

## A Border without Guards: First Nations and the Enforcement of National Space

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Résumé de l'article

À la fin du XIXe siècle, la guerre de Sécession, la confédération canadienne, la violence transnationale et les préoccupations grandissantes entourant l'immigration indésirable ont exacerbé les craintes au Canada et aux États-Unis à l'égard de la perméabilité de leur frontière commune. Les deux pays ont mis en place une série de contrôles directs et indirects pour marquer leur autorité et pour surveiller les mouvements transfrontaliers. Le contrôle direct a misé sur des unités militaires, des agents de police, des douaniers et des gardes-frontières pour restreindre les déplacements en stoppant les personnes à la frontière. Cette méthode a connu un succès mitigé pour limiter la circulation de groupes tels les Salish du littoral, les Lakotas, les Dakotas et les Cris. En réaction, les deux pays ont usé de stratégies indirectes de contrôle qui se sont attaquées aux motifs de traverser la frontière plutôt qu'aux passages proprement dits. Ils ont eu recours à des rations, à des rentes, à des expulsions extrajudiciaires et aux terres de réserve pour imposer une frontière nationale aux communautés des Premières Nations des Prairies et de la côte Ouest. L'application de ces stratégies a varié selon la région, la tribu et la communauté, ce qui a mené à une courtoisie de politiques frontalières qui ont continué à évoluer pour le reste du XIXe siècle et le début du XXe siècle.

# A Border without Guards: First Nations and the Enforcement of National Space

BENJAMIN HOY\*

## *Abstract*

*During the mid-to-late nineteenth century, the American Civil War, Canadian Confederation, transnational violence, and rising concerns over undesirable immigration increased anxieties in Canada and the United States over the permeability of their shared border. Both countries turned to a combination of direct and indirect control to assert their authority and police movement across the line. Direct control utilized military units, police officers, customs officials, and border guards to restrict movement by stopping individuals at the border itself. This approach had minimal success in limiting the movement of groups such as the Coast Salish, Lakota, Dakota, and Cree. In response, both countries employed indirect border-control strategies that attacked the motivations for crossing the border instead of its physical manifestation. They used rations, annuities, extra-legal evictions, and reserve land to impose national boundaries onto First Nations communities in the prairies and on the West Coast. The application of this indirect approach differed by region, by tribe, and by community leading to a ragged set of borderland policies that remained in flux throughout the nineteenth and early twentieth centuries.*

## *Résumé*

*À la fin du XIXe siècle, la guerre de Sécession, la confédération canadienne, la violence transnationale et les préoccupations grandissantes entourant l'immigration indésirable ont exacerbé les craintes au Canada et aux États-Unis à l'égard de la perméabilité de leur frontière commune. Les deux pays ont mis en place une série de contrôles directs et indirects pour marquer leur autorité et pour surveiller les mouvements transfron-*

\* I would like to thank Andrew Graybill, Stephen A. Aron, Richard White, and three anonymous reviewers for their feedback at various stages of this paper as well as financial support from Stanford University and the Social Science and Humanities Research Council.

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During the nineteenth century, Canada and the United States embarked on nation building campaigns aimed at delineating their shared border and expanding control over their respective territories. To do so they adopted a series of direct and indirect border-control strategies. Direct control focused on monitoring and influencing the ways that individuals physically crossed the border itself. North-West Mounted Police officers, border guards, immigration and customs agents, fishery patrols, provincial police forces, and naval units all contributed to this policing. Historical and contemporary accounts of border control often focused on this naked form of coercion, as it represented one of the most visible ways that federal governments intervened in daily life.<sup>1</sup>

Direct control, for all its significance, suffered from systemic limitations particularly when applied to Native American communities. In 1885, for example, A.W. Bash, a collector of customs in Washington Territory, noted that he had less than two dozen men responsible for a district of “some 350 miles and a coast line of not less than 1000, and including islands 2000 miles to guard.”<sup>2</sup> His twenty-odd men, already overburdened, kept no record of the nationality of travellers entering their district. They failed to stop smugglers and all but ignored First Nations who crossed the line. The extensive challenges Bash encountered while enforcing national borders were not unique to the West Coast nor to customs officials.<sup>3</sup>

Army units, Indian agents, North West Mounted Police officers, and fishery patrols all complained about the inadequate appropriations, insufficient personnel, and the extensive borderland they were forced to contend with. Canada's small economy created additional impediments for its border-control strategies by limiting its federal presence to little more than a skeleton force in many regions and by making military actions, a crucial feature of American Indian policy, prohibitively expensive. The economic, demographic, and military superiority the United States maintained over Canada gave it additional options for how it policed movement, but it still struggled to control an often uncooperative borderland population. Faced with insufficient administrators, troops, and agents, both nations stationed men at areas of heavy traffic and left most of the border undefended. The difficulties of enforcement created room for transnational movement, local variation, misunderstandings, and corruption.

