

The Indian Pass System in the Canadian West, 1882-1935

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ABSTRACT. In the aftermath of the North-West Rebellion, Indian Affairs instituted a pass system designed to confine Indians to their reserves in selected areas of the prairie west. Where the system was in effect, an Indian wishing to leave his reserve was required to obtain a pass, duly signed by the Indian agent and stipulating the duration and purpose of the leave. Indians without a pass, or in violation of the terms of the pass, were taken into custody by the police and summarily returned to their reserve. Lacking any basis in law, the system evolved as a form of local administrative tyranny, informally endorsed at the ministerial level of Indian Affairs. It aimed at a racial segregation meant to restrain Indian mobility, thereby minimizing friction with the white community, as well as ameliorating certain real or imagined problems, such as Indian prostitution, alcoholism and cattle killing.

From the beginning, the system was ineffectual. While Indians either ignored or openly defied the restrictions, the North West Mounted Police eventually came to the conclusion that, without legislative sanction, passes could not and should not be enforced. Faced with this situation, Indian Affairs by the early 1890s had no choice but to modify the scheme, both in substance and in intent. Although Indian agents continued to maintain the pretense that a pass was necessary for those wishing to leave the reserve, in practice passes were now granted almost on demand and for every conceivable purpose. The system was no longer meant to serve as an instrument of confinement, but merely as a means of monitoring Indian movement.

Passes survived into the twentieth century and were used in some areas as late as the 1930s. But they never became the kind of repressive mechanism they were intended to be.

SOMMAIRE. À la suite de la Rébellion du Nord-Ouest, les Affaires Indiennes établirent un système de laissez-passer conçu pour garder les Indiens dans leurs réserves dans des régions sélectionnées de l'ouest des Prairies. Là où le système était en vigueur, un Indien désirant quitter la réserve devait obtenir un laissez-passer, dûment signé par l'agent des Affaires Indiennes et stipulant la durée et la raison du déplacement. Les Indiens qui n'avaient pas de laissez-passer ou qui contrevenaient aux termes du laissez-passer étaient arrêtés par la police et sommairement reconduits à leur réserve. Ce système, sans aucun fondement légal, devint une forme de tyrannie administrative locale officieusement approuvée au niveau ministériel des Affaires Indiennes. Il visait à établir une ségrégation raciale qui était censée restreindre les mouvements des Indiens, minimisant ainsi les frictions avec la communauté blanche tout en réduisant certains problèmes réels ou imaginaires, tels la prostitution, l'alcoolisme et le massacre du bétail.

Dès le départ, le système se révéla inefficace. Les Indiens ignoraient les restrictions ou les défiaient carrément et la Police montée du Nord-Ouest en arriva éventuellement à la conclusion que sans législation on ne pouvait et on ne devait pas imposer l'usage de ces permis. Face à cette situation, le ministère des Affaires Indiennes n'eut d'autre choix, vers 1890, que de modifier à la fois le fond et le but du procédé. Bien que les agents des Affaires Indiennes aient continué à prétendre qu'il fallait avoir un laissez-passer pour sortir de la réserve, le permis était accordé pratiquement sur demande et pour toutes sortes de raisons imaginables. Le système n'était plus un instrument de ségrégation mais seulement un moyen de contrôler les déplacements des Indiens.

Le laissez-passer resta en vigueur jusqu'au vingtième siècle et fut utilisé dans certaines régions jusque dans les années 30. Il n'est, cependant, jamais devenu le mécanisme répressif qu'il était censé être.

1

In the winter of 1987, Prime Minister Brian Mulroney attempted to bolster his sagging political fortunes in Canada by speaking out against apartheid in South Africa. On the surface it seemed that he had chosen a "safe" political issue, given that for months on end the news media had been bombarding the western world with electrifying accounts of the brutal racist policies fundamental to South African society. But much to the embarrassment of the prime minister, during a press conference on the occasion of his visit to the Vatican, he was challenged on his right to condemn South Africa when Natives in his own country had been so badly mistreated. Although Mr. Mulroney was quick to deny that blacks under apartheid

could be compared with Natives in Canada, the accusation had a ring of truth for those familiar with Canadian history, especially with the treatment of Indians in the prairie west.

