsable du fait ou de l'omission d'une autre Compagnie mais s'efforcera de transmettre toute dépêche par toute Compagnie de télégraphe dont il faudra se servir afin de faire parvenir la dépêche à destination, mais la Compagnie n'agira en ce cas qu'en qualité d'agent de l'expéditeur et sans assumer de responsabilité. La Compagnie n'assumera de responsabilité qu'à l'égard des dépêches présentées et acceptées à l'un de ses bureaux d'expédition; lorsqu'une dépêche est expédiée à un tel bureau par un messager de la Compagnie, ce messager sera sensé être l'agent de l'expéditeur; lorsqu'une dépêche est communiquée par téléphone, la personne qui la reçoit sera sensée agir pour l'expéditeur et avoir l'autorité nécessaire pour consentir aux présentes en son nom. La Compagnie ne répondra d'aucuns dommages, à moins qu'avis ne lui en soit donné par écrit dans les 60 jours qui suivront la remise de la dépêche pour transmission.

Aucun employé de la Compagnie n'a le droit de changer les présentes conditions.

TELECOMMUNICATIONS
CANADIEN NATIONAL • CANADIEN PACIFIQUE
6115B(12-67)

3

MOA098 VA096 V
CPB556 25 NL 7 EXTRA
GG.
CPCN VANCOUVER BC 18
PRIME MINISTER P E TRUDEAU
PARLT BLDGS OTTAWA ONT
WE VIOLENTLY OPPOSE STRONGARM TACTICS BY POLICE AGAIN MOHAWKS.
TREAT NATIVES LIKE FRENCH-CANADIANS. ABIDE BY TREATIES.
RECOGNIZE RIGHTS
COOK'S FERRY INDIAN BAND, Box 94, SPENCES BRIDGE, BC PER
CHIEF FORREST WALKEM.

1968 DEC 19 AM 3 30

OFFICE OF THE PRIME MINISTER
DEC 19 1968
OTTAWA

1

Return to IE Bureau
A1

PA

SEEN BY
MINISTER
JAN 22 1969

1/3-3-14

Ottawa 4,

January 14, 1969

MINISTER

Re: St. Regis - Customs Controversy

On January 7 Miss Kahn-Tineta Horn wrote to you and to Mr. Andras requesting that you attend a meeting on the Cornwall Island International Bridge at 11 a.m. on Saturday, January 11.

On Friday, January 10, Mr. Boyd of the Indian-Eskimo Bureau sent a telegram to Miss Horn informing her that discussions regarding the negotiations between the Seaway Authority and the St. Regis Band Council is a matter which should be properly dealt with by the elected Band Council. In the telegram he also informed her that neither you nor Mr. Andras had anything further to add to the statement that the Jay Treaty is being reviewed in conjunction with an overall review of all treaties which affect the Indian people and that because of this review it would not be appropriate for either you or Mr. Andras to attend or have a representative attend Miss Horn's meeting on January 11.

On January 11 another telegram addressed to you was received from Miss Horn. In this telegram she requested that the Departmental employees who attended a meeting between the St. Regis Band and the Seaway Authority on December 8, 1956, be asked to attend another meeting at St. Regis on Sunday, January 12. Mr. Boyd replied to this telegram stating that it would not be possible for the Departmental officials who attended the December 8, 1956, meeting to be present at St. Regis on January 12. He also stated that matters relating to St. Regis and the Seaway negotiations are now being handled by a solicitor nominated by the St. Regis Band Council and that when this solicitor or the Band Council request the attendance of Departmental officials in respect to these negotiations, the Department will be pleased to co-operate.

Original Signed by
R. F. BATTLE

R. F. Battle,
Assistant Deputy Minister,
(Social Affairs).

BOYD/mmc

PAS 1/3-3-14

CANADA

epar nt of Indian Affairs
and ... hern Development

MESSAGE FORM

Ministère des Affaires indiennes
et du Nord canadien

FORMULE DE MESSAGE

TO: À . Miss Kahn Tineta Horn,
Caughnawaga Post Office,
Caughnawaga, P.Q.

FROM: DE
Branch E.E. Boyd,
Direction Chief, Indian-Eskimo Bureau
Division Ottawa

Not to be included in Message:
A ne pas comprendre dans le message:

File No.
Dossier n° 1/3-3-14

Telex Phone No. (if available)
Numéro de téléphone telex (si on le sait)

PRIORITY (Check whichever is applicable) Délai (pointer le délai voulu)

For Delivery / De Livraison: Within 1 hr. / D'ici 1 h ☐ Within 3 hrs / D'ici 3h ☐ By 8:30 A.M. Tomorrow / Au plus tard à 8h30 demain matin ☐

PLEASE PRINT PLAINLY OR TYPE MESSAGE BELOW
PRIÈRE D'ÉCRIRE EN MOULÉ OU DE DACTYLOGRAPHIER LE MESSAGE DANS L'ESPACE CI-APRÈS

CODE NO-CODE N°	
Originator's-Envoyeur	Addressee's-Destinataire

PLEASE REFER TO YOUR LETTERS OF JANUARY 7, TO THE HONOURABLE MR. CHRETIEN AND THE HONOURABLE MR. ANDRAS REGARDING THE ST. REGIS SEAWAY NEGOTIATIONS AND THE JAY TREATY. NEGOTIATIONS BETWEEN THE SEAWAY AUTHORITY AND THE ST. REGIS BAND IS A MATTER FOR THE ELECTED BAND COUNCIL TO DEAL WITH. MR. CHRETIEN AND MR. ANDRAS HAVE NOTHING FURTHER AT THIS TIME TO ADD TO THE STATEMENT THAT THE JAY TREATY IS BEING REVIEWED IN CONJUNCTION WITH AN OVERALL REVIEW OF ALL TREATIES INVOLVING THE [illegible] INDIAN PEOPLE. THEREFORE IT WOULD BE INAPPROPRIATE FOR THEM TO ATTEND OR HAVE A REPRESENTATIVE ATTEND YOUR MEETING ON SATURDAY JANUARY 11.

If further space is required please use a second page — Si cet espace est insuffisant, prière d'utiliser une deuxième feuille.

The following information must be supplied but will not be sent with the above message.
Prière de fournir les renseignements suivants qui, toutefois, ne feront pas partie du message ci-dessus.

Message Prepared by— Rédigé par—	Telephone No.: Numéro de téléphone:	Date	Signature of Person Authorizing Message: Signature de la personne autorisant l'envoi du message:
E.E. Boyd	2-6752	10/1/69	ORIGINAL SIGNED BY E.E. BOYD

IAND 10-84 (9-67) 7530-21-023-4490

From KAHNTINETA OF CAUGHNAWAGA
January 7 1969

HON ROBERT ANDRASS,
Assistant Minister to the
Minister of Indians
Ottawa, Canada.

RE: Visits by Department of Indians to St Regis-Cornwall reserve to negotiate and advise the Indians concerning the resolution and agreement re transfer of lands to St. Lawrence Seaway.

Dear Hon Robert Andrass:

On December 3rd 1956 two of the representatives of your department attended their 10th or 20th meeting in Cornwall to complete the final negotiations for the basis of the agreement to "licenses" the St. Regis-US Canadian Seaway deal, and to move along the plans for the sale of land by the Indians to the Seaway.

Along with your men were top men from Department of Justice, Department of Transport, US-Canada Seaway Authority. They managed to persaude the Indians to scrap all previous resolutions and they prepared a final one, the Indians approved it. On December 3rd at this meeting heavily attended by Canadian government "brass" from Indians, Transport, Jusitce, Seaway the agreement was concluded, and then confirmed on December 8th 1956

It contains 122 words carefully prepared by Department of Justice (so I am told) and approved by Justice, Transport, Indians, Seaway. And those 122 words (paragraph 1 section e) guarantees the Indians everything the Jay Treaty gives them (and does not even mention the Jay treaty!)-

So on Saturday January 11th at 10 am why dont you come down and explain it to us, or have someone explain it to us in your presence. We will be waiting foryou on Cornwall Island not far from the bridge (but not on it). We are, as you know, peacefully striving for our rights and this agreement doubles the Jay Treaty.

Yours
KAHNTINETA HORN.

1/3-3-14

A-1
Gary Brown

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

MINISTER'S OFFICE

DATE _____

TO: .....

FROM: .....

REMARKS:

Presented to Minister
by Mr. Rogers
delegation.

A1 37-11

Article 3 of the Jay Treaty, 1794

(Malloy's Treaties and Conventions, Vol. I, P. 590, Government Printing Office, Washington, 1910)

"It is agreed that it shall, at all times be free to His Majesty's subjects and to the Citizens of the United States, and also to the Indians dwelling on either side of the boundary line, freely to pass and repass by land, inland navigation, into the respective territories and countries of the two parties on the Continent of America (the country within the limits of the Hudson's Bay Company only excepted) and to navigate all the lakes, rivers and waters thereof, and freely to carry on trade and commerce with each other."

"No duty of entry shall ever be levied by either party on peltires brought by land or inland navigation into the said territories respectively, nor shall the Indians passing or repassing with their own proper goods and effects of whatever nature, pay for the same any import or duty whatever, but goods in bales or other large packages unusual among Indians, shall not be considered as goods belonging bona fide to Indians."

Supplemented under date of May 4th, 1796, (DO. P. 607) by an explanatory article declaring:

"That no stipulation in any treaty subsequently concluded by either of the contracting parties, with any other State or Nation, or with any Indian tribe can be understood to derogate in any manner from the rights of free intercourse and commerce, secured by the aforesaid third Article of the treaty of Amity, Commerce and Navigation, to the subjects of His Majesty and to the Citizens of the United States, and to the Indians dwelling on either side of the boundary line aforesaid, but that all the said persons shall remain at full liberty to pass and repass, by land or inland navigation into the respective territories and countries of the contracting parties on either side of the boundary line, and freely to carry on trade and commerce with each other, according to the stipulation of the Third Article of the said treaty of Amity, commerce and navigation."

Following the War of 1812 between Great Britian and the United States came the Treaty of Ghent in 1814

(Malloy's Treaties and Conventions, Vol. I, P. 612 - Printed 1912)

Article 9 - "The United States of America engage to put an end immediately after the ratification of the present treaty to all 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 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; provided always that such tribes or nations shall agree to desist from all hostilities, against the United States of America, their Citizens and subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly, and His Britannic Majesty engage on His part, to put an end, immediately after the ratification of the present treaty, to all hostilities with all the tribes or nations of Indians with whom they may be at war at the time of such ratifiaation and forthwith to 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; provided always that such tribes or nations shall agree to desist from all hostilities against His Majesty and his subjects, upon the ratifiaation of the present treaty being notified to such tribes or nations, and shall so desist accordingly."

PROBLEMS OF THE PEOPLE OF ST. REGIS (AKWESASNE)
REGARDING THE INTERNATIONAL BRIDGE OF THE ST. LAWRENCE SEAWAY

The Government of Canada took the land required forthe International Bridge by what is known as EXPROPRIATION. However, the decision was made quickly, the country was in a hurry, and the EXPROPRIATION ORDER left matters to be decided. Today, a dozen years later, the matters have still not been decided.

The Expropriation Order said that an agreement would be reached by the Band Council, the Seaway, and the Department of Indian Affairs. No agreement has ever been reached. The Band Council did pass resolutions calling upon certain terms, and believed while the bridge was under construction that these terms would be met. For instance, it provided that North American Indians would have the right to pass on the bridge free. It provided that gates would be put in the fence wherever Indians wanted. It provided that merchants and servicemen using the bridge to reach the Indians would not have to pay tolls which would later be charged to the Indians. If the agreement has not been reached yet, how can the People of St. Regis obtain justice? We have asked the Seaway many times to produce the agreement if they have one -- they have not done so.

The Expropriation Order said that the land was needed for a bridge. And yet, it was used not only for a bridge, but for a Customs House, a Customs Shed, a toll station, the Bridge Company's office, the Bridge Company's garage, gas lines, and similar things. Furthermore, the amount of land taken is much wider than is needed for a bridge. In fact, the land taken in Cornwall is only slightly wider than the bridge itself -- why was so much more Indian land taken? We do not feel we have been treated fairly or rightly when the land which we agreed to give up is used for other purposes. We only gave up land for a bridge. Particularly when the Customs House is used against us and in violation of our rights, should we have it on our land? How can the People of St. Regis obtain justice?