The difficulties Canada and the United States experienced while trying to patrol such an extensive border led them to adopt indirect strategies of enforcement, which attacked the motivations for crossing the border rather than simply their physical manifestation. Although this kind of control has received less sustained attention by historians, it was nonetheless essential to extending federal authority throughout the borderland. Indirect control relied on limiting incentives for movement by restricting access to resources and labour markets. This approach required fewer personnel and allowed agents stationed off the 49th parallel to contribute towards border-control policies.

Indirect control came with a distinct set of limitations and was often used to supplement rather than supplant direct control attempts. Controlling the motivations for border crossing worked best when applied at the community and tribal levels and proved inconsistent and ineffective in controlling small-scale movements of individuals and families. Nor could indirect control be applied in a uniform fashion. Dependency, which amplified the effectiveness of indirect control, varied by region and often occurred as the result of a combination of factors over which the federal governments had limited control. The disappearance of

the buffalo, changing labour markets, intertribal conflicts, and demographic shifts all played an important role. This left both governments with the ability to exploit situational opportunities but prohibited them from imposing consistent and effective indirect border controls at a national scale.<sup>4</sup>

Although indirect control was exercised against all ethnic groups, it was most significant with respect to Native Americans because of their unique legal status within each country and because of the relative inability of either country to control First Nations' movements through checkpoints. Native American knowledge of local geography, the expansiveness of their familial ties, and their ability to slip past federal patrols made enforcing the border at the physical line more often than not a lesson in futility. At the same time the economic, legal, racial, and political status of Native Americans in the United States and Canada made them particularly vulnerable to the meddling of Indian Affairs agents, army units, land surveyors, and treaty commissioners. Relying on vulnerabilities, however, meant that the ability of both governments to exercise indirect control varied by region, tribe, and community. As a result, the strategies that worked on the prairies could not be translated to the Pacific coast without significant modifications, creating a ragged and inconsistent set of borderland controls that remained in flux throughout the nineteenth and early twentieth centuries.

### Indirect Control in the Prairies

The disappearance of buffalo, which began during the 1860s and 1870s, tore away at the independence of Indigenous groups on the northern plains. By the early 1880s, the buffalo had all but disappeared. Native American groups responded to the buffalo's destruction in a variety of ways, including selling land in exchange for rations and annuities and engaging in wage labour. In each case, however, the new economic strategies did little to recreate the same level of independence First Nations groups had maintained prior to the buffalo's destruction, giving Canada and the United States greater ability to interfere in the daily lives of

plains Indians. Canadian and American Indian agents, for example, began using Indian status, rations, and treaty payments as leverage to threaten and punish First Nations who violated the sanctity of national spaces.<sup>5</sup>

Both countries perceived the transnational movements of Native Americans as a financial liability, a diplomatic risk, a challenge to their sovereignty, and a disruption to their Indian policies. The two governments did not, however, view all forms of transnational mobility with equal apprehension. Canada and the United States understood Blackfoot mobility, for example, to be an annoyance rather than a crisis because the Blackfoot remained peaceful. In contrast, they viewed the movements of the Dakota, Lakota, Nez Perce, Métis, and Cree, who resisted federal authority through a combination of warfare and mobility, to be direct affronts to their power.<sup>6</sup>

Persistent violence made the permeability of the border harder to ignore and provided strong impetus for new border policies. During the early 1860s, for example, mounting conflicts between the Dakota and the United States government created ample concern over border control. The Dakota had ceded parts of Minnesota, Iowa, and the Dakotas to the United States in 1815, 1836–1837, and 1851, but pressure for their land remained. The United States' failure to pay the Dakota the annuities promised under treaty, local traders' reluctance to supply goods on credit, and skirmishes between settlers and the Dakota fanned discontent. Between 18 and 23 August 1862 the Dakota responded to their long-standing grievances by launching a series of attacks that killed hundreds of settlers and threw the surrounding region into disarray. By late September, the American army had broken Dakota resistance forcing hundreds to flee from Minnesota to the Red River Settlement in British territory or face arrest. Once across the border, the Dakota refugees attempted to transform their past relationships with the British into contemporary support. The refugees produced flags and medals given to them by the British government during the War of 1812 and requested Britain set land aside for them north of the border.