The aptness of the analogy with South Africa stems from the nature of government policy following the signing of treaties with the Indians in the 1870s.¹ It was a policy which, in its most characteristic form, can be traced to the assimilationist schemes devised for Indian reserves in Upper Canada after 1828. It was generally assumed that the pre-industrial culture of Indians was anachronistic and that, for practical and humanitarian reasons, Indians should be "civilized," "Christianized," and schooled in the art of agriculture. In effect, they were to be culturally remade in the image of the white rural farmer. The restructuring, it was understood, would require considerable training in the ways of white society. Until this was accomplished, the Indian was to be a ward of the state, bearing a special relationship to the government — that of a protected dependent without full citizenship rights. The training itself was to take place on Indian reserves, separated from white society, in theory to prevent the Indian from absorbing the worst features of civilization, especially the use of alcohol. The entire regime was fundamentally racist, but the aspect which particularly conjured up images of apartheid was the Indian pass system, applied in selected areas of the prairie west. Essentially, the pass system was a segregationist scheme which, without any legislative basis, required Indians to remain on their reserves unless they had a pass, duly signed by the Indian agent or farm instructor and specifying the purpose and duration of their absence. It is also relevant to note that in 1902 a commission from South Africa visited western Canada to study the pass system as a method of social control.

In recent years, the pass system has attracted increasing attention by those interested in federal Indian policy, but its treatment by scholars has not been comprehensive. In 1986 Donald Purich published *Our Native Land: Native Rights in Canada*, containing two and a half pages on the pass system.² The book was written without the benefit of endnotes and the discussion of passes is based largely on the work of Sarah Carter who a year earlier had published a two-page article on the subject, again without endnotes.³ Likewise in 1986 John Jennings wrote an article on the North West Mounted Police which devotes three pages to the topic,⁴ and passing references to the system can be found in the work of John Tobias,⁵ Brian Titley,⁶ and others. Among the earliest treatments of the topic is a seven-page collection of documentary material, compiled in 1974 by B. Bennett for the Treaties and Historical Research Centre.⁷

Collectively, existing sources do not paint a very complete picture of the Indian pass system and in some cases they are plagued by misinformation and questionable interpretations. This is true especially of the material concerning the genesis of the system, the extent to which it was enforced, and the duration of its existence. Was the pass system a response to Indian participation in the North-West Rebellion,

or did it have earlier antecedents? Did its existence mean a rigorous segregation of Indian society? Did the system survive into the 1930s, as is commonly assumed? These are questions which have both historic importance and contemporary relevance. They also demand a more comprehensive treatment than can be found in present accounts of Indian society.

2

According to Sarah Carter, the origins of the pass system can be traced to 6 May 1885 when Major General Middleton, camping near Fish Creek during the Rebellion campaign, dispatched a letter to Edgar Dewdney, the Indian commissioner and lieutenant governor of the North-West Territories. In it, he asked whether it would be "advisable to issue [a] proclamation warning breeds and Indians to return to their reserves and that all found away will be treated as rebels."⁸ It was this letter, says Carter, which set in motion the process that led to the system of Indian passes.⁹ John Jennings, however, disagrees. He argues that "Apartheid came to the Canadian West in 1882" in response to the concerns expressed by Indian Affairs and the police about Canadian Indians passing back and forth over the international border and "The Rebellion merely made the policy [of repression] more blatant."¹⁰ He points out that it was in 1882 that an order in council was introduced to discourage such border crossings and he insists that "Here was the rather innocuous beginnings of a policy that later, in its full development ... ran counter to the treaty promises of no restrictions on Indian movement."¹¹ He also notes that in 1884, predating the Middleton letter, Police Commissioner Irvine alluded to a potential pass system in his annual report, in response to the suggestion of Lawrence Vankoughnet, the deputy superintendent general of Indian Affairs, that such a system would prevent Indians from camping indiscriminately near white settlements.¹²