People of Cornwall Island allowed the Seaway to dump river bottom soil on their land. They expected to be treated fairly. Yet the Seaway holds money it has owed these people since 1964, and will not pay for the damage to the land. How can these people obtain justice?

The Seaway caused islands which we own to be taken for the flooding of the lake behind the dam. The agreement under which we let the islands go was that any portion of the island which was not flooded would be returned to us. For how many years now have we waited for the return of the unflooded portion of our islands? We have not received them back, so how can the people of St. Regis obtain justice?

We have other problems with the Seaway. Our beaches have been ruined, and the places our children would swim are gone. How can our children obtain justice? Most seriously of all is that we have acted in good faith. Yet when we have told the Department of Indian Affairs of our problems, for how many years now, we have received no satisfaction. The Seaway does not listen to our problems, and treat our people with arrogance. Even the passes which we have been given so that we can cross the bridge on our land says they can be taken away at any time by the Seaway.

How, Canada, can the people of St. Regis obtain justice from you?

INFORMATION FOR THE PEOPLE OF AKWESASNE

ABOUT THE JAY TREATY AND CUSTOMS

Although the Revolutionary War established the freedom of the new United States of America from Great Britain, only a few years later battles were breaking out between the two countries. To keep the nations at peace, Chief Justice ofthe United States John Jay went to London, and on 19 November, 1794, the two countries signed what we call JAY's TREATY.

The treaty had such agreements as having the British leave military posts in the Northwest, gave the Americans the right to trade in the British West Indies, and other such things. It also contained an agreement that neither country would violate the right of the Indians to travel freely across the newly established boundary line. Article III of the Treaty said:

> "No Duty on Entry shall ever be levied by either party on peltries brought by land, or inland navigation into the said territories respectively, NOR SHALL INDIANS PASSING OR REPASSING WITH THEIR OWN PROPER GOODS AND EFFECTS OF WHATEVER NATURE, PAY FOR THE SAME ANY IMPOST OR DUTY WHATEVER. BUT GOODS IN BALES OR OTHER LARGE PACKAGES UNUSUAL AMONG INDIANS SHALL NOT BE CONSIDERED GOODS BELONGING BONA FIDE TO INDIANS."

In other words, Indians would not have to pay any customs duty, but they could not expect to carry goods across for white people. To this day, the United States upholds their part of the agreement.

(Of course, the Treaty only upholds what is already the right of the Indians, who lived on the land before the boundary line was established. Even if the treaty had never been signed, the Indians would still have this moral right.)

Canada has not actually said that they will not honor the treaty, but C anada has not passed laws saying it <u>will</u> honor the treaty. So, in 1956 when Louis F rancis of St. Regis brought a used washing machine into St. Regis without paying duty, and when the washing machine was seized, Louis Francis's case was taken through the courts to the Supreme Court of Canada. There, the court said that they did not have the right to rule on a treaty, but as far as they could see, there was a law that said people had to pay duty, and that would apply to Indians too. Until the Parliament of Canada passes a law saying that Indians are exempt from duties, every court in Canada will rule according to the law, instead of according to their country's solemn treaties.

Often, laws which conflict with treaties in general, but which have some loophole are interpreted in such a way that the treaty is not broken. Even today, Canada does not need to apply the Customs Act to Indians if it should decide not to.

The People of Akwesasne remind the People of Canada that their honour, the honour of their country, and the honour oftheir Queen is at stake if the moral rights of the Indian people are not recognized, and if their treaties are not respected.

COPY FOR INDIAN ESKIMO BUREAU P. A.
RETURN TO A.1

Ottawa 4,

January 14, 1969

MINISTER

Re: St. Regis - Customs Controversy

On January 7 Miss Kahn-Tineta Horn wrote to you and to Mr. Andras requesting that you attend a meeting on the Cornwall Island International Bridge at 11 a.m. on Saturday, January 11.

On Friday, January 10, Mr. Boyd of the Indian-Eskimo Bureau sent a telegram to Miss Horn informing her that discussions regarding the negotiations between the Seaway Authority and the St. Regis Band Council is a matter which should be properly dealt with by the elected Band Council. In the telegram he also informed her that neither you nor Mr. Andras had anything further to add to the statement that the Jay Treaty is being reviewed in conjunction with an overall review of all treaties which affect the Indian people and that because of this review it would not be appropriate for either you or Mr. Andras to attend or have a representative attend Miss Horn's meeting on January 11.

On January 11 another telegram addressed to you was received from Miss Horn. In this telegram she requested that the Departmental employees who attended a meeting between the St. Regis Band and the Seaway Authority on December 8, 1956, be asked to attend another meeting at St. Regis on Sunday, January 12. Mr. Boyd replied to this telegram stating that it would not be possible for the Departmental officials who attended the December 8, 1956, meeting to be present at St. Regis on January 12. He also stated that matters relating to St. Regis and the Seaway negotiations are now being handled by a solicitor nominated by the St. Regis Band Council and that when this solicitor or the Band Council request the attendance of Departmental officials in respect to these negotiations, the Department will be pleased to co-operate.

Original signed by
R. F. BATTLE

R. F. Battle,
Assistant Deputy Minister,
(Social Affairs).

BOYD/mmc

Noted PM

COPY FOR INDIAN-ESKIMO BUREAU
(Return to P. Nevin) A-1

JAN 17 1969

1/3-3-14

Dr. James A. Duran,
2347 Lower Mountain Road,
Ransomville,
New York 14131,
U.S.A.

Dear Dr. Duran:

This is further to my letter of November ~~17~~ 21, 1968 and the enclosed copy of your speech to the Indian Defense League of America.

I am now in a position to reply to your comments on the Jay Treaty and its relevance to free border crossing by Indians. As you know there has been a great deal of publicity about customs duties and border crossing at St. Regis recently. So far as the Jay Treaty is concerned, this is a subject on which representations have been received on a number of occasions. Indeed, the subject has been raised at meetings during the past year on revisions to the Indian Act. I can only say that this matter, along with others related to Indian Treaties and agreements is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, as it relates particularly to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

Yours sincerely,

ORIGINAL SIGNED BY
HON. R.K. ANDRAS

Robert Andras.

B

PN NEVIN/ltn
January 13, 1969

Noted PN 23.1.69

0 8 2 3 4 6

CENTRAL REGISTRY

JAN 22 9 36 PM '69

INDIAN AFFAIRS

Marion
Pse redo - simply
answer letter.
Do not give
too many details
B

CANADA

MINISTER WITHOUT PORTFOLIO
MINISTRE D'ÉTAT

HOUSE OF COMMONS

CHAMBRE DES COMMUNES

Dr. James A. Duran,
2347 Lower Mountain Road,
Ransomville,
New York 14131,
U.S.A.

Dear Dr. Duran:

As indicated previously, I read your letter and speech with great interest. However, before dealing with your reference to the Jay Treaty, I feel I should comment on certain observations included on the second page of the text of your speech.

You pictured large numbers of Indian children in Canada being taken from their parents at age five or six and sent to boarding school. The fact is that, in Canada, the trend for some years has been away from the Indian residential schools. It is the policy to arrange for the training of Indian children in association with other children wherever possible, and approximately 55% of the 65,000 Indian pupils are enrolled in non-Indian schools. This has been done, with the consent of parents, through arrangements with the provinces or local school boards. For the most part, the Indian pupils go by bus from the reserve to a school in a nearby community.

The Federal Government operates day schools on many Indian reserves to serve Indian children who cannot be accommodated as yet in provincial schools. Approximately 300 of the day schools are still in operation. At 62 locations, residential schools or boarding institutions serve Indian children who could not otherwise attend school regularly because of the migratory nature of their families' occupations, their isolation from existing federal or non-federal day schools, or because they cannot be adequately cared for at home. Over one-half of the Indian pupils who stay at residential schools and hostels attend classes in nearby provincial schools.

As to the younger Indian children, there are now approximately 4,000 enrolled in on-reserve federal kindergartens, and an additional 1,000 or more who live on the reserves and attend nearby provincial kindergartens.

We favour foster homes on reserves for small children and are using them wherever possible rather than sending them away to a residential school. The enrolment in residential schools is steadily dropping.

I want you to know that we recognize the importance and value of having children raised in a home environment and not needlessly separating them from their parents to attend school. This is being kept in mind as we continue our efforts to improve the training and facilities available to Indian children in the elementary school grades, and to Indians at the pre-school and post-elementary school levels as well.

At Armstrong, Ontario, which you mentioned, there are some 36 Indian families. This is not an Indian reserve, but rather a settlement on Provincial Crown land, not on the actual Armstrong townsite. Representations made by the Department three years ago to the local school board for an integrated school arrangement at Armstrong were not successful. Recently, however, progress has been made and it is hoped that Indian children will be attending an enlarged local school by the fall of 1969 under an agreement whereby this Department will meet the capital costs of the school addition and will contribute to operating costs. Meanwhile the Department will continue to provide for the schooling elsewhere of approximately 35 pupils from the Indian settlement.

Your speech also referred to the exercise of voting rights by Indians, and presumably you were referring to voting in federal and provincial elections. You said that "the Indians correctly fear that participation in the electoral process will result in the loss of their rights as Indians." I can assure you, however, (and there have been Ministerial statements on this in the past), that voting by Indians in such elections will in no way affect any of the special rights and privileges that have been accorded to them by treaty or otherwise.

As you know there has been a good deal of publicity about customs duties and border crossing at St. Regis recently. So far as the Jay Treaty is concerned, this is a subject on which representations have been received on a number of occasions. Indeed, the subject has been raised at meetings in progress during the past year on revisions to the Indian Act. I can only say that this matter, along with others related to Indian Treaties and agreements, is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, as it relates particularly to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

Yours sincerely,

Robert Andras.

P. A. → 1/3-3-14

Dr. James A. Duran,
2347 Lower Mountain Road,
Ransomville,
New York 14131,
U.S.A.

Dear Dr. Duran:

This is further to my letter of November 17, 1968 and the enclosed copy of your speech to the Indian Defense League of America.

I am now in a position to reply to your comments on the Jay Treaty and its relevance to free border crossing by Indians. As you know there has been a great deal of publicity about customs duties and border crossing at St. Regis recently. So far as the Jay Treaty is concerned, this is a subject on which representations have been received on a number of occasions. Indeed, the subject has been raised at meetings during the past year on revisions to the Indian Act. I can only say that this matter, along with others related to Indian Treaties and agreements is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, as it relates particularly to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

Yours sincerely,

Robert Andras.

REVIN/ltn
January 13, 1969

A-1

1/3-3-14

-5205

CANADA

MINISTER WITHOUT PORTFOLIO
MINISTRE D'ÉTAT

HOUSE OF COMMONS

CHAMBRE DES COMMUNES

Mr. Spratt

November 21, 1968

Dr. James A Duran,
2347 Lower Mountain Road,
Ransomville, New York 14131,
U. S. A.

Dear Dr. Duran:

Thank you for your letter of November 17, 1968 and the enclosed copy of your speech to the Indian Defense League of America.

I have read both your letter and speech with great interest and share your deep concern with the problems of our Native peoples.

I have requested the Department of Indian Affairs and Northern Development to provide me with all available information relating to the border crossing rights of North American Indians and will write to you again as soon as I receive a report from them.

Yours sincerely,

Robert K. Andras

Mary - acknowledge and send to Dept. for response.
DC

8

2347 Lower Mountain Road
Ransomville, New York 14131
November 17, 1968

Mr. Robert K. Andras
Minister Without Portfolio
Government of Canada
Ottawa, Ontario
Canada

Dear Mr. Minister:

Enclosed is a copy of a speech which I recently gave at the annual banquet of the Indian Defense League of America, which has members in both Canada and the United States. On pages 3-6, reference is made to the unilateral invalidation by the Government of Canada of the free border-crossing rights given to the Indians under provisions of Article III of the Jay Treaty as reaffirmed by the Treaty of Ghent. Since 1963, the Indian Defense League has repeatedly asked the Canadian Government to introduce the legislation necessary to implement the obligations of these international treaties in force between the United States and Canada. That Article III is in force between the two states has been acknowledged by the Legal Adviser of the Canadian Ministry of External Affairs.

?

When the United States passed immigration legislation in 1924 voiding these same Indian rights, the Indian Defense League came into existence and successfully gained recognition of the Indian border-crossing rights. Thus, in 1928, legislation was passed by the responsible authorities of the United States restoring the "Jay Treaty as read."