The refugees put Britain in a hard position. Britain lacked the troops necessary to evict the Dakota and the sudden influx of so many people strained the nearby British and Métis communities. After numerous attempts to remove the Dakota from the Dominion's territory, the government offered the approximately 1,800 Dakota refugees in Canada a permanent reserve under two stipulations. First, Canada maintained that the land being offered was a sign of good faith rather than an obligation on the Canadian government's part. The Dakota would not be considered treaty Indians and would receive no annuities. Second, American Dakota entering Canada after the treaty would not be recognized as Canadian Indians by the Department of Indian Affairs and would not be given a place on the reserve. Canada attempted to reaffirm the sanctity of the border. Past transgressions could be forgiven, but from this point forward American Sioux were to remain in the United States. Canadian Sioux were to remain in Canada.<sup>7</sup>

Canada became far more reluctant to grant even partial recognition to American Indians who crossed into its jurisdiction by the late nineteenth century. By the 1870s, the Department of Indian Affairs had created complex legal definitions of who qualified as a Canadian Indian, impacting their ability to claim access to land, rations, annuities, and resource gathering sites. The Canadian Indian Act of 1876, for example, ruled that any Indian who resided for "five years continuously" in a foreign country would lose their status "unless the consent of the band with the approval of the Superintendent-General or his agent"<sup>8</sup> was first obtained. Native American mechanics, missionaries, professionals, teachers, and interpreters engaged in their duties were exempt from this restriction. This policy divided sanctioned crossings from illegitimate ones, while leaving the gray areas at the discretion of the Department of Indian Affairs. Over time, Indian agents pushed to have reserves located further from the border, increased their commitment to monitoring cross-border movements, and showed greater reluctance to assist Native American groups fleeing conflict with the United States.<sup>9</sup>

The United States implemented a similar series of indirect border-control measures to limit the benefits First Nations from Canada could reap by crossing into the United States. In 1885, Cree militants participated in an unsuccessful resistance against the Canadian government aimed at pressuring Canada to acknowledge the rights of First Nations and Métis. In the rebellion's aftermath, Little Bear's Cree entered the United States seeking sanctuary much like the Dakota had done in the opposite direction two decades earlier. The Cree received a cold welcome on their arrival. Local Indian agents prevented the Cree from residing on the reservations of "American" Indians, and the group struggled to find work in the surrounding towns.

In 1896 the United States Congress appropriated \$5,000 to rid the country of Canadian Crees who had claimed refuge in the United States after the rebellion. Montana's Governor, John E. Rickards, argued that the Cree had violated gaming laws, looted cabins, and interfered with cattle grazing. Ultimately the argument rested on the idea that Canada, not the United States, should be responsible for these troublesome "British" Indians. That the Cree had historic ties to land on both sides of the border was lost in the debate. Between 20 June and 7 August 1896 the United States forced Little Bear, Lucky Man, and over 500 Indians across the line into Canada. The initial round up included American-born Cree, Ojibwa, Gros Ventre, and Assiniboine. Inter-marriage and the close association between groups provided some of the confusion. American authorities considered Métis and Cree, for example, to be "Canadian" Indians regardless of their actual birthplace. Congress' orders assumed clarity of tribal identity, race, and nationality that simply did not exist.<sup>10</sup>

By the turn of the century, most of the so-called Canadian Cree had returned to Montana. Soldiers could evict Indians living in the wrong country, but unless a constant force remained stationed along the line, groups like the Cree could easily re-cross. A.E. Forget, a Canadian Indian Commissioner, wrote to the superintendent general of Indian Affairs "it was not possible to do anything beyond the adoption of persuasive measures, to prevent their [the Cree's] exodus."<sup>11</sup> Persuasion, however, could be a

powerful weapon. Canada and the United States expended great effort to ensure that only hardship awaited those who violated the national divide.