While Jennings is undoubtedly correct in noting that the discussion of the pass system precedes the 1885 insurrection, his treatment of the actual implementation of a pass system soon after the suppression of the Rebellion is flawed in two important respects. First, he tends to emphasize the role of Lawrence Vankoughnet, leaving the impression that the pass system was born in the upper reaches of the administration. He argues, for instance, that the policy of limiting Indian movement was contained in an 1885 memorandum penned by Vankoughnet, and addressed to Sir John A. Macdonald, the prime minister and superintendent general of Indian Affairs.¹³ What he fails to mention, however, is that the content of the Vankoughnet memorandum was actually an edited version of an earlier communication written by Hayter Reed, only recently elevated to assistant Indian commissioner from the position of Indian agent at Battleford. In the summer of 1885, following the Rebellion, Reed had drafted a lengthy memorandum "relative to the future management of Indians" and forwarded it to Edgar Dewdney. It contained some fifteen recommendations, and in substance was a blueprint for the total suppression of Indian society. Especially pertinent for our

purposes is recommendation seven:

No rebel Indians should be allowed off the Reserves without a pass signed by an I.D. official. The dangers of complications with white men will thus be lessened, & by preserving a knowledge of individual movements any inclination to petty depredations may be checked, by the facility of apprehending those who commit such offences.¹⁴

Dewdney's views on each of the recommendations were penned in the margins of the document. In reference to the pass system, the commissioner not only endorsed Reed's proposal, but even suggested that "It might be thought well another year to legislate in that direction."¹⁵ The Reed memorandum, including the comments by Dewdney, was transmitted to Vankoughnet. He in turn forwarded the document, along with an edited version of the original, to the superintendent general — the document referred to by Jennings. Macdonald responded by writing comments in the left-hand margin of the edited copy. For the most part, these comments consisted of one-word and sometimes single-phrase endorsements of each of the recommendations. But they also included two substantive references, one of which was to the issuing of passes:

Mr. Dewdney remarks that the pass system could be generally introduced safely. If so it is in the highest degree desirable. As to disloyal bands this should be carried out as the consequence of their disloyalty. The system should be introduced in the loyal bands as well & the advantage of the changes pressed upon them. But no punishment for breaking bounds can be inflicted & in case of resistance on the grounds of Treaty rights should not be insisted on.¹⁶

What this correspondence indicates is that, from its inception in 1885, the pass system was closely associated with Hayter Reed. Certainly Vankoughnet and others at the ministerial level had been aware for some time of the notion of a pass system, but the official decision to implement such a scheme stemmed directly from Reed's initiative.

Second, in focussing on the role of Lawrence Vankoughnet, Jennings has failed to appreciate that the pass system was created, not by a ministerial decision, but by a local initiative once more associated with the person and career of Hayter Reed. Reed's views had been shaped by his personal experience in Indian Affairs, combined with a certain stereotypical understanding of Indian people. As an Indian agent stationed at Battleford in 1881, Reed had seen his "fondest hopes ... frustrated" by what he described as the Indians' "inherent, restless disposition."¹⁷ His annual reports were laden with his concerns over Indians leaving the reserves on the slightest pretext: rumours that the buffalo had returned;¹⁸ reports that "soldiers had landed at Prince Albert in order to take all the Indians prisoners, and abuse their wives and daughters";¹⁹ unnecessary visits to town;²⁰ and thirst dances "which attracted those from all parts to witness acts of endurance and to hear recounted deeds of valour committed by those now more advanced in years, which, of course, acted upon the young braves as a dime novel of a thrilling nature would upon the susceptible youth of our own race."²¹ For Reed, these were acts of civil disobedience which effectively

destroyed his best efforts to turn Indians into productive farmers. He cited one example of a reserve from which there had been a mass exodus during hunting season, leaving only four men and a few women fit to work the fields, "the remainder being either blind, old and infirmed, invalids or children."²² Reed's response was to do all within his power to curb Indian mobility — including the payment of annuities on home reserves only, and the withholding of rations from those who made a habit of being off the reserve — but it is quite evident from his reports that his efforts failed.²³ In light of this experience there can be little doubt that he came to see the pass system as an invaluable instrument of control, fundamental to the very success of the entire civilization programme.