In the belief that the Government of Canada believes that international obligations should be executed in good faith, I am writing to you as the person having special responsibility in the current government for Indian affairs. My request and hope is that you will do what is necessary to implement these border-crossing rights of North American Indians.

Yours very truly,

James A. Duran Jr.

James A. Duran Jr., Ph.D.

FOR IMMEDIATE RELEASE

Indian Defense League of America
Box 305
Niagara Falls, New York

TEXT OF SPEECH OF PROFESSOR JAMES A. DUPAN JR. OF CANISIUS COLLEGE AT THE ANNUAL BANQUET OF THE INDIAN DEFENSE LEAGUE OF AMERICA AT THE TREADWAY INN, NIAGARA FALLS, NEW YORK, NOVEMBER 2, 1968

Officers of the Indian Defense League, Mr. Mayor, Ladies and Gentlemen.

It is with great pleasure that at the invitation of your Grand President, Chief Clinton Rickard, I am giving this address here today. Since becoming a neighbor of the Tuscaroras, my wife, who is a Professor of History at Niagara University, and I have learned much of the very real present-day problems of the North American Indian, both in Canada and in the United States. Though both of us hold doctorates in history and are better informed than most citizens, we had no conception of the scope of problems of Indians until recently. Most informed citizens of the United States and Canada simply do not know the many gross injustices that are inflicted on the Indian community. If they did, things might well be different.

You know these problems from personal experience, but let me cite to you several examples of recent abuses. One shocking episode concerns the North Dakota Devils Lake Sioux. It has been found that approximately twenty-five percent of the children on this reservation are eventually taken away from their parents to live in adoptive homes, foster homes, or institutions. Thus, Indian children in North and South Dakota are taken away from their parents at fifty times the rate for United States children as a whole. Also, the Fort Totten Reservation in North Dakota is a poor one. Many of its residents are on the welfare roles for much of the year. The county welfare officers in North Dakota actually have taken advantage of this situation to threaten parents or foster

parents with jail or the loss of their welfare payments if they refuse to give up their children. One Indian grandmother who has already been sent to jail for refusing to surrender her grandchildren has said: "I will starve before I will give up my grandchildren." An Indian foster-mother told the welfare workers they would have to take the three-year-old child over her dead body. Not long before, a zealous welfare worker had tried to drag her foster-son from her arms—an adoption agency in Fargo, North Dakota had placed an order for an Indian child. The recently revised welfare laws of the United States designed to solve urban problems have actually been used against Indian parents to justify what amounts to virtually a legal form of child-stealing. After this episode was publicized, measures were taken by United States federal officials to correct the worst abuses in North Dakota, but how much has already been done and how soon will the situation be forgotten?

Both in the United States and in Canada, thousands of Indian children at age five or six are taken away from their parents for ten months of the year for education at a boarding school. For years, these small children are deprived of a home and, I have been told, in Oklahoma efforts are made to find foster-homes for those same children during the two months they are free to go home. The Armstrong case in Canada and the plight of the Navajo in the United States have publicized what is clearly a barbaric practice, emotionally cruel both to the parents as well as to the little children.

Most Americans and Canadians are aware that Indians have been given certain rights to vote, but they are not aware that for good and clear reasons most Indians do not vote. As I have learned, the Indians correctly fear that participation in the electoral process will result in the loss of their rights as Indians. Thus, many American and Canadian laws, which appear just, liberal, and democratic to the serious student of civil rights,

are in effect inoperative. What appears to be democratic is in reality undemocratic.

Most American and most Canadian citizens are unaware of the border-crossing rights given to the North American Indians by the Jay Treaty of 1794 and reaffirmed by the Treaty of Ghent of 1814 by which the War of 1812 was ended. In this both the Government of the United States and the Government of Her Majesty have assumed the obligation under solemn international contract to allow the Indians to pass the frontier freely. This includes the treaty stipulation that Indians shall not have to pay duty on "their own proper goods and effects of whatever nature," although it is made clear that goods in bales or other large packages unusual among Indians shall not be considered as Indian goods. Certainly household goods should be duty free. However, in the 1956 case of Francis vs. the Queen, the Canadian Supreme Court held that Article III of the Jay Treaty is not applicable in Canada since it has not been implemented or sanctioned by legislation of the Canadian Parliament. As the Canadian Minister of Citizenship and Immigration stated in a letter of November 20, 1963, addressed to the Grand Secretary of the Indian Defense League, the executive branch of the Government of Canada "must take the position that the Treaty, in relation to Canada, is invalid." Yet, in a letter of June 22, 1964, the Legal Adviser of the Canadian Ministry of External Affairs wrote to the same addressee, stating: "there has never been, to our knowledge, any formal abrogation of these particular articles or of the treaty as a whole." Thus, as in so many other cases, Indians are given rights on paper, but these rights are taken away in practice. This is only one more example of what has become all-too-standard x treatment of Indian rights in North America.

The Grand President and the Grand Secretary of the Indian Defense League have requested both the Pearson and Trudeau Administrations to honor the treaty obligations of Canada by introducing legislation that will sanction it. In the answers received to date by officers of the League, there has been no evidence whatsoever of any interest by the Canadian authorities in implementing their treaty obligations by introducing the necessary legislative measures.

When the United States Government abrogated Article III of the Jay Treaty by immigration legislation in 1924, the Indian Defense League under Chief Clinton Rickard of the United States and Chief David Hill of Canada spearheaded the fight and, after a struggle consuming much time, were successful in having the laws amended to "restore the Jay Treaty as read." The leaders of the Indian Defense League pursued the matter through legal means. They illustrated that "persistence with manners" can attain justice. Article III of the Jay Treaty is incorporated in the laws of the United States of America, but the Government of Canada regards this same guarantee of rights as "invalid." When those of you who are Indians came from Canada into the United States today, you entered the United States under the provisions of the Jay Treaty. When you return to Canada tonight, you enter not by virtue of your rights as Indians, but only as Canadian citizens.

It was only when my wife and I attended the Forty-first Annual Indian Border-Crossing Celebration this past summer that we became aware of this situation. As a former career diplomat with the United States Department of State, I was depressed to realize that the Government of Canada has

taken actions which amount to a unilateral invalidation of an article of the Jay Treaty. International law is based on the principle that all states bound by a treaty will carry out their obligations in good faith. Canada as the successor government to the United Kingdom has the obligation to honor the Jay Treaty under international law. Such an international obligation can only be changed by the mutual consent of both governments. Here we have the case of one party to the contract honoring the obligations while the other party declares them invalid. To most Canadian and American citizens, government under law is recognized as basic to our constitutional systems. Most equally believe that in the final analysis there will have to be such a system in the international sphere if there is to be world peace. In its constitution, the Iroquois Confederacy recognized that certain principles are necessary to assure peaceful cooperation. It is ironic then that the Government of Canada should choose not to honor its international obligations.

What is to be done about the situation? The Legal Adviser of the Canadian Ministry for External Affairs himself suggested that on behalf of Indians who are United States citizens it would be best to address the United States Department of State in Washington, D.C. With Chief Rickard's approval, I wrote to the Director for Relations with Canada about this matter in July. He has responded that he would look into the matter. They are doing so, but it is an old treaty and many issues have been raised in the past. As one with experience in diplomacy, I am sure that the process of gaining government action will be a long one.

Meanwhile, what is needed is evidence that the Canadian authorities have denied those rights covered by Article III of the Jay Treaty to

Indians who are citizens of the United States and are seeking entry to Canada as Indians. What you who are American citizens can do is to inform the Indian Defense League of America, Box 305, Niagara Falls, New York, of any such violations of border-crossing rights in a form which can be verified, i.e. including the date, place, and time of the incident. Inclusion of the name or badge number of the Canadian officer involved and the names of witnesses is important. These reports can then be relayed to the Department of State as evidence that treaty rights are being denied to U.S. citizens. I must stress that the Department of State can act only on behalf of those individuals who are citizens of the United States--it cannot act on behalf of those individuals who are Canadian citizens. Reports based on hearsay and rumor are useless for these purposes. What is needed is precise information that can be verified.

Perhaps even more important is to make the public aware of the violation of Indian rights through the public media. As I have already stressed, most Americans and most Canadians are fair-minded people. They have no awareness of the degree to which Indian rights are being neglected. What is needed is publicity, i.e. the reporting to the press of incidents not only involving border-crossing violations, but welfare and educational abuses such as the type I earlier mentioned. Sensational revelations such as that concerning the Devils Lake Sioux of North Dakota are all-too-soon forgotten by the average person if he is not reminded. Persistence in the defense of rights is not being offensive or pushy, but is doing one's duty. When I was talking with a public relations man about this, he said that the cause of the Indian was a "natural" from his professional viewpoint. Most American and Canadian citizens think well of the Indian people; a

public relations program bringing to the attention of the press these problems could do much to bring about sympathetic consideration of Indian rights in Ottawa and Washington, D.C. Individual colleges and universities, private industrial companies, local and state governments, and even certain private individuals have press secretaries to perform this important function of preparing press releases, arranging for speaking engagements and interviews, etc. Combined with persistent representation to the responsible governmental authorities in the capital cities, continuous publicity would do much to protect the Indian people's rights.

You, the Indian people of North America, have made great contributions to the two great states of North America. It is upon your lands that the present wealth of Canada and the United States have been developed. Each time a person in the world eats potatoes or corn, a debt is owed to the American Indian. It is remarkable that the Indian culture has been kept alive after more than 500 years of contact with European civilization. Those of us who have studied Indian civilization hope that it will be kept alive, but fear that it will be destroyed by the present policies of educational authorities in both countries. An effort must be made to have courses in Indian language, customs, and history introduced into schools attended by Indian students.

My wife and I congratulate the Indian Defense League and its leaders for their work. Such an organization is desparately needed today just as much as it has been in the past. We trust that the League will continue its work in the future for there remains much to be done.

COPY FOR DIRECTOR OF OPERATIONS
(Indian-Eskimo Bureau - Return to All)

PA

1/3-3-14

JAN 14 1969

Mr. Harold Cardinal,
President, Indian Association of Alberta,
12414 - 112th Avenue,
Edmonton, Alberta.

Dear Mr. Cardinal:

Your telegram addressed to my Minister, the Honourable Jean Chrétien, and concerning the representations made by the Iroquois of St. Regis Indian Band has been referred to me for attention.

The protests of members of the Iroquois of St. Regis Band against the levying of customs duties at the International Bridge at Cornwall, Ontario, are presently receiving the Minister's attention. In addition, I may add that a Resolution has been proposed in the House of Commons in Committee of the Whole that an Indian Claims Commission be set up to provide procedures whereby various Indian claims may be examined and adjudicated.

Yours sincerely,

ORIGINAL SIGNED BY
W. J. MUSSELL

William J. Russell,
Special Assistant.

UNDERWOOD:BATTLE:ac

January 13, 1969.

c.c. Prime Minister's Office

085835

JAN 20 9 35 AM '69
INDIAN AFFAIRS

COPY FOR INDIAN-ESKIMO BUREAU
(Return to All)

1/3-3-14

Mr. Harold Cardinal,
President, Indian Association of Alberta,
12414 - 112th Avenue,
Edmonton, Alberta.

Dear Mr. Cardinal:

Your telegram addressed to my Minister, the Honourable Jean Chrétien, and concerning the representations made by the Iroquois of St. Regis Indian Band has been referred to me for attention.

The protests of members of the Iroquois of St. Regis Band against the levying of customs duties at the International Bridge at Cornwall, Ontario, are presently receiving the Minister's attention. In addition, I may add that a Resolution has been proposed in the House of Commons in Committee of the Whole that an Indian Claims Commission be set up to provide procedures ~~whereby various Indian claims may be examined in consultation with represent-~~ atives of the Indian people and may be adjudicated.

Yours sincerely,

William J. Mussell,
Special Assistant.

from UNDERWOOD/kar
January 9, 1969.

Re-typed (Jan. 13/69)

PA

Ottawa 4, January 9, 1969.

P. A. → 1/3-3-14 (All)

Mr. F.J. Price,
R.R. No. 3,
Metcalfe, Ontario.

Dear Mr. Price:

Your letter of December 20 addressed to the Minister, the Honourable Jean Chrétien, and concerning the Iroquois Indians of St. Regis, has been referred to me for attention.