In 1916 Little Bear's Cree secured a reservation in the United States with the help of Rocky Boy's Chippewa, a group with whom they had hunted and travelled in the past. The two groups received a 56,000-acre reservation on the military reserve at Fort Assiniboine over the concerted opposition of land speculators. On the surface, the recognition of Little Bear's claim to land in the United States suggests the limitations of both direct and indirect border-control strategies. The army had evicted the Cree once but could not stop them from crossing the border at will. Indirect attempts to control the Cree, through the denial of reservation lands, annuities, and legal recognition, had not deterred them from remaining in the United States for decades. The American government had eventually weakened before the Cree's demands. Little Bear received the recognition he had coveted.

The battle for recognition, however, also revealed just how powerful indirect forms of control had become. The Cree's desire for land recognition from the United States' government would have appeared strange earlier in the nineteenth century, when the borders that had mattered had been between Native American groups rather than European ones. Moreover, Little Bear's success in securing suitable land had taken almost three decades of suffering and precluded his ability to claim land and annuities in Canada. The United States and Canada had succeeded in gutting the benefits of transnational mobility on the plains and increasing its risks. That the Cree were willing to endure such great hardships to secure land is more suggestive of the poor treatment they received at the hands of the Canadian government, than to the ineffectuality of indirect control.<sup>12</sup>

### Indirect Control on the Pacific Coast

British, Canadian, and American attempts to control the risks and benefits First Nations gained by crossing the border took a different form on the Pacific Coast than they did on the plains.

Local circumstances limited the kinds of coercive measures both governments could use. First Nations maintained control over their subsistence along the coast for longer than they had on the plains, and British and American reliance on Native American labourers on the West Coast limited the kinds of economic sanctions they could impose until the end of the nineteenth century. While British, Canadian, and American authority remained limited, each government attempted to restrict only the kinds of transnational movements they found most troubling and left the vast majority of crossings undisturbed. As the demographic, military, and economic contexts changed along the coast, Britain, Canada, and the United States expanded the ways they interfered with transnational identities attacking the cultural ceremonies, economic opportunities, and familial bonds that spanned national lines. By the twentieth century, they had succeeded in using Indian status and reservation lands as a cudgel with which to enforce the national orderings they had envisioned during the nineteenth century.

Coastal raiding had occurred on the Pacific Coast long before the arrival of Europeans and remained widespread throughout the early nineteenth century. Raiding troubled Britain and the United States because it signified the continued military significance of Native Americans along the coast, disrupted the regional economies in which Indians formed a significant portion of the labour force, and made a mockery of the boundary the two countries had tried to draw. In 1858, J.W. Nesmith, the Superintendent of Indian Affairs in Oregon and Washington Territories, noted, for example, that large war canoes from British and Russian territories could carry 100 warriors, with a swiftness which rendered "anything but a steamer useless in pursuit" while their "courage, numbers, and skill render them too formidable ... [for] an ordinary crew."<sup>13</sup> When groups of raiders, such as the Okinakanes, were pressured, they could "easily effect their escape into the British possession, where ... they cannot be taken except by a tedious extradition process."<sup>14</sup> In such circumstances, the boundary assisted raiders in avoiding retribution, but did little to protect the coastal communities that they preyed upon.

Transnational raiders highlighted the inability of the United States or Britain to protect their own settlers or defend the Coast Salish who had chosen to live on government reservations. Raiders also made it difficult to ignore just how little of a deterrent the border was to First Nation's mobility.<sup>15</sup>

Britain and the United States also worried about the military forces First Nations could muster, as opposition to treaties mounted and outbreaks of violence appeared imminent. They feared that Indian warfare in one country could drag both countries into a much larger conflict. Colonial administrators, faced with the possibility of dispersed and chronic warfare, began to cooperate across national lines. This cooperation required that colonial administrators collapse conflicts into an "Indian" vs. "white" binary, ignoring the hundreds of competing identities and interests that existed within each group. The binary could not account for why the Duwamish warned Seattle's residents of an incoming attack by the Nisqually, or why the United States was so concerned about the Hudson's Bay Company's connection to Native Americans south of the 49th parallel. That required an understanding of local circumstance. The racial categorizations, however flawed, had a seductive appeal to Britain and the United States. They created a simpler world of racial solidarity in which Britain and the United States worked together to bring civilization to Indians. Conceptualizing the problem in such a fashion allowed colonial administrators to provide military and logistical support to one another, even as they competed over territory such as the San Juan Islands.<sup>16</sup>