Likewise, as assistant Indian commissioner, Reed would have been sensitive to the kind of potential military threat which Indian mobility represented. He was not at Battleford in 1885 when the so-called siege of the older portion of the town took place, but the Indian takeover of Fort Pitt, not to mention the murder of a farm instructor and a rancher in the Battleford area as well as nine others at Frog Lake, undoubtedly left a lingering impression. He also would have been sympathetic to General Middleton's request for a proclamation confining Indians to their reserves. In the end, the commissioner's office, believing there was no legal basis for confining Indians to their reserves, limited itself to issuing a notice advising Indians that it would be in their best interests to stay at home during the hostilities.²⁴ The notice remained in effect for only six weeks largely because it was introduced only during the latter stages of the Rebellion. It seems likely, nevertheless, that the very notion of pressuring Indians to stay on the reserve through an informal but widely applied policy was an idea that was not lost on Hayter Reed.

In point of fact, Reed was personally responsible for the actual implementation of the pass system in 1885, and evidence suggests that he did so prior to receiving the official blessing of either Vankoughnet or Macdonald. Only two days after Vankoughnet had forwarded Reed's memorandum on the future management of Indians to the prime minister, but clearly before Macdonald had endorsed the recommendations, Reed informed the Indian commissioner that he had already implemented a pass system, its illegality notwithstanding:

I am adopting the system of keeping the Indians on their respective Reserves and not allowing any [to] leave them without passes — I know this is hardly supportable by any legal enactment but we must do many things which can only be supported by common sense and by what may be for the general good. I get the police to send out daily and send any Indians without passes back to their reserves....²⁵

This is the first indication of the actual existence of a pass system, one whose authority rested not on ministerial approval or even law, but on expediency. As it turned out, both Vankoughnet and Macdonald warmly approved Reed's recommendation for such a system, but this should not blur the fact that approval was *post facto* and that the real architect of the Indian pass system as it came

into being in 1885 was Hayter Reed.

3

That the pass system was a violation of what had been promised in the treaties and that it lacked legal justification seemed not to be matters of concern to those who administered the scheme. There was, nevertheless, an attempt to rationalize the existence of the system. Foremost was the explanation that certain Indian groups, because of their disloyalty during the Rebellion, had forfeited their treaty rights and should have their mobility limited.²⁶ To drive this point home, in 1886 Hayter Reed sent out books of passes to his agents accompanied by instructions that Indians who had been implicated in the Rebellion should be clearly so identified on the front of the passes for the information of the police and others.²⁷ Vankoughnet also argued to his own satisfaction that, although hunting Indians might have a right to travel where they wished as long as they did not encroach on private property, they did not have the right to frequent villages and towns because incorporated places could be considered property owned by municipalities.²⁸ But the most pervasive argument was that, whatever rights the Indian might have in theory, the enforcement of the pass system was justified in the higher interest of the civilization programme and hence of the Indians' own well being. It was precisely this argument to which Reed had alluded at the time of introducing passes and it was one that would obtain as long as they remained in existence. As Reed explained, "it seems better to keep them [Indians] together for the purpose of training them for mergence with the whites, than to disperse them unprotected among communities where they could not hold their own, and would speedily be downtrodden and debauched."²⁹ Such arguments; of course, were entirely self-serving and meant to justify an otherwise untenable encroachment on Indian rights.

This rationalization very much served the interest of government and its hope for European immigration to the Canadian west. As Sarah Carter has pointed out,

In 1885, immigration to the prairies was at a virtual standstill. The Indians and Metis had dealt a crippling blow to Macdonald's vision of a densely populated West. The National Policy could wither and die unless large numbers of settlers were attracted to the West to develop its agricultural potential and create a staple for export.³⁰

In effect, the pass system as an instrument of confinement would go a long way in dispelling lingering fears of an Indian uprising and in reassuring prospective settlers of a peaceful and prosperous existence. Equally important, the pass system served the purposes of those in the Department of Indian Affairs whose *raison d'être* was to oversee the experiment in social engineering. Often reflecting the racist perceptions of the Victorian age, and sometimes animated by humanitarian and Christian principles, these men not unnaturally endorsed the pass system as a logical and necessary means to achieve their goals. And in the decade following the Rebellion, their determination was all the more steeled by a series of problems

which the pass system was meant to solve.