The Minister has been giving consideration to the protests of members of the Iroquois of St. Regis Band against the payment of customs duties at the International Bridge at Cornwall. The whole matter of Indian claims is being carefully studied and a Resolution has been proposed in the House of Commons in Committee of the whole that an Indian Claims Commission be set up. Such a commission would arrange for the examination of their various claims, in consultation with their representatives.

You have also referred to the claim of the Municipality of Cornwall to the inclusion of Cornwall Island within its boundaries. As a matter of geography, an Indian reserve within a province is physically situated either within the confines of a municipal area, or what is known as unorganized territory. The determination of municipal boundaries is a matter entirely within the jurisdiction of the provincial legislature concerned. It is a matter over which Crown Federal has no jurisdiction. When it is decided to determine a municipal district, provinces usually consult with the persons concerned, not with the Federal Government. The boundaries of Cornwall are therefore legally determined by the legislature of the Province of Ontario.

Yours sincerely,

ORIGINAL SIGNED BY
E. E. BOYD

E.E. Boyd,
Chief, Indian-Eskimo Bureau.

LMU/kar

RR #3 Metcalfe, Ont.
Dec. 20, 1968

Social Affairs
4612

M. Jean Chretien
Minister of Indian Affairs
and Northern Development

Dear Sir:

On Dec. 18, 1968 I saw a disgusting and thoroughly shocking spectacle on television. Police officers, I couldn't determine which one's, were dragging Indians off the bridge which separate the United States and Canada. At one point during the demonstration one of the officers took his pistol, which I presume was loaded and proceded to smash the windshield of an obstructing car. I highly disapprove of Police using such dangerous weapons in an obvious foolhardy manner.

I am under the impression that the Indians are protesting against the law that prevents them from bringing goods accross the border duty free. This I believe was a right the Indians were granted under Jay's Treaty 1794. I realize that this is a very old treaty but I feel we are erroding rights and privlages given to the Indians by our ancestors. An example of this is Cornwall's arbitrary annexation of the Indian island which is adjacent to the city. Is this legal? If not why is it permitted?

I have long been of the opinion that the Dept. of Indian Affairs does very little for the people who are placed in their trust. What do you intedn to do about this?

Appreciating an early reply

I Remain, Yours Sincerely

F.J. Price

MEMORANDUM

CLASSIFICATION

TO
A

Chief of the Indian-Eskimo Bureau.

Attention: Miss L.M. Underwood.

YOUR FILE No.
Votre dossier 1/3-3-14

OUR FILE No.
Notre dossier

FROM
De

Administrator of Lands.

DATE
January 7, 1969.

FOLD

SUBJECT
Sujet

To provide you with information for a reply to the second paragraph of the letter of F.J. Price, dated December 20, 1968, I wish to advise that as a matter of geography, an Indian reserve within a province is physically situated either within the confines of a municipal area, or what is known as an unorganized territory. The determination of municipal boundaries is a matter entirely within the jurisdiction of the provincial legislature concerned. It is a matter over which Crown Federal has no jurisdiction whatever. When it is decided to determine a municipal district or to alter the boundaries of an existing municipal district, provinces usually consult with the persons concerned; they do not consult with the Federal Government.

Our opinion, therefore, is that the boundaries of Cornwall as determined by the legislature of the Province of Ontario are legal.

J.H. MacAdam

J.H. MacAdam

CGSB-6GP22a CGSS No 7540-21-798-8998.

Chief of the Indian-Eskimo Bureau.

Attention: Miss L.M. Underwood. 1/3-3-14

P.A.

Administrator of Lands. January 7, 1969.

To provide you with information for a reply to the second paragraph of the letter of F.J. Price, dated December 20, 1968, I wish to advise that as a matter of geography, an Indian reserve within a province is physically situated either within the confines of a municipal area, or what is known as an unorganized territory. The determination of municipal boundaries is a matter entirely within the jurisdiction of the provincial legislature concerned. It is a matter over which Crown Federal has no jurisdiction whatever. When it is decided to determine a municipal district or to alter the boundaries of an existing municipal district, provinces usually consult with the persons concerned; they do not consult with the Federal Government.

Our opinion, therefore, is that the boundaries of Cornwall as determined by the legislature of the Province of Ontario are legal.

ORIGINAL SIGNED BY
J. H. MACADAM

J.H. MacAdam
JHM:lm

MEMORANDUM

CLASSIFICATION

TO
A AL

YOUR FILE No.
Votre dossier

OUR FILE No.
Notre dossier 1/3-3-14

FROM
De Chief of the Indian-Eskimo Bureau

DATE 6-1-69

FOLD

SUBJECT
Sujet PRIORITY CORRESPONDENCE

The attached has been referred to the Bureau for reply under URGENT cover.

Please provide me with the information

- requested in the communication

X- requested in paragraphs 2 (last 3 sentences)

- marked by asterisks.

The Bureau will prepare the reply.
May we please have your comments on these sentences relating to Cornwall's claim to jurisdiction over Cornwall Island (Indian Reserve)

Please send by hand to room 780 or call Miss Underwood (2-0112) for pickup.
Thank you.

Our deadline 8-1

L Underwood
for E. E. Boyd.

CGSB-6GP22a CGSS No 7540-21-798-8998.

1/3-3-14

A-1
Miss Underwood

RR #3 Metcalfe, Ont.
Dec. 20, 1968

Rec'd
4612

M. Jean Chretien
Minister of Indian Affairs
and Northern Development

Dear Sir:

On Dec. 18, 1968 I saw a disgusting and thoroughly shocking spectacle on television. Police officers, I couldn't determine which one's, were dragging Indians off the bridge which separate the United States and Canada. At one point during the demonstration one of the officers took his pistol, which I presume was loaded and proceded to smash the windshield of an obstructing car. I highly disapprove of Police using such dangerous weapons in an obvious foolhardy manner.

I am under the impression that the Indians are protesting against the law that prevents them from bringing goods accross the border duty free. This I believe was a right the Indians were granted under Jay's Treaty 1794. I realize that this is a very old treaty but I feel we are erroding rights and privlages given to the Indians by our ancestors. An example of this is Cornwall's arbitrary annexation of the Indian island which is adjacent to the city. Is this legal? If not why is it permitted?

I have long been of the opinion that the Dept. of Indian Affairs does very little for the people who are placed in their trust. What do you intedn to do about this?

Appreciating an early reply

I Remain, Yours Sincerely

F.J. Price

71 27-11

081672

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
MINISTERE DES AFFAIRES INDIENNES ET DU NORD CANADIEN

OFFICE OF THE PUBLIC INFORMATION ADVISER
BUREAU DU CONSEILLER EN INFORMATION PUBLIQUE

CLIPPING FROM / COUPURE DE "The Ottawa Journal"
DATE January 9/1969.

Treaties - PA
Jat 27-1-69

ADM - WE HAD BETTER HAVE A STATEMENT READY FOR THE PRESS

EA
not required in future

Indians Ask Gov't To Talks

(By The CP) — Kahn-Tineta Horn, an Indian spokesman, said Wednesday government officials have been invited to an Indian meeting near Cornwall, Ont., to discuss the Jay Treaty.

The meeting will be held on Cornwall Island, part of the St. Regis Indian reserve on the U.S.-Canada border. It will start at 10 a.m. EST Saturday.

A notice from Miss Horn sent to the Parliamentary Press Gallery here said federal officials will be asked to explain their position on the treaty and allied matters troubling the Indians.

Several Indians were arrested a few weeks ago during demonstrations at the international bridge at Cornwall to back Indian claims that under the Jay Treaty they are permitted to bring goods into Canada from the U.S. free of customs duty.

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

MINISTÈRE DES AFFAIRES INDIENNES ET DU NORD CANADIEN

OFFICE OF THE PUBLIC INFORMATION ADVISER

BUREAU DU CONSEILLER EN INFORMATION PUBLIQUE

CLIPPING FROM / COUPURE DE Ottawa Citizen DATE Jan. 7/69

Indians told action unlikely on treaties 'for some time'

By the Canadian Press

A federal cabinet minister Monday told a group of Indians demanding ancient treaty rights that the whole subject of Indian treaties is under examination.

Robert Andras, minister without portfolio, said, however, that quick government action on treaty obligations is neither likely nor possible. Action was months away.

He spoke in his Commons office to a six-man delegation from the St. Regis Indian reserve near Cornwall.

The six had taken part in a demonstration Sunday protesting the right of the Canadian government to impose duty on U.S. goods brought back by Indians across the international bridge at Cornwall.

According to their claim, the 1794 Jay Treaty between the U.S. and Britain gave Indians duty exemption.

Mr. Andras, who has special responsibilities in Indian affairs, said he could not restore rights under the Jay treaty, which has never been ratified by Parliament.

No single person in the country has that power, he told the delegation. It would require a cabinet decision and an act of Parliament.

Frank tone taken

The whole subject of Indian treaties is under discussion by the cabinet. But Mr. Andras said he wanted to be frank.

"I don't know when, if ever, the Jay treaty will be instituted," he said.

Mr. Andras further declined an Indian request for a meeting with a federal official to discuss the treaty and other problems of the St. Regis reserve. He offered to meet with them himself on future occasions.

He said the federal government has consulted Indian representatives on new Indian policy and will try to work out better methods of consultation.

The whole question of treaties must be negotiated, he said. In many of them there is confusion about interpretation.

As for the Jay treaty, it never was recognized by the Canadian government.

"That's a fact," he said. "I'm not saying whether it is fair or unfair."

Pretty fair talk

Frank Thomas, one of the delegation, said later that Mr. Andras "seems to talk pretty fair," but the Indians back home and himself too were getting impatient with delay.

He said the delegation wanted to get an appointment with Prime Minister Trudeau, now at the London Commonwealth conference, but failed to do so.

They are also trying to arrange a meeting with Governor-General Michener for next week. After their 1½-hour session with Mr. Andras they discussed the Jay treaty with a surprised official of the U.S. embassy who invited them up to his office when they walked in the front door.

At the meeting with Mr. Andras, the minister also told Mr. Thomas that he doubted the Canadian government would agree to the Mohawks forming their own country within Canada. Mr. Thomas said there is support for this move among Indians.

Another Indian delegation member, Ernest Benedict, said the Canadian government should live up to the treaty. Another, Michael Mitchell, said their Indian forefathers earned the treaty rights by fighting for Britain.

"There is no reason why this cannot be fixed up by the Canadian government," he said. Indians no longer wanted to be told to go home and be quiet.

P. A.

P. A. → 1/3-3-14

Mr. Harold Cardinal,
President, Indian Association of Alberta,
12414 - 112th Avenue,
Edmonton, Alberta.

Dear Mr. Cardinal:

Your telegram addressed to my Minister, the Honourable Jean Chrétien, and concerning the representations made by the Iroquois of St. Regis Indian Band has been referred to me for attention.

The protests of members of the Iroquois of St. Regis Band against the levying of custom duties at the International Bridge at Cornwall, Ontario, are presently receiving the Minister's attention. In addition, I may add that a Resolution has been proposed in the House of Commons in Committee of the Whole that an Indian Claims Commission be set up to provide procedures whereby various Indian claims may be examined in consultation with representatives of the Indian people and may be adjudicated.

Yours sincerely,

William J. Russell,
Special Assistant.

UNDERWOOD/kar
January 9, 1969.

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
MINISTÈRE DES AFFAIRES INDIENNES ET DU NORD CANADIEN

OFFICE OF THE PUBLIC INFORMATION ADVISER
BUREAU DU CONSEILLER EN INFORMATION PUBLIQUE

CLIPPING FROM / COUPURE DE Montreal Star Jan 7/69

1/3-3-14

Jay Treaty

PA
13-1-69

Action for Indians 'unlikely'

Canadian Press

OTTAWA — A federal cabinet minister yesterday told a group of Indians demanding ancient treaty rights that quick government action on treaty obligations is neither likely nor possible. Action, in fact was months away.

Mr. Robert Andras, minister without portfolio, spoke in his Commons office to a six-man delegation from the St. Regis Indian reserve near Cornwall, Ont.

The six had taken part in a demonstration Sunday protesting the right of the Canadian government to impose duty on U.S. goods brought back by Indians across the international bridge at Cornwall.

According to their claim, the 1794 Jay Treaty between the U.S. and Britain gave Indians duty exemption.

Mr. Andras, who has special responsibilities in Indian affairs, said he could not restore rights under the Jay treaty, which has never been ratified by Parliament.

'Don't know when'

No single person in the country has that power, he told the delegation. It would require a cabinet decision and an act of Parliament.

Mr. Andras said he wanted to be frank.