By the 1860s Britain and the United States introduced faster ships to their navies, which allowed them to keep up with the speed of the war canoes. At the same time, American military successes along the coast reduced the likelihood of extended military campaigns that spanned national lines. Native American raiding disappeared as a major concern, but the policies Britain and the United States could implement remained limited. When there was no crisis to spur attempts to police the border, the boundary remained open and the national spaces hazy. Britain and the United States had still not found

an answer for enforcing the border on a daily basis. Geography, labour shortages, and the limited bureaucracies in both countries encouraged transnational movements and linked settler economies, while restricting the kinds of policies either country could pursue.<sup>17</sup>

The Cascade and Rocky Mountains made it easier to travel between the coastal regions of Washington Territory and British Columbia than to travel between the coast and the interior in either place. As a result, businessmen, labourers, smugglers, and even law enforcement officials near the coast found it easy to develop social, economic, and personal ties that transcended national boundaries and difficult to establish them within a national framework. The Ne-u-lub-vig, Misonks, Cow-e-nachino, and Noot-hum-mic living in Washington Territory, for example, maintained strong commercial ties to the Hudson's Bay Company in British territory and weak ones within the United States. By choosing the path of least resistance, people on both sides of the border built regional connections in place of national ones.<sup>18</sup>

The specific labour demands of the canning and hops industries made their production facilities particularly receptive to using Native American and transnational labour. They needed large numbers of workers in the summer when the salmon ran and in September when the hops ripened. The inconsistency of employment, the low pay, and the manual nature of the work held little appeal for the initial European settlers. Native American communities responded more favourably to these economic opportunities providing a necessary influx of labour. When the transnational labour migration of Native Americans peaked in 1885, as many as 6,000 First Nations from British Columbia (approximately fifteen to twenty percent of the First Nation population) migrated seasonally to Washington. The participation of large numbers of First Nations in these industries worried Indian agents because it limited the time Indian Agents had to "civilize" Indians and provided Native Americans with money the Office of Indian Affairs (OIA) and Department of Indian Affairs (DIA) had no control over.

The seasonal nature of the canning and hops industries appealed to groups such as the Stó:lō, Swinomish, and the Lummi, because it allowed First Nations to acquire commercial goods without interfering with other seasonal activities. For part of the year, First Nations communities prepared food for the winter. In July and August these communities left for the canneries, leaving behind only a few individuals to take care of the young children. In September thousands moved south to the hops fields. In the winter, some groups cut firewood or made woolen socks to sell to European settlers, while others engaged in local wage labour opportunities. The reliance of the regional economies in British Columbia and Washington on Native American labour allowed First Nations to retain their subsistence rights and their mobility. Attacking either risked disrupting the economic arrangements that had been made, and neither Canada nor the United States wished to lose access to an important source of labour.<sup>19</sup>

As European immigration to the Washington Territory grew exponentially during the mid-nineteenth century, local industries decreased their reliance on the transnational Native American labour force. During the 1860s, American Indians outnumbered whites living in Washington Territory by an estimated 3: 1. Two decades later the trend had reversed. European migrants became the most significant portion of the population outnumbering Native Americans 4: 1. British Columbia experienced a slower but similar reversal. The 1881 census recorded 25,661 First Nations (a substantial undercounting according to the Department of Indian Affairs), 16,861 Europeans, and 4,350 Chinese. By 1911 First Nations composed well under ten percent of British Columbia's population. This demographic change reduced the power of Native Americans and decreased regional industries' reliance on Indian labour.<sup>20</sup>

As local industries began to rely less and less on Native Americans labourers, it freed up Canada and the United States to implement more aggressive Indian policies. Indian agents, fishery patrols, and customs agents attacked First Nation's mobility, culture, land, and resource gathering sites. In doing so, federal agencies began to adopt an interpretation of Indian

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**Table 1. Washington’s Population by Ethnic Origin 1860-1910**

Year	Census				OIA Indian
	White	Chinese	Japanese	Indian	
1860	11,138	-	-	426*	est. 31,000
1870	22,195	234	-	1,319*	est. 16,268
1880	67,199	3,186	1	4,405*	14,189
1890	340,513	3,260	360	3,655*	10,837
1900	496,304	3,629	5,617	10,039	9,827
1910	1,109,111	2,709	12,929	10,997	9,625

\* Includes only “civilized” Indians

Decennial Census: United States Bureau of the Census, *Thirteenth Census of the United States 1910: Bulletin Population: United States - Color or Race, Nativity, Parentage, and Sex* (Government Printing Office, 1913), 82; United States Census Office, *Compendium of the Tenth Census of the United States*, vol. 1 (Government Printing Office, 1883), 377; United States Census Office, *Compendium of the Eleventh Census: 1890. Part 1 - Population* (Government Printing Office, 1892), 469-470, 474.