One such problem was the determination of Indians to confirm and renew their Indianness by persistently resorting to traditional practices and even by incorporating new rituals into their ceremonies. The Sun dance in particular was a concern to officials because it took Indians away from agriculture during a season that was crucial to farming. Even more disturbing, it entailed ideological rituals which served to protect and reinforce the Indian social system, as well as integrate the youth into Indian society, much to the detriment of the assimilation programme administered in day and residential schools.³¹ The Indians' mobility also made them susceptible to troublesome outside religious forces. This was true of the so-called "messianic craze" or Ghost dance which in the early 1890s made its way from the United States into Saskatchewan. Unlike its American counterpart, the Canadian Ghost dance was non-militant but intensely Indian in content and hence remained a covert form of spirituality. Although it embraced a Christian social morality as a means to salvation, that salvation itself promised an afterlife of traditional Indian culture and fellowship. Not unlike the Sun dance, it was essentially an assertion of Indianness in opposition to forced acculturation.³² A similar concern was expressed about the Mormon religion which Indian Affairs perceived as an alien influence with a potential to foment trouble, among other things because of its sanction of polygamy — the very practice officials had been attempting to stamp out among the Plains Indians.³³ Equally troublesome were certain forms of millenarianism. In 1904, the southern portions of Saskatchewan were set ablaze by rumours that the end of the world was at hand. As it turned out, the inspiration behind the rumour was "a deaf, dumb and half demented Indian boy" from Gordon's Reserve who was promising "that the end of the world for white people was coming, that only the real Indians living in teepees would be spared, and would then have all the world to themselves, and lots of buffalo to hunt...."³⁴ The incident typified a number of religious movements, in part embracing Christian precepts, but promising a revival of Indian tradition and control. For that reason, it was deemed dangerous.

The evils associated with towns and villages were another problem the pass system was meant to address. In the first instance, these were sometimes centres of disease, with the result that sickness was often transmitted to the reserves with devastating consequences. But more than that, they were seen as sources of immorality — dens of iniquity where Indians wasted their time in pool halls and pestered the local residents for handouts in order to engage in alcoholic binges. It was believed that the urban lower classes were adept at teaching Indians the vices associated with city life and that "degradation [was] sure to follow any close relationship with white people in the early stages of [Indian] training."³⁵ Of particular concern, often more imagined than real, was the belief that Indian families camped near towns in order to prostitute their women. In 1886, for example, a policeman in Battleford levelled a complaint against farm instructors

who were too free in issuing passes, a practice he insisted catered to immorality:

I beg to state that in my opinion the granting of passes to Indians, especially Indian women, is abused, not by the Agents but by some of the farm instructors. Women are granted passes ostensibly to come into town and work or sell berries. This is in nine cases out of ten only an excuse for prostitution. I have been obliged in several occasions to send back to their Reserves women who had unexpired passes in their possession.³⁶

In another case, this time in 1899, the Indian agent at Hobbema received a report that some of his agency women were serving as prostitutes in Red Deer, but upon investigation by the North West Mounted Police, it was determined that the agent had been misinformed.³⁷ Nevertheless, it was commonly assumed that Indianness equated with immorality and that towns catered to the baser instincts of Native society.

This was all the more problematic given the fact that residential schools were located in major centres and that parents insisted on visiting their children during term. Such visits often had an unsettling influence on the children and sometimes resulted in the parent removing his child without permission. To curb this situation, and at the same time limit Indian access to the perceived evils of urban life, Indian agents were instructed not to allow Indians off the reserve for the purpose of visiting industrial schools, unless they had a pass showing the time and purpose of their absence and specifying the name of each individual in the group covered by it.³⁸ They were also instructed to limit such passes to one every three months, although additional passes might be issued in the event that a school child became ill.³⁹