"I don't know when, if ever, the Jay treaty will be instituted," he said.

He further declined an Indian request for a meeting with a federal official to discuss the treaty and other problems of the St. Regis reserve. Burke offered to meet with them himself on future occasions.

He said the federal government has consulted Indian representatives on new Indian policy and will try to work out better methods of consultation.

The whole question of treaties must be negotiated, he continued. In many of them there is confusion about interpretation.

"Pretty fair" — But . . .

Mr. Frank Thomas, one of the delegation, said later that Mr. Andras "seems to talk pretty fair," but the Indians back home and himself too were getting impatient with delay.

He said the delegation wanted to get an appointment with Prime Minister Trudeau, now at the London Commonwealth conference, but failed to do so.

ROUTE SLIP

PASS TO:

1. Chief, Indian Claims Bureau
2. .....
3. .....
4. .....

PA

Date 14.2.69.

Initials .....

IA-716
(12-66)

MESSAGE

DATE	FILE/DOSSIER	SECURITY SECURITE
JAN 7/69		RESTRICTED

FM/DE EXTERNL OTT

	NO	PRECEDENCE
TO/A WASHDC	X- 109	IMMED
INFO		

REF BERRY - KROEGER TELECON JAN 6

SUB/SUJ USA CUSTOMS AND IMMIGRATION LEGISLATION AFFECTING NORTH AMERICAN INDIANS

ON SUN A GROUP OF ST. REGIS RESERVE INDIANS MADE ANOTHER UNSUCCESSFUL ATTEMPT TO BRING GOODS INTO CANADA FROM USA (ACROSS INTERNATIONAL BRIDGE NEAR CORNWALL) WITHOUT PAYING DUTY. IT REPRESENTED FURTHER EFFORT BY INDIANS TO ASSERT THEIR CASE WITH REGARD TO VALIDITY AND APPLICATION OF JAY TREATY (PARTICULARLY WITH RESPECT TO CUSTOMS) AND INDEED OTHER TREATIES AFFECTING INDIANS.

2. YESTERDAY MR. ANDRAS (MINISTER WITHOUT PORTFOLIO) MET ST. REGIS INDIAN DELEGATION AND ACCORDING TO REPORT IN TODAYS GLOBE AND MAIL (COPY BY AIRMAIL) HE PROMISED THAT GOVT WOULD CONSULT INDIANS ABOUT THEIR DISPUTED TREATY RIGHTS. REPORT SAYS MR. ANDRAS DID NOT COMMIT HIMSELF AS TO WHEN CONSULTATIONS WOULD TAKE PLACE AND QUOTE HE COULD NOT PROMISE THAT GOVT WOULD LIVE UP TO JAY TREATY OF 1794 UNQUOTE.

3. THIS MATTER IS NOW UNDER DETAILED REVIEW IN DEPT OF IAND AND LATTER HAS REQUESTED OUR ASSISTANCE ON URGENT BASIS TO OBTAIN OFFICIAL USA POSITION CONCERNING CERTAIN ASPECTS OF JAY TREATY AND INFO ON RELEVANT USA ... 2

DISTRIBUTION LOCAL/LOCALE NO STANDARD MR. ROBINSON O/USSEA DEPT OF INDIAN AFFAIRS & NORTHERN DEVELOPMENT (MR BATTLE)

ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIG. LM BERRY/mh	USA	6-4583	SIG. K.J. BURBRIDGE

EXT 18/BIL (REV 5/64)
(COMMUNICATIONS DIV)

U 8 2 9 0 5

U 8 2 6 4 4

JAN 9 9 26 AM '69

JAN 8 1 04 PM '69

LEGISLATION. SINCE THE ISSUE MAY REQUIRE CABINET CONSIDERATION GRATEFUL IF YOU WOULD SECURE ANSWERS TO FOLLOWING QUESTIONS ASAP:

(1) HAS CUSTOMS OR IMMIGRATION LEGISLATION BEEN ENACTED BY USA IMPLEMENTING THE RELEVANT SECTIONS OF JAY TREATY CONCERNING NORTH AMERICAN INDIANS?

(2) CAN NORTH AMERICAN INDIAN BORN AND RESIDING IN CANADA CARRY CANADIAN GOODS DUTY FREE INTO USA (A) AS A LANDED IMMIGRANT, (B) AS A VISITOR?

(3) CAN NORTH AMERICAN INDIAN BORN AND RESIDING IN USA CARRY GOODS DUTY FREE INTO USA (A) AFTER RESIDING FOR SOME TIME IN CANADA, (B) AFTER MERE TEMPORARY VISIT TO CANADA OF LESS THAN 24 OR 48 HOURS, OR (C) AFTER MERE TEMPORARY VISIT TO CANADA IN EXCESS OF 24 OR 48 HOURS?

(4) DOES USA CUSTOMS LEGISLATION PROVIDE GENERAL EXEMPTION FROM USA CUSTOMS DUTIES FOR (A) NORTH AMERICAN INDIANS RESIDING IN USA, (B) NORTH AMERICAN INDIANS BORN IN CANADA WHO ARE GOING TO USA FOR TEMPORARY VISIT OR FOR PERMANENT RESIDENCE, OR (C) ALL NORTH AMERICAN INDIANS?

IT WOULD BE APPRECIATED IF COPIES OF ANY RELEVANT LEGISLATION, WITH INTERPRETATIONS, CONCERNING ALL FOUR QUESTIONS COULD BE PROVIDED.

On Her Majesty's Service

Service de Sa Majesté

CANADA
POSTAGE PAID
PORT PAYÉ

Mr. Battle
Department of Indian Affairs and Northern Development
Centennial Tower
400 Laurier Avenue W.
Ottawa.

FROM THE
DEPARTMENT OF EXTERNAL AFFAIRS

EXP.
MINISTÈRE DES AFFAIRES EXTÉRIEURES

OTTAWA, CANADA

1/3-3-14 PA

Mr. Harold Cardinal,
President, Indian Association of Alberta,
12414 - 118th Avenue,
Edmonton, Alberta.

Dear Mr. Cardinal:

Your telegram addressed to my Minister, the Honourable Jean Chrétien, and concerning the representations made by the Iroquois of St. Regis Indian Band has been referred to me for attention.

The St. Regis customs question arising at the International Bridge at Cornwall, Ontario, is presently receiving the Minister's consideration. He expects to discuss it with his Cabinet colleagues in an effort to resolve the matter, and I hope that a solution to the problem will be forthcoming.

You may be assured that matters relating to Indians' welfare are of real concern to the Minister and his colleagues.

Yours sincerely,

William J. Russell,
Special Assistant.

UNDERWOOD/kar
January 6, 1969.

A - Miss Underwood

4505

CNCPTEL OTT TE+

IAND B OTT

CNT001 MOA126 DDC221 92 I EX NL

GG

CNT FD EDMONTON ALTA 19

MINISTER OF INDIAN AFFAIRS JEAN CHRETIEN

400 LAURIER AVE WEST OTTAWA 4 ONT

INDIAN ASSOCIATION OF ALBERTA IS DEEPLY CONCERNED WITH THE SITUATION AT THE ST REGIS RESERVE CORNWALL ONT WE WISH TO ENCOURAGE YOUR GOVERNMENT TO GIVE SERIOUS CONSIDERATION TO THE REQUESTS PRESENTED BY THE REPRESENTATIVE OF THAT RESERVE STOP OUR ASSOCIATION IS COMMITTED TO ACTION THAT WILL SEE THE RIGHTS OF OUR PEOPLE HONOURED STOP FURTHER THE IIA REQUESTS IMMEDIATE ACTION TO REINSTATE THE RIGHTS OF INDIAN PEOPLE AS OUTLINED OR IMPLIED BY THE J'S TREATY STOP WE GIVE OUR FULL AND WHOLEHEARTED SUPPORT TO THE REQUESTS OF THE ST REGIS PEOPLE

HAROLD CARDINAL PRESIDENT INDIAN ASSOCIATION OF ALBERTA

A-1 27-11-89

CANADA

Department of Indian Affairs and Northern Development
MESSAGE FORM

Ministère des Affaires indiennes et du Nord canadien
FORMULE DE MESSAGE

TO: À Miss Kahn Tineta Horn,
Caughnawaga Post Office,
Caughnawaga, P.Q.

FROM: DE
Branch / Direction / Division: E.E. Boyd, Chief, Indian-Eskimo Bureau, Ottawa

Not to be included in Message: A ne pas comprendre dans le message:

File No. / Dossier n° 1/3-3-14

Telex Phone No. (if available) / Numéro de téléphone telex (si on le sait)

PRIORITY (Check whichever is applicable) / Délai (pointer le délai voulu)

For Delivery / De Livraison: Within 1 hr. / D'ici 1h [X] — Within 3 hrs / D'ici 3h [ ] — By 8:30 A.M. Tomorrow / Au plus tard à 8h30 demain matin [ ]

PLEASE PRINT PLAINLY OR TYPE MESSAGE BELOW
PRIÈRE D'ÉCRIRE EN MOULÉ OU DE DACTYLOGRAPHIER LE MESSAGE DANS L'ESPACE CI-APRÈS

CODE NO - CODE N°	
Originator's - Envoyeur	Addressee's - Destinataire

PLEASE REFER TO YOUR LETTERS OF JANUARY 7, TO THE HONOURABLE MR. CHRETIEN AND THE HONOURABLE MR. ANDRAS REGARDING THE ST. REGIS SEAWAY NEGOTIATIONS AND THE JAY TREATY. NEGOTIATIONS BETWEEN THE SEAWAY AUTHORITY AND THE ST. REGIS BAND IS A MATTER FOR THE ELECTED BAND COUNCIL TO DEAL WITH. MR. CHRETIEN AND MR. ANDRAS HAVE NOTHING FURTHER AT THIS TIME TO ADD TO THE STATEMENT THAT THE JAY TREATY IS BEING REVIEWED IN CONJUNCTION WITH AN OVERALL REVIEW OF ALL TREATIES INVOLVING THE INDIAN PEOPLE. THEREFORE IT WOULD BE INAPPROPRIATE FOR THEM TO ATTEND OR HAVE A REPRESENTATIVE ATTEND YOUR MEETING ON SATURDAY JANUARY 11.

If further space is required please use a second page — Si cet espace est insuffisant, prière d'utiliser une deuxième feuille.

The following information must be supplied but will not be sent with the above message.
Prière de fournir les renseignements suivants qui, toutefois, ne feront pas partie du message ci-dessus.

Message Prepared by — Rédigé par —	Telephone No.: Numéro de téléphone:	Date	Signature of Person Authorizing Message: Signature de la personne autorisant l'envoi du message:
E.E. Boyd	2-6752	10/1/69	

IAND 10-84 (9-67) 7530-21-023-4490

COPY TO BE RETURNED TO: ~~DIRECTOR OF OPERATIONS~~ - ~~Social Affairs~~ (Indian-Eskimo Bureau)

1/3-3-14

Department of Indian Affairs and Northern Development
Ministère des Affaires indiennes et du Nord canadien

CANADA

MESSAGE FORM **FORMULE DE MESSAGE**

TO: À Mr. Don Moses, 3245 Renfrew Street, Vancouver 10, B.C.	FROM: DE Jean Chrétien, Minister, Branch Direction Department of Indian Affairs and Northern Development, Division	Not to be included in Message: A ne pas comprendre dans le message: File No. Dossier n°

Telex Phone No. (if available) Numéro de téléphone telex (si on le sait)	PRIORITY (Check whichever is applicable) For Delivery De Livraison	Within 1 hr. D'ici 1 h ☐	Within 3 hrs D'ici 3h ☐	Délai (pointer le délai voulu) By 8:30 A.M. Tomorrow Au plus tard à 8h30 demain matin ☐

PLEASE PRINT PLAINLY OR TYPE MESSAGE BELOW
PRIÈRE D'ÉCRIRE EN MOULÉ OU DE DACTYLOGRAPHIER LE MESSAGE DANS L'ESPACE CI-APRÈS

CODE NO-CODE N°	
Originator's-Envoyeur	Addressee's-Destinataire

P. A. →

BENJAMIN PAUL CONFEDERATION OF NATIVE INDIANS OF BRITISH COLUMBIA

MRS. ROSE CHARLIE PRESIDENT OF THE BRITISH COLUMBIA HOMEMAKERS ASSOCIATION

DON MOSES PRESIDENT OF THE NORTH AMERICAN INDIAN BROTHERHOOD

I ACKNOWLEDGE YOUR TELEGRAM DECEMBER EIGHTEEN CONCERNING REPRESENTATIONS OF MOHAWKS OF ST. REGIS, ONTARIO ON THE JAY TREATY AND COLLECTION OF CUSTOMS DUTIES.