Office of Indian Affairs: OIA ARO, UWDC, 1860, 21; 1870, 16; 1880, iv; 1890, 544; 1900, 653-654; 1910, 60.

**Table 2. British Columbia’s Population by Ethnic Origin 1871-1911**

Year	Census				DIA Indian
	White	Chinese	Japanese	Indian	
1871	-	-	-	-	Est. 45,000
1881	16,861	4,350	-	25,661	Est. 35,052 to 40,000
1891	65,527	9,386	-	23,257	Est. 35,202
1901	127,934	14,885	4,597	28,949	24,576
1911	318,914	19,568	8,587	20,134	24,581

Decennial Census: Canada, *The Canada Year Book 1911*, Second Series (Ottawa: C.H. Parmelee, 1912), 16; Canada, *Fifth Census of Canada 1911: Religion, Origins, Birthplace, Citizenship, Literacy, and Infirmitities, By Provinces, Districts, and Sub-Districts*, vol. 2 (Ottawa: C.H. Parmelee, 1913), 370; Estimates for all populations in 1891 based on BCA, GR-0429, Box 3, File 2, British Columbia, Attorney General, Correspondence Inward, B09318 69/94, George Johnson to Minister of Agriculture and Statistics, “Dispute with Ottawa on Indian Census,” 1894; BCA, GR-0429, Box 3, File 2, British Columbia, Attorney General, Correspondence Inward, 1894, “Re Census of British Columbia.”

Department of Indian Affairs: DIA ARO, LAC, 1871, 37; 1881, 140, 223; 1891, 253; 1901, part 2 182; 1911, part 2 58.

status that neither granted First Nations the protections due to them under treaty, nor brought Indian policies in line with those governing whites or other racial groups. Instead, federal agents in both countries created economic policies that maintained First Nation's separate legal, social, and economic classification, but transformed it from an identity that had once protected indigenous access to resources through treaty rights to one that used race to restrict their claims. When conflicts emerged between Indians and settlers, the federal governments supported white labourers and businessmen over Native American ones and passed a series of measures, including racially based fishing licenses, that resisted First Nations' ability to work.<sup>21</sup>

Controlling the border, however, remained a tricky proposition. Direct border-control strategies continued to fail to address the needs of either country. Military, police, and customs personnel, already swamped with other tasks, including controlling Chinese immigration, could not keep pace. The border was too long, the transnational connections that First Nations communities maintained were too entrenched, and the Pacific Coast's geography was too complex to be guarded by a handful of overworked and underpaid personnel. Faced with a difficult situation, federal administrators turned to indirect methods of control to help curtail the benefits Native Americans could gain from moving between national spaces. To do so, Canada and the United States targeted the social and economic bonds that connected transnational communities together, much as they had on the prairies, and began to punish those who resisted.

Indirect control showed signs of success. The drive to assimilate First Nations, their exclusion from productive resource sites, and the competition that Native American workers faced from Chinese, Japanese, and white workers all diminished the benefits groups such as the Stó:lō and Lummi gained from their transnational mobility. The hops industry, which had once encouraged the seasonal migration of thousands of Indians from British Columbia into the United States, stopped being the reliable source of income it had once been. Market fluctuations, labour competition, and the appearance of the hops louse — which

ravaged hops production — lessened the industry's reliance on Native American labour and, as a result, reduced the income many communities had come to expect. By 1896 an Indian agent noted in his annual report of the Tulalip Agency in Washington that there existed little inducement for the Indians of the agency to travel to the hops fields because the value of the hops and need for Native American labour had diminished so severely.<sup>22</sup>