Alcohol abuse was deemed a problem in its own right. For the missionaries who ran the schools and churches, the use of alcohol by Indians was seen as a sign of moral turpitude and a major impediment to the conversion process through which the civilization of the Indian was to be achieved. For others, alcohol abuse was a social problem, one which destroyed Indian pride and dignity and preordained a society mired in poverty and destitution. From the beginning, the enforcement of prohibition in the North-West Territories had been systematically sabotaged, first by a permissive permit system allowing non-Indians to import alcohol for personal consumption, and then by the introduction of a license system for the sale of beer. Both measures, despite the fact that the Indian Act prohibited Indians from drinking alcohol, had the effect of illicitly increasing the flow of alcohol to the various bands, and this was compounded again in 1892 when the Territorial Assembly instituted a liquor licensing system for non-Indians.⁴⁰ For one thing, the licensing system greatly reduced the cost of bootleg alcohol, and as one observer pointed out, "At present it was a very poor Half-breed or Indian who at intervals more or less extended does not find himself in the possession of 50¢ or 25¢ to buy a large or small bottle of whiskey."⁴¹ In addition to home brew, which was variously bootlegged or made covertly on the reserve, alcohol substitutes were readily available, sometimes with tragic results. In 1906, six

Indians from Beardy's Reserve in the Duck Lake Agency obtained two bottles of cologne, known as Florida Water, and consumed them as a beverage, not knowing that the content was 98 percent methyl alcohol. All six died of wood alcohol poisoning.⁴² Then too, because Métis and non-status Indians did not fall under the prohibition provisions of the Indian Act, they not infrequently were able to act as intermediaries in obtaining alcohol for Indians, charging a small fee for their trouble.⁴³ It was also nearly impossible to scrutinize the activities of those who sold liquor illicitly because, under the new liquor ordinance establishing the licensing system, the police lacked the right to search merchant wagons travelling through the territory.⁴⁴ The net result of all these factors was that the liquor provisions of the Indian Act were almost unenforceable, especially once the Indian was allowed off the reserve.

A problem of a different sort had to do with the perception, most vociferously articulated in southern Alberta during the 1890s, that Indians allowed to roam the ranges at will were guilty of butchering cattle. Not untypical of the mood of angry cattlemen was an article that appeared in a Calgary newspaper in 1891. It was a diatribe against the Department of Indian Affairs for giving passes to Indians ostensibly for the purpose of hunting, in order to reduce the outlay of rations to needy Indians, when the only surviving game was cattle.⁴⁵ While it applauded the goal of making Indians self-sufficient, it insisted that the practice of indiscriminately issuing hunting passes served the interests of Indian Affairs personnel rather than those of the Indians or of the cattlemen:

The whole aim and object of an Indian Agent's existence is to shew [*sic*] a clean ration sheet.... By granting passes for the purpose of "hunting" he gratifies his wander loving charges and soothes the departmental mind with a small "total drawing rations." Whether there is anything to hunt or not is a minor matter. The ration sheet at all events is "clean."⁴⁶

The point of the article was a demand that the pass system be tightened up, confining Indians to their reserves in order to protect the property of cattlemen. Hayter Reed was convinced that the losses were owing to factors other than Indians and even that many of the complaints were based on self-interest, not the least of which was an attempt to increase beef rations on reserves in order to enhance the profits of cattlemen.⁴⁷ Such disclaimers notwithstanding, the issue was a thorny one for Indian Affairs because the cattle interests represented a powerful lobby, associated with important ranchers like the Honourable W.F. Cochrane who was well connected in Ottawa. For that reason, there can be little doubt that the matter was handled with care and that efforts to restrain the movement of southern bands were redoubled.

In addition to these domestic concerns, the problem of border crossings continued to haunt Indian Affairs in ways which reaffirmed the importance of the pass system. Singularly important was the terrifying spectre of Canadian Indians making common cause with their American counterparts in a general uprising. Domestic upheaval was bad enough, but given the violent nature of white-

Indian relations in the United States, the very suggestion of an international Indian movement was often the excuse for panic. In 1891, it was reported that two Indian runners from the United States had held council with the Bloods in order to solicit aid for an anticipated uprising on the American side of the border. Seemingly, the Bloods were advised to sell their horses and lay in a stock of ammunition and arrows. Were the uprising successful, there would be a joint meeting near Fort Walsh as a prelude to a general massacre on the Canadian side.⁴⁸ What made the report startling was that it came on the heels of a general alert by the police following reports that the Sioux south of the Manitoba border were holding a war dance and threatening settlers.⁴⁹ In the end, neither the Sioux nor the Bloods proved troublesome, but in the minds of officials the two events very much underscored the need for effective control over Indian movement along the "medicine line" separating the two countries.