DISCUSSIONS HAVE ALREADY BEEN HELD WITH DEPARTMENT OF NATIONAL REVENUE OFFICIALS ON THIS MATTER. THE DISCUSSIONS ARE CONTINUING AND I HOPE SOME SOLUTION CAN BE FOUND WHICH WILL BE SATISFACTORY TO ALL PARTIES CONCERNED.

If further space is required please use a second page — Si cet espace est insuffisant, prière d'utiliser une deuxième feuille.

The following information must be supplied but will not be sent with the above message.
Prière de fournir les renseignements suivants qui, toutefois, ne feront pas partie du message ci-dessus.

Message Prepared by— Rédigé par—	Telephone No.: Numéro de téléphone:	Date	Signature of Person Authorizing Message: Signature de la personne autorisant l'envoi du message:
H.B. Gilchrist	2-0112	23-12-68	K. Hartney for

000511

IAND 10-84 (9-67) 7530-21-023-4490

Deputy Minister of Indian Affairs and Northern Development

Sous-ministre des Affaires indiennes et du Nord canadien

TO: Rickard
A:

Date 9/4/69

- [ ] Approv / Approb.
- [ ] Signature
- [ ] Comment / Commentaire
- [ ] Action / Donner suite
- [ ] Direct Reply / Répondre directement
- [ ] Copy for this office / Copie pour ce bureau
- [ ] Preparation of reply by / Réponse d'ici le

A-1

- [ ] May we discuss / Discussion avec nous
- [ ] As requested / Selon indications
- [ ] Note / Noter
- [ ] Note and return / Noter et retourner
- [ ] Note and forward to / Noter et faire suivre à
- [x] Information
- [ ] + PA

000512

IAND 22-14 (9-67) 7530-21-023-4472

6424-880-01
PA

Referred by direction of The Prime Minister
Transmis à la demande du Premier ministre

To The Minister of Indian Affairs and Northern Development
Au Ministre d

Attention: Mr. John A. Rae,
Executive Assistant.

FOR INFORMATION AND ANY NECESSARY ACTION
POUR EXAMEN ET DÉCISION PERTINENTE

Also referred to:
Également transmis à

For information.

Indian Affairs and Northern Development
OTTAWA
APR 3 1969
OFFICE OF THE MINISTER

William G. Morris,
Senior Correspondence Secreta

April 2, 1969

Ottawa,

000513

CANADA

OFFICE OF THE PRIME MINISTER • CABINET DU PREMIER MINISTRE

O t t a w a (4),
April 2, 1969.

Dear Mr. Hanley:

On behalf of the Prime Minister I wish to acknowledge your telegram of March 25 which was delivered to Mr. Trudeau at Blair House while he was on his official visit to Washington.

Your views concerning North American Indians and the Jay Treaty have been carefully noted. I am taking the liberty of forwarding copy of your message to the Minister responsible, the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development.

As you probably know, the position respecting the Jay Treaty in Canada is different from what it is on the U.S. side. The Jay Treaty was ratified by the appropriate U.S. Government authorities whereas it was not ratified in Canada.

Should you wish to have more details concerning the Canadian Government's position in this respect, it is suggested that you write the Honourable Jean Chrétien and I am sure he will clarify this matter for you.

Yours sincerely,
Original signed by
Original signé par
W. G. MORRIS

William G. Morris,
Secretary.

Mr. James M. Hanley, M.C.,
c/o U.S. State Department
through Department of External Affairs,
Washington, D.C.
U.S.A.

cc: The Honourable Jean Chrétien,
Minister of Indian Affairs and Northern Development
Attention: Mr. John A. Rae, *
Executive Assistant.

* For information.

This message unless its deferred character is indicated by the proper symbol.

TELEGRAM

LL = Day Letter
NL = Night Letter
LT = International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

1969 MAR 25 AM 10 55

SHA038 (42)CTC023

WD092 WW BUA019 MI GOVT PDB BU WASHINGTON DC 25 1029A EST

THE HON PIERRE TRUDEAU PREMIER OF CANADA

BLAIR HOUSE WASHDC 1603 Penn

DEAR MR PREMIER:

I EARNESTLY URGE YOU TO UTILIZE YOUR STATE VISIT AS AN OPPORTUNITY FOR IN DEPTH DISCUSSIONS ON THE SERIOUS QUESTION OF INDIAN TRIBAL RIGHTS ON THE US CANADIAN BORDER. SOLEMN RIGHTS GUARANTEED THE NORTH AMERICAN INDIANS BY THE JAY TREATY OF 1794 HAVE BEEN VIOLATED BY THE CANADIAN GOVERNMENT. THROUGH THE GOOD OFFICES OF THE US STATE DEPARTMENT, I HAVE MADE KNOWN TO YOUR DEPARTMENT OF EXTERNAL AFFAIRS MY CONCERN IN THE MATTER. I FEEL IT IS SERIOUS ENOUGH TO WARRANT PERSONAL DISCUSSIONS BETWEEN YOURSELF AND PRESIDENT NIXON. SINCERELY.

JAMES M HANLEY MC

(1039).

COPY TO BE RETURNED TO: ~~DIRECTOR OF OPERATIONS - SOCIAL AFFAIRS~~
(Indian-Eskimo Bureau)

1/3-3-14

Department of Indian Affairs and Northern Development
CANADA

MESSAGE FORM

Ministère des Affaires indiennes et du Nord canadien

FORMULE DE MESSAGE

TO: À Chief Forrest Walkem, Cook's Ferry Indian Band, Spences Bridge, B.C.

FROM: DE Jean Chrétien, Minister, Branch Direction Department of Indian Affairs and Northern Development, Division

Not to be included in Message: A ne pas comprendre dans le message:

File No. Dossier n°

Telex Phone No. (if available) Numéro de téléphone telex (si on le sait)

PRIORITY (Check whichever is applicable) Délai (pointer le délai voulu)

For Delivery / De Livraison: Within 1 hr. / D'ici 1 h ☐ Within 3 hrs / D'ici 3h ☐ By 8:30 A.M. Tomorrow / Au plus tard à 8h30 demain matin ☐

PLEASE PRINT PLAINLY OR TYPE MESSAGE BELOW
PRIÈRE D'ÉCRIRE EN MOULÉ OU DE DACTYLOGRAPHIER LE MESSAGE DANS L'ESPACE CI-APRÈS

CODE NO - CODE N°	
Originator's - Envoyeur	Addressee's - Destinataire

P.A. →

I ACKNOWLEDGE YOUR TELEGRAM DECEMBER EIGHTEEN CONCERNING REPRESENTATIONS OF MOHAWKS OF ST. REGIS, ONTARIO ON THE JAY TREATY AND COLLECTION OF CUSTOMS DUTIES.

DISCUSSIONS HAVE ALREADY BEEN HELD WITH DEPARTMENT OF NATIONAL REVENUE OFFICIALS ON THIS MATTER. THE DISCUSSIONS ARE CONTINUING AND I HOPE SOME SOLUTION CAN BE FOUND WHICH WILL BE SATISFACTORY TO ALL PARTIES CONCERNED.

If further space is required please use a second page — Si cet espace est insuffisant, prière d'utiliser une deuxième feuille.

The following information must be supplied but will not be sent with the above message.
Prière de fournir les renseignements suivants qui, toutefois, ne feront pas partie du message ci-dessus.

Message Prepared by— Rédigé par—	Telephone No.: Numéro de téléphone:	Date	Signature of Person Authorizing Message: Signature de la personne autorisant l'envoi du message:
M.J. Gilchrist	2-0112	23-12-66	K. Hartney for

000517

IAND 10-84 (9-67) 7530-21-023-4490

P.A. → 1/3-3-14

Department of
Indian Affairs and
Northern Development

CANADA

Ministère des
Affaires indiennes et
du Nord canadien

OTTAWA 4, December 20, 1968.

NOTED BY
A.D.M.

our file notre dossier
your file votre dossier

MR. BATTLE

Re: Telephone Conversation with
Mr. R. Whitebean - Superintendent, St. Regis
(3:15 p.m. - December 20, 1968)

Mr. Whitebean called at 3:15 p.m. and asked if I "Had heard the latest". My answer was "No."

He then gave me the following statement.

Mr. Bishop, the Port Manager at Cornwall, heard the statement made by Chief Mitchell that residents of Cornwall Island Reserve could move their goods without customs' duty applying across the Canadian Border.

On hearing this statement, Mr. Bishop telephoned his superior -- A.D.M. Howell in Ottawa -- and was informed that this was impossible.

Mr. Bishop then contacted the press media and informed them of his advice from his Department in Ottawa.

Mr. Whitebean then expressed his concern to me that this development could upset the apple cart.

Above information submitted for your perusal.

R. Moses

R. Moses.

1/3-3-14

OTTAWA 4, December 20, 1968.

MR. BATTLE

Re: Telephone Conversation with
Mr. R. Whitebean - Superintendent, St. Regis
(3:15 p.m. - December 20, 1968)

Mr. Whitebean called at 3:15 p.m. and asked if I "Had heard the latest". My answer was "No."

He then gave me the following statement.

Mr. Bishop, the Fort Manager at Cornwall, heard the statement made by Chief Mitchell that residents of Cornwall Island Reserve could move their goods without customs duty applying across the Canadian Border.

On hearing this statement, Mr. Bishop telephoned his superior -- A.D.M. Howell in Ottawa -- and was informed that this was impossible.

Mr. Bishop then contacted the press media and informed them of his advice from his Department in Ottawa.

Mr. Whitebean then expressed his concern to me that this development could upset the apple cart.

Above information submitted for your perusal.

Original Signed
By
R. Moses

R. Moses.

MOSES:ac

1/3-3-14

Department of
Indian Affairs and
Northern Development

Ministère des
Affaires indiennes et
du Nord canadien

OTTAWA 4, December 20, 1968.

our file notre dossier
your file votre dossier

MR. BATTLE

NOTED BY
A.D.M.

The following statement was relayed to me at approximately 1:30 p.m., today by Mr. Ralph Whitebean, Superintendent of the St. Regis Agency. It is my understanding from Mr. Whitebean that the following message was released to the press media by Chief Angus Mitchell, Chief of the St. Regis Band:

"After prolonged negotiations commencing in November between myself and officials of the Department of Indian Affairs, a mutually acceptable temporary solution to the problem at the Cornwall Island Customs' office has been arrived at.

"At about 4:30 p.m. yesterday in a telephone conversation between myself and one of the high level officials of the 'Indian Affairs Branch' I was informed that an agreement had been reached with the Department of National Revenue whereby Indian residents of Cornwall Island will be allowed to pass freely through Customs with their purchases.

"It is the intention of the St. Regis Band to now proceed through lawyers retained by the Quebec Indian Association with legal action to have reinstated the rights that were guaranteed to them by the Jay Treaty.

"I now appeal to all residents of the St. Regis Reserve to conduct themselves in a calm manner and to recognize that recourse to the courts is now our most sensible approach to a long-range solution for this problem."

(Chief Angus Mitchell -
St. Regis Indian Band)

R. Moses.

R. Moses.

1/3-3-14

OTTAWA 4, December 20, 1968.

MR. BATTLE

The following statement was relayed to me at approximately 1:30 p.m., today by Mr. Ralph Whitebean, Superintendent of the St. Regis Agency. It is my understanding from Mr. Whitebean that the following message was released to the press media by Chief Angus Mitchell, Chief of the St. Regis Band:

"After prolonged negotiations commencing in November between myself and officials of the Department of Indian Affairs, a mutually acceptable temporary solution to the problem at the Cornwall Island Customs' office has been arrived at.

"At about 4:30 p.m. yesterday in a telephone conversation between myself and one of the high level officials of the 'Indian Affairs Branch' I was informed that an agreement had been reached with the Department of National Revenue whereby Indian residents of Cornwall Island will be allowed to pass freely through Customs with their purchases.

"It is the intention of the St. Regis Band to now proceed through lawyers retained by the Quebec Indian Association with legal action to have reinstated the rights that were guaranteed to them by the Jay Treaty.