Economic changes on both sides of the border plagued Native American workers in the fishing and canning industries as well. In 1888, for example, British Columbia forced First Nations to either fish commercially under a licensing system or fish freely for subsistence. They could no longer do both. Canneries imposed a voluntary quota system of their own, limiting the number of Asians and Native Americans who could fish, and the Canadian government made it illegal for Natives Americans to catch fish in traps, weirs, or reef nets. This imposition prevented Native Americans from adopting new technologies as well as utilizing traditional ones. In 1900 the United States restricted fishing licenses to American citizens, which by definition excluded American Indians, and in 1913 British Columbia instituted a system of licensing that provided white fishermen with higher wages and more flexibility as to where they sold their fish than it allowed for either Native American or Asian fishermen. Fishery patrols began to levy fines and confiscate the gear of First Nations who refused to be bounded by the national borders or failed to obey European models of resource management. Confiscations could turn hunts, which would have been profitable, into financial disasters.

Groups such as the Lummi actively fought these changes. They took the United States government to court in 1895 over violations of their fishing rights. In other instances, Native American labourers resorted to vigilante justice, alongside their European counterparts, to try to prevent Chinese workers from displacing their own people on the jobsites. Neither strategy saw much success and the kinds of protections Native Americans had once enjoyed because of their importance in the labour market disappeared.<sup>23</sup>

The loss of reliable opportunities diminished the economic incentives for border crossings, but did not eliminate them entirely. The Kyukahts from the Alberni Agency in British Columbia continued to sell their baskets in Washington State in 1902. First Nations found work in the same areas of employment as in the past, albeit in lesser numbers. Labour shortages and short growing seasons in the hops, berry picking, and canning industries provided periodic surges in employment opportunities. The loss of consistent work, however, eliminated one of the primary motivations for transnational mobility that had been so commonplace in the 1880s.<sup>24</sup>

By the twentieth century, Canada and the United States possessed a variety of viable strategies to pressure First Nations living on the West Coast into adopting a single national identity. The American army did not forcibly evict “Canadian” Indians living in Washington State as it did on the prairies, but economic restrictions eliminated many of the benefits Native American communities could expect to gain by crossing national lines. As had happened on the plains, economic misfortune allowed the federal governments to use annuities, Indian status, and land recognition to punish those who continued to maintain regional rather than national ties. Both governments began to assault groups, such as the Sinixt, who retained ambiguous national identities, creating significant risks for those who continued to retain ties in both Canada and the United States.<sup>25</sup>

Prior to the arrival of Europeans, the Sinixt had travelled throughout the Columbia River system maintaining connections to various seasonal resource-gathering sites. During the nineteenth and early twentieth century, they wintered near Fort Colville on the west coast of the United States and took advantage of the resources at Arrow Lakes north of the 49th parallel. The border bisected the territorial base of the Sinixt creating an uncomfortable ambiguity. The United States included them as part of the Colville Reservation, which initially contained land adjacent to the Canada-United States border. In 1892 Congress eliminated the northern half of the Colville Reservation to free the land up for miners. As a result, the middle section of the Sinixt’s

territory was cut out, creating a stark divide between their lands in Canada and the United States. North of the line, the Canadian government set aside land for the Sinixt who remained on the shores of the Lower Arrow Lake.

By the 1930s British Columbia expressed its interest in the timber on the Arrow Lake Reserve. Over the next two decades, the Department of Indian Affairs, using all manner of inconsistencies — including creating temporary band status, amalgamating and then unamalgamating reserves, and conflating band membership with residency — removed the few remaining descendants of the Arrow Lake Band from their rolls and declared the band “extinct.” With no remaining legal members in the tribe, the land reverted to British Columbia’s control. Throughout the process, the Sinixt’s presence on both sides of the border provided a pretext for eliminating their legal status in Canada. Canada declared those residing south of the line to be ineligible for membership north of it. Legal recognition as an Indian could only be achieved on one side of the border or the other. Ambiguity ceased to allow Native American communities to play one government off against the other. Instead, uncertainty became a liability that allowed federal officials to strip First Nations’ communities of their title to land and resource gathering sites.<sup>26</sup>

### The Withering of Direct Control

During the early twentieth century, direct forms of control began to impact the transnational movements of non-indigenous peoples to a much greater extent, owing in part to expanded funding to agencies such as customs and immigration. At the same time, a series of legal challenges brought into question what jurisdiction if any these agencies had over Native Americans. In 1924, for example, the United States passed the Indian Citizenship and National Origins Acts, which created an unintentional challenge to the transnational movements of Native Americans labourers along the border’s entire length. The Indian Citizenship Act made “all non-citizen Indians born within the territorial limits

of the United States ... citizens.”<sup>27</sup> During the same year, the National Origins Act created a quota system to restrict yearly immigration to the United States. Although the National Origins Act did not address the transnational movements of Native Americans specifically, immigration officials began to use Section 13 (c) to restrict First Nation’s mobility. Section 13 (c), which declared “no alien ineligible to citizenship shall be admitted to the United States,” had been intended to restrict Chinese and Japanese immigration.<sup>28</sup> The act’s wording, however, allowed immigration agents to prevent Canadian Indians, who were inadmissible for citizenship under the American Indian Citizenship Act, from crossing the border.

The broad interpretation immigration agents took towards the National Origins Act worried business owners such as the McNeff Brothers who operated in Washington. The brothers wrote to John W. Summers in 1925 stating that preventing fruit, produce, and hops farmers in Washington from utilizing the labour of First Nations from British Columbia would hurt their business, and made little sense. The Indians from British Columbia “are more or less intermarried with the Indians in western Washington and Yakima and for the last 40 years (and more) hundreds of the B.C. Indians have come across the line to visit and work during the fruit and hops harvests.”<sup>29</sup> Farmers no longer depended on Indians from British Columbia to the extent they had during the 1880s, but they still feared anything that disrupted their ability to draw on a versatile labour market. Flexible hiring options, especially during short harvest seasons or labour shortages, could make the difference between profit and debt. Immigration officers allowed Indians from British Columbia to come to Puget Sound “on an emergency basis” to harvest fruit crops after the restrictions, but their position remained tenuous.<sup>30</sup>

The interpretation immigration agents took towards the provisions of the National Origins Act fostered opposition within many Native American communities. Their challenges to the act took many forms including a legal challenge by Paul Diabo, a Mohawk ironworker from Québec, against the National Origins Act’s applicability to Native Americans. On 18 March 1927, dis-

trict Judge Oliver B. Dickinson ruled in favour of Diabo. The National Origins Act did not apply to Native Americans, and Indians would be allowed to cross the border without obstructions. The United States Immigration Service appealed the decision and opponents of Diabo's court case contended it only applied to Six Nations, which would have left the restrictions in force across the rest of the boundary.<sup>31</sup>

The Immigration Service lost its appeal and the United States Congress clarified the matter on 2 April 1928, when it confirmed the right of all First Nations born in Canada to pass into the United States. The 1928 Act, however, left gray areas over who fulfilled the criteria of being an "Indian." Non-enrolled mixed bloods blurred the lines that Indian agents and immigration officials attempted to draw, forcing them to adopt functional definitions of identity based on blood quantum and tribal identity, which were hard to establish in practice. The decision made Indian status and federal recognition an integral facet to the ability of First Nations to cross the border unmolested.<sup>32</sup>

The Department of Immigration's defeat over the interpretation of the 1924 acts neutered the kinds of direct border-control strategies Canada and the United States could pursue. By that point, however, both countries had ample experience influencing the ways Native Americans interacted with national spaces through other means. Over the course of the late nineteenth and early twentieth centuries, Canada and the United States had developed a suite of indirect forms of control that undermined the motivations First Nations had for maintaining transnational connections on the Prairies and West Coast. Federal administrators chose reservation locations away from the border to increase the travel times of transnational movements. They withheld treaty goods from groups who disobeyed Indian agents or spent too much time beyond the confines of the nation state. Both federal governments attacked the cultural and economic practices that drew First Nations communities on both sides of the border together. Indian status and legal recognition became tools, which Canada and the United States used to control how Indians moved between national spaces.

Federal policy tore away at the connections Native American communities maintained across the border and encouraged them to adopt a single nationality. Many groups refused to do so, and have maintained transnational connections to this day. The kinds of benefits they could gain from doing so, however, eroded over time. The potential risks, as seen by Canada's declaration that the Arrow Lakes Band had become extinct and by the Cree's struggle to secure a reservation, grew in significance. Legal recognition as an Indian could only be achieved on one side of the border or the other. Ambiguity, which had once allowed Native American communities to circumvent federal authority, had become a powerful tool to strip groups of their legal title to land and resources.

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