"I now appeal to all residents of the St. Regis Reserve to conduct themselves in a calm manner and to recognize that recourse to the courts is now our most sensible approach to a long-range solution for this problem."

(Chief Angus Mitchell -
St. Regis Indian Band)

Original Signed
By
R. Moses

R. Moses.

MOSES:ac

COPY TO BE RETURNED TO ASSISTANT DEPUTY MINISTER (SOCIAL AFFAIRS)

P.A.

DEC 20 1968

Chief Angus Mitchell,
Box 1268,
Cornwall, Ontario.

Dear Chief Mitchell:

On December 17th, I received a delegation from Cornwall Island headed by Mr. Ernest Benedict making representations to me on the Jay Treaty and the collection of Customs' duns on entry into Canada at the U.S. Border. They had met earlier with my Deputy Minister who explained briefly the status of the Jay Treaty as outlined in the 1956 Supreme Court judgement. Mr. MacDonald indicated that discussions on the subject of Customs' collections had already been held with the Department of National Revenue officials, following representations received from you when you visited the Department in November. He said, however, that he would be happy to discuss the matter again with senior officials of National Revenue to see if anything could be done about the problem at this time. I understand the delegation agreed that these discussions should be pursued.

Since then, of course, the group represented by the delegation has taken other action to draw attention to these demands and while it is a matter of regret to me that this course was chosen at the time when my officials were in discussion with National Revenue, nevertheless, I want you to know that the discussions are continuing and it is my hope that there will be some easing of the problem at Cornwall Island.

So far as the Jay Treaty is concerned, this is a subject on which representations have been received on a number of occasions. Indeed, the subject has been raised at meetings in progress during the past year on revisions to the Indian Act. I can only say that this matter, along with others related to Indian Treaties and agreements, is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, as it relates particularly to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

. . . 2

081543

CENTRAL REGISTRY
JAN 2 11 08 AM '68
INDIAN AFFAIRS

081705

CENTRAL REGISTRY
JAN 3 9 04 AM '68
INDIAN AFFAIRS

REGISTERED
JAN 3 1969
RECORDS
INDIAN AFFAIRS

However, I do indeed have sympathy for the Indian people who live on Cornwall Island and commute from their homes daily to work in the United States, and it is on behalf of such people that I am particularly directing my efforts at the present time. Since I undertook to write about this matter after giving it consideration, I am addressing this letter to you with a copy to Mr. Ernest Benedict.

Yours sincerely,

L'ORIGINAL SIGNÉ PAR
L'HONORABLE JEAN CHRÉTIEN

Jean Chrétien.

BATTLE:AC
December 20, 1968.

c.c. Mr. Ernest Benedict (Cornwall Island, Ontario)

c.c. Regional Director, Ontario

c.c. Superintendent, St. Regis Agency

c.c. Mr. Armstrong (Attention: Indian-Eskimo Bureau)

SEEN BY
E. A.

COPY FOR A.D.M. (SOCIAL AFFAIRS)

Mr. Ernest Benedict,
R.R. #3,
Cornwall Island, Ontario.

Dear Mr. Benedict:

When you and members of your delegation were here on December 17th, I said that I would write you about representations made to me on the Jay Treaty and the collection of customs dues on entry into Canada at the U.S. Border. You had met earlier with my Deputy Minister who explained briefly the status of the Jay Treaty as outlined in the 1956 Supreme Court judgement and which you observed was already well known to your people. Mr. MacDonald indicated, however, that although discussions had already been held with Department of National Revenue officials following representations received from Chief A. Mitchell. on the subject of customs collections, he would be pleased if the delegation so wished to discuss the matter with senior officials of National Revenue to see if anything could be done about the problem at this time. I understand your delegation agreed that these discussions should be pursued.

Since then, of course, your group has taken other action to draw attention to your demands and while it is a matter of regret to me that you chose this course at the time when my officials were in discussion with National Revenue, nevertheless, I want you to know that the discussions are continuing and it is my hope that there will be some easing of the problem at Cornwall Island.

So far as the Jay Treaty is concerned, this is a subject on which representations have been received on a number of occasions. Indeed, the subject has been raised at meetings in progress during the past year on revisions to the Indian Act. I can only say that this matter, along with others related to Indian Treaties and agreements, is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, as it relates particularly to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

not. sent

. . . 2

However, I do indeed have sympathy for the Indian people who live on Cornwall Island and commute from their homes daily to work in the United States, and it is on behalf of such people that I am particularly directing my efforts at the present time.

Yours sincerely,

BATTLE:AC

Jean Chrétien.

December 20, 1968.

c.c. Chief Angus Mitchell
c.c. Regional Director, Ontario
c.c. Superintendent, St. Regis Agency

c.c. Mr. Armstrong (Attention: Indian-Eskimo Bureau)

WPoo.

PA

Ottawa 4, December 19, 1968.

MINISTER

I had a thorough discussion of the Cornwall Island incident today with Mr. Labarge, Deputy Minister, Department of National Revenue and Mr. Howell, Assistant Deputy Minister (Customs). They are of the view that it was provoked by a small group of Indians not because of any specific action by the Department of National Revenue, but primarily to focus public attention on the Jay Treaty. They explained that Cornwall Island Indians have all along been required to pay duty on goods purchased in the United States and declared at the Customs House located on the Island. They emphasized, however, that no charges are made on goods declared by Indians resident on the Island where the amounts collected would be less than $1.00. This normally means purchases not exceeding $5.00 and generally takes care of persons working in the United States who make small purchases before returning to their homes on the Reserve.

I appealed to Mr. Labarge to seek some way to take into account the peculiar circumstances prevailing on Cornwall Island. I said that I feared that although this may have started as an isolated incident involving a small group, there was danger that it would assume larger proportions and spread to other Reserves across the country. However, Mr. Labarge made it clear that neither his Minister nor the Governor General in Council has any discretionary power under the Customs Act.

Mr. Labarge indicated that their Department and their local officials at Cornwall Island are fully aware of the sensitivity of this matter. I was assured that his local officials would use the utmost common sense in respect to the handling of goods declared by Indian residents of the Island.

cc
sent to
Mr. Boyle

081911

CENTRAL REGISTRY

JAN 6 9 03 AM '68

INDIAN AFFAIRS

REGISTERED
JAN 6 1969
RECORDS
INDIAN
AFFAIRS

Unfortunately, it is not possible to state publicly the precise meaning of this. I concluded that small purchases declared by local Indians would not be assessed, but large purchases would be. Even now, however, it is acknowledged that a great deal of goods come on to the Island that are not declared and consequently no collections are made.

You may wish to now discuss the matter with your Colleague, the Hon. Eric W. Kierans, the Acting Minister of National Revenue. It is possible that a case could be made for an amendment to the Act to provide for relief to those residing in Canada, but employed in the United States, for example, Walpole Island, Windsor, Cornwall Island, etc. Only National Revenue can assess the possible consequences of such a move.

This, of course, does not dispose of the question of the Jay Treaty. I think this is a matter that must await the review of all the Treaties and agreements as part of the examination of new Indian legislation. Indeed, it may well be that the Treaty might become the substance of a claim before the proposed Indian Claims Commission. Certainly, the granting of the right for all Indians in Canada to bring in goods from the U.S. duty free has far reaching consequences.

Original Signed by
R. F. BATTLE

R.F. Battle,
Assistant Deputy Minister
(Social Affairs).

BATTLE:AC

COPY FOR MR. EVAN ARMSTRONG
(Attention - Indian-Eskimo Bureau)

PA → 1/3-3-14

PA

Mr. Ernest Benedict,
R.R. #3,
Cornwall Island, Ontario.

Dear Mr. Benedict:

When you and members of your delegation were here on December 17th, I said that I would write you about representations made to me on the Jay Treaty and the collection of customs dues on entry into Canada at the U.S. Border. You had met earlier with my Deputy Minister who explained briefly the status of the Jay Treaty as outlined in the 1956 Supreme Court judgement and which you observed was already well known to your people. Mr. MacDonald indicated, however, that although discussions had already been held with Department of National Revenue officials following representations received from Chief A. Mitchell on the subject of customs collections, he would be pleased if the delegation so wished to discuss the matter with senior officials of National Revenue to see if anything could be done about the problem at this time. I understand your delegation agreed that these discussions should be pursued.

Since then, of course, your group has taken other action to draw attention to your demands and while it is a matter of regret to me that you chose this course at the time when my officials were in discussion with National Revenue, nevertheless, I want you to know that the discussions are continuing and it is my hope that there will be some easing of the problem at Cornwall Island.

So far as the Jay Treaty is concerned, this is a subject on which representations have been received on a number of occasions. Indeed, the subject has been raised at meetings in progress during the past year on revisions to the Indian Act. I can only say that this matter, along with others related to Indian Treaties and agreements, is being thoroughly examined. I am not in a position to indicate what the outcome of the review will be, as it relates particularly to the Jay Treaty, because this is a matter which will have to be carefully considered by the Government.

. . . 2

However, I do indeed have sympathy for the Indian people who live on Cornwall Island and commute from their homes daily to work in the United States, and it is on behalf of such people that I am particularly directing my efforts at the present time.

Yours sincerely,

BATTLE:AC

Jean Chrétien.

December 20, 1968.

c.c. Chief Angus Mitchell
c.c. Regional Director, Ontario
c.c. Superintendent, St. Regis Agency
c.c. Mr. Armstrong (Attention: Indian-Eskimo Bureau)

AM

Box 514,
Brantford, Ontario
479/3-3-1
24 June, 1968

Mr. Elliott Moses,

OHSWEKEN, Ontario.

Dear Mr. Moses:

Thank you for your telephone conversation of June 24, and the previous information which you obtained for me regarding the personnel at the Peace Bridge in Fort Erie.

I quote hereunder a paragraph from a branch letter, -

"As you know the United States Immigration and Nationality Act provides that Indians born in Canada have the right to enter the United States without restriction but that right extends only to persons who possess at least 50% of blood of the American Indian race. However, percentage of Indian blood is not a factor in determining Indian status in Canada and I think that you will agree that it would be difficult if not impossible, for Canadian Indians to obtain information as to percentage of Indian blood which is being requested by American Immigration officials".

The letter also notes that on several occasions our agency has indicated the percentage of Indian blood and suggests that we no longer make any reference whatsoever to percentages as this information cannot be supported.

Should you desire to pursue this question, I would be pleased to offer you or your emissary details of difficulties that Six Nations Indians are having with the American Immigration officials.

Yours truly, ORIGINAL SIGNED BY
D. R. CASSIE

D. R. Cassie, Superintendent,
Six Nations Indian Agency.

DRC:fn

c.c. H.H. Chapman, Ottawa.

0 2 8 3 9 3

1/3-3-14

MEMORANDUM

CLASSIFICATION

TO
A

Departmental Registrar
Ottawa

YOUR FILE No.
Votre dossier

Attention: Mr. H.H. Chapman

OUR FILE No.
Notre dossier
901/3-3(PR.1)

FROM
De

Indian Commissioner for B.C.

DATE
June 13, 1967

FOLD

SUBJECT
Sujet

Indian Entry to United States

We refer to our Pink Circular letter No. 484, a copy of which is attached for your further perusal.

It is evident that we are still experiencing some difficulty with some Canadian Indians attempting to cross into United States for employment. The American Consul is still insisting that they require a letter confirming that the entrant is a registered Canadian Indian and possesses 51% Indian blood. We have an average of two calls per week in this regard. The above applies to those applicants anticipating skilled or permanent types of employment. The larger group who annually cross into the neighbouring States for seasonal berry and fruit harvesting do not appear to have the same problem and are cleared at the border with little or no formality.

Since a number of Indians still do not have the identification card issued on request by the Department or have lost them, we are often asked for a letter of identification. We attach, for your consideration, a sample copy of a letter we propose to use where necessary, and ask your advice as to its suitability. Also, since most of these requests are directed to the local Placement Counsellor we feel that he should have the authority to sign this type of letter.

Perhaps you may wish to have a further discussion with the United States Immigration Attaché on this recurring problem and advise this office.

W J McSugan

J.W. Boyes,
Indian Commissioner for B.C.

Enc.

A8 23-5

000534

MEMORANDUM

CLASSIFICATION
CIRCULAR NO. 484

TO
A

ALL SUPERINTENDENTS

YOUR FILE No.
Votre dossier

OUR FILE No.
Notre dossier

901/3-3

DATE

FROM
De

Indian Commissioner for B.C.

FOLD

SUBJECT
Sujet

August 24, 1966

Indian Entry to United States

As a result of a few complaints from Indians in Southern British Columbia regarding entry into the United States we have had an exchange of correspondence with H.H. Chapman, Departmental Registrar who has advised as follows:

"The difficulties appear to have resulted from a belief by some American Immigration officials that the privileges granted to Canadian Indians seeking entry into the United States are being abused. As you know the United States Immigration and Nationality Act provides that Indians born in Canada have the right to enter the United States without restriction, but that right extends only to persons who possess at least 50 per centum of blood of the American Indian race. Their attitude is not surprising, therefore, when they are approached by blue eyed, fair complexioned individuals claiming to be Indians and requesting border crossing privileges.

I discussed this problem with Mr. Joseph A. Mongiello, United States Immigration Attaché in Ottawa and pointed out that percentage of Indian blood is not a factor in determining Indian Status in Canada and that it would be difficult, if not impossible, for Canadian Indians to obtain information as to percentage of Indian blood which is being requested by American Immigration officials. Mr. Mongiello has now informed me that he has been in communication with American Immigration officials in Seattle and he believes that they will not continue to insist on a strict interpretation of the provisions of the Immigration and Nationality Act as it pertains to Indians in view of the difficulty of establishing the percentage of Indian blood of Canadian Indians. Verification of band membership will be sufficient, although in some cases it may be necessary to confirm Indian status back one or two generations.

It is appreciated, of course, that the governing legislation remains unaltered and these unofficial arrangements will not completely eliminate the possibility of future difficulties. However, I believe that as a result of the efforts of Mr. Mongiello, we may expect an easing of the enforcement of the letter of the law which will be beneficial to the Indians in your area."

For your information and guidance.

W J McLuss

J.V. Boys

Indian Commissioner for B.C.

CGSB—6GP22a PP&S Cat. No. 3591

Canada

Department of Indian Affairs and Northern Development | Indian Affairs Branch

Ministère des Affaires indiennes et du Nord canadien | Direction des affaires indiennes

our file/notre dossier 901/3-3
your file/votre dossier
date

Sample

TO WHOM IT MAY CONCERN

This is to certify that .....
whose signature appears below is registered as No. .....
..... Band of the .....
Indian Agency and as such qualifies as having Indian status pursuant to the Indian Act of the Government of Canada, Section 2, subsection 1(g). According to the Band list his father and mother are both of Indian status.

Placement Counsellor

Witness to Signature

For B.C. Indian verification refer to Pink Circular No. 484.

1867 | 1967

Superintendent,
Six Nations Indian Agency.

P.A.

1/3-3-14(AM6)

May 31, 1968.

Registrar

Indian Entry into the United States

I have your letter of May 9 wherein you advise that you are receiving requests from members of the Six Nations Band to provide them with certification of percentage of Indian blood to facilitate border crossing into the United States.

As you know the United States Immigration and Nationality Act provides that Indians born in Canada have the right to enter the United States without restriction but that right extends only to persons who possess at least 50% of blood of the American Indian race. However, percentage of Indian blood is not a factor in determining Indian status in Canada and I think that you will agree that it would be difficult if not impossible, for Canadian Indians to obtain information as to percentage of Indian blood which is being requested by American Immigration officials.

You mention that there have been instances where border officials have refused to accept Certificate of Indian status cards as proof of Indian status and quote a letter which you gave Freeman Earl Farmer, No. 222 Oneida Six Nations Band, which was also refused.

It is noted that you have referred to percentage of Indian blood in your letter to Mr. Farmer. I would suggest that you not make any reference whatsoever to percentage of Indian blood. I think it is sufficient to say that according to your Agency records Freeman Earl Farmer is registered as a member of the Oneida, Six Nations Band of Indians and that he was born on January 31, 1948 the son of Freeman Earl and Olive Doreen Farmer who are also members of the Oneida, Six Nations Band of Indians.

I hope the above will be helpful to you.

H. H. Chapman.

RC/ltn

MEMORANDUM

CLASSIFICATION

TO
A

Indian Affairs Branch,

Ottawa.

Attention: Registrar.

AM3

YOUR FILE No.
Votre dossier

OUR FILE No.
Notre dossier
479/3-3-3

FROM
De

Superintendent, Six Nations Agency.

DATE
May 9, 1968.

FOLD

SUBJECT
Sujet

Enquiries as to percentage of Indian Blood.

This office is constantly receiving demands from various members of the Six Nations Band to quote their percentage of Indian Blood, which is apparently required for border crossing purposes to obtain employment in the United States and from young men and women wishing to join the United States Armed Forces.

This office has been giving letters, as in the sample below. Sometimes we have traced their ancestry back for three generations and found that the parents on all sides of the family were on the Band Membership but this apparently does not satisfy the United States Immigration Authorities. We have been advised that there have been instances where an Indian has a Certificate of Indian Status and the authorities at the border have refused to recognize the Certificate, claiming they require a letter from the Indian Affairs Branch, or Agency Office, stating their percentage of Indian Blood.

For example, we recently gave the following letter to Freeman Earl Farmer: -

"The Registered Indian Record, at Six Nations Indian Agency Office, shows the name of Freeman Earl Farmer born 31 January 1948, registered under the names of his parents, Freeman Earl Farmer and Olive Doreen Farmer, No. 222 Oneida, Six Nations Indian Band. Olive Doreen Farmer (nee Hill) was registered under No. 68 Upper Cayuga, Six Nations Indian Band, prior to her marriage.

As membership to Indian Bands in Canada is not based on the percentage of Indian Blood, we are unable to quote this factor." - Occasionally we have stated - "It is not possible to supply the information they require."

Mrs. Freeman Earl Farmer, mother of Freeman Earl, claims that when this letter was presented to the Immigration Authorities at the border, they advised that, as it did not quote the percentage of Indian Blood, it was of no value to them. She also stated that the Immigration Authorities advised her that the only reason this office would not give the percentage of Indian Blood was - "They are just too damnlazy to look it up."

Attached is a photocopy of a paper, which Mrs. Farmer left at this office, to support her request for the percentage of Indian Blood of her son.

As this matter is urgent, please favour us with an early reply.

D. R. Cassie.
WH/fr.
enc.

AM3 2/11

000538

1/24-2-13

P. A. → c.c. 1/3-3-14

Mr. Lehigh Antone,
Grand Secretary,
Indian Defence League of America,
Box 305,
Niagara Falls, N.Y.,
U.S.A.

Dear Mr. Antone:

The Honourable Arthur Laing has asked me to acknowledge on his behalf your letter of January 1, 1968, in which you inquired about the letter dated September 21, 1967, from your organization, which was passed by the Honourable John Turner to Mr. Laing for attention.

Presumably you are now aware that Mr. Laing wrote to Mr. Rickard, your Grand President, on January 19, and I do not think there is anything I can add to his letter at the present time.

Yours sincerely,

L. S. Marchand, P. Ag.,
Special Assistant.

SPROTT/veb
January 31, 1968.

Ne Skenno, Ne Gai Wuo, Ne Gasha Sa — *Peace, Prosperity, Power and Equality to All*

Indian Defense League of America

Home Office, Box 305, Niagara Falls, N.Y.

CHIEF CLINTON RICKARD
President
DAVID HILL
First Vice Grand President
MR. LEHIGH ANTONE
Grand Secretary

CHIEF DES-KA-HEH
Grand Chaplain
R.R. 1, Ohsweken, Ont.
Six Nation Reservation
LYNETTE JUSTIANA
Treasurer and Assistant Secretary

Annual Border Crossing Celebration Every 3rd Saturday of July, Niagara Falls, N.Y., and Niagara Falls, Ontario

January I, 1968

Copy to go from Sec Turner to Law Per?

Honourable Arthur Laing
Superintendant General Of Indian Affairs
Government House
Ottawa, Canada

Dear Mr.Laing;

We have been informed that a request of September 2Ist 1967,directed to the Honourable John Turner Registrar General and an aspirant for Party Leadership has been referred to you for consideration. We had hoped that some action would have been taken during the Centenial Year,in that The British North America Act Section I32,provides -"The Parliament of Canada shall have all Powers necessary or proper for performing the obligations of or any Province thereof as part of the British Empire,towards any any foreign countries arising under Treaties between the Empire and any such foreign Countries."

Will you please advise if the matter will be acted upon during the next term of Parliament,which we believe resumes on or about January 22nd.

Thanking you in advance for information asked;

Respectfully submitted

Lehigh Antone Secty

Copy for Indian Affairs Branch

~~- Return to SAT~~ -

PA → 1/3-3-14

19 JAN 1968

The Honourable John N. Turner, P.C., M.P.,
Registrar General,
Ottawa, Ontario.

My dear Colleague:

In your letter of October 2, 1967, you enclosed material relative to the treaty, commonly known as the Jay Treaty. This had been sent to you by Clinton Rickard, President of the Indian Defense League of America.

The Jay Treaty has long been a bone of contention because of the differences in border crossing procedures between Canadian Indians entering the United States of America, Indians from there entering Canada and Canadian Indians returning home from the United States.

Although the treaty in question makes reference to Indians it is not an Indian treaty in the ordinary sense of the word and the main implications of the present problem are in relation to immigration rather than Indian affairs. This situation is due to the fact that the United States Immigration Act provides more freedom to our Indians than we do for theirs and this difference has led to invidious comparisons.

This matter is principally the responsibility of the Minister of Manpower and Immigration. I suggest, therefore, that you refer it to the Honourable Jean Marchand.

I am enclosing for your information a copy of my letter of even date to Mr. Rickard and will await your comment before taking any further action on the subject.

Yours sincerely,

ARTHUR LAING

Arthur Laing.

7.12.67

CONN/BOYD/D'ASTOUS/ls

December 6, 1967.

035302

CENTRAL REGISTRY

JAN 27 11 39 AM '68

INDIAN AFFAIRS

REGISTERED
JAN 22 1968
RECORDS
INDIAN
AFFAIRS

COPY FOR INDIAN AFFAIRS BRANCH
RETURN TO SAT

1/1-11

19 JAN 1968

Mr. Clinton Richard,
Grand President,
Indian Defense League of America,
Box 305,
Niagara Falls, N.Y.,
U.S.A.

Dear Mr. Richard:

Please refer to your letters dated September 21, 1967 to The Right Honourable Lester B. Pearson, Prime Minister, and to the Honourable John N. Turner, Registrar General, both of which dealt with the Jay Treaty and the Treaty of Ghent and more particularly the reference therein to Indians crossing back and forth across the Canada - United States border.

I note, with appreciation, your complete grasp of the legal situation as established by the Supreme Court, your realization that this decision is binding on the Government of Canada, as well as its citizens, and your understanding that there is no administrative action which may be taken to deal with the problem.

Your suggestion that legislation be enacted which will give force and substance to the principles which are inherent in these treaties is an interesting one, and I have referred it to the appropriate authorities for further study.

Thank you for writing and for providing me with a detailed account of this matter.

Yours sincerely,

ARTHUR LAING

Arthur Laing.

CONN/BOYD/pmg
December 5, 1967.

c.c. The Honourable John N. Turner, Registrar General.

7/12/67

P.A.

Canada

Department of Indian Affairs and Northern Development | Deputy Minister

Ministère des Affaires indiennes et du Nord canadien | Sous-ministre

19 JAN 1968
ARTHUR LAING

our file/notre dossier
your file/votre dossier 1/1-11
Ottawa 4 date December 26, 1967.

MINISTER

Re: Letter to Mr. Clinton Rickard

This has reference to your note regarding the suggested reply to Mr. Clinton Rickard, Grand President of the Indian Defense League of America, in which you query the notation with regard to Mr. Rickard's realization that the decision of the Supreme Court is binding on the Government of Canada.

The Defense League has always taken the position that the laws of Canada did not apply to North American Indians entering the country from the United States. Now, however, they appear to have accepted the fact that this is not so and that there is nothing which can be done under existing legislation to change the present state of affairs.

Consequently, the League has abandoned the previously belligerent posture and adopted a conciliatory attitude in which the Prime Minister is asked to sponsor legislation which will accord to American Indians entering Canada the same measure of courtesy which is afforded to Canadian Indians crossing into the United States which they do in considerable numbers.

In these circumstances I thought it appropriate to comment on the proposal without any commitment other than a show of interest but that an expression of appreciation for the change in approach would be fitting also.

R.F. Battle,
Assistant Deputy Minister,
(Indian Affairs).

1867 | 1967