Also important in the international context was the issue of customs and quarantine regulations. The ability of Indians to cross the border freely invited the suspicion that the real purposes of visits to the United States were horse stealing and other illicit activities. In addition, the unregulated importation of horses and other animals offered the possibility that livestock diseases could be transmitted across the border. The solution to these evils was contained in a circular letter issued by the Indian commissioner in 1903 and addressed to Indian agents in both Manitoba and the North-West Territories.⁵⁰ It was now stipulated that, when granting a pass allowing Indians off the reserve for the purpose of visiting the United States, the agent would be required to include on the back of the pass an exact description of the horses, including brands, that the individual would be taking with him. The implication was that Indians crossing the border without such a pass would be required to pay duty on any horses they attempted to bring into Canada upon reentry.⁵¹ Moreover, it was stated that, at the time of issuing such passes, agents would be required to notify Indians that on leaving Canada they must report "outwardly" and receive a "let pass" at a regular port of entry, and that on reentry they must report "inwardly" and pay duty on any horses or articles required by customs' regulations.⁵² This latter provision was meant to facilitate the collection of duties and monitor Indian activity, and it also had the effect of bolstering veterinary inspection at the border crossings.

Thus, to the same extent that the pass system was born of expediency, it remained in existence long after the Rebellion era because it was perceived by administrators as a necessary weapon in the war against those forces which perpetuated an "uncivilized" Indian society.

4

As it turned out, the pass system proved to be a less than effective way of restricting Indian movement. The problem was that, lacking legislative sanction, the pass system could not be enforced in law. To get around this, Indian Affairs

simply assumed an air of authority and attempted to enforce the system by other means within its power. In some cases, rations and other "privileges" were withheld from those who refused to comply with pass regulations, but the most effective approach was to have the police arrest those found off the reserve without passes and, where possible, prosecute them either for trespass under the Indian Act or for vagrancy under the criminal code.⁵³ The whole system, however, rested on very shaky grounds and ultimately was undermined by two fundamental factors.

In the first place, Indians themselves refused to tolerate the system and were often aggressive in demanding their rights. In the years immediately after the Rebellion, it was widely reported that Indians were complying with the pass system, but it is equally evident that large numbers simply slipped away from the reserve without obtaining a pass.⁵⁴ And by the 1890s, it was a matter of comment in official correspondence that Indians were either subverting the system or overtly ignoring it. In 1896, for example, the police commissioner received a report from Calgary that a patrol had required a group of Sarcee to leave the town but that in defiance they had returned.⁵⁵ In the same report there was also mention of a constable who had ordered a group of Indians back to their reserve, but they refused to obey and under the circumstances all he could do was report the matter.⁵⁶ As the commissioner was later forced to admit, "Every day the Indian is becoming more enlightened as to the position in which he stands, regarding the laws concerning himself, and it is very generally known amongst the Indians that the Police have not the power to arrest or in fact take any action whatever should they [the Indians] not feel disposed to return to their Reserves when ordered to do so."⁵⁷ Perhaps nowhere was the defiance more manifest than in the Indian attitude toward the right to attend Sun dances. In 1900, it was reported that Indians near Fort MacLeod were "keen on having a Sun Dance [*sic*] and it is quite clear to me that they mean to have one."⁵⁸ Two years later, the Indian agent refused to grant a pass to some Indians from One Arrow Reserve for the purpose of attending a dance in Montana, "but they went just the same."⁵⁹ All of this suggests that the Indian was anything but quiet and passive in his response to a system which denied his human and treaty rights. It also repudiates the notion by John Jennings that Indians "put up" with the system,⁶⁰ and that the system itself "guaranteed peace ... and that Indians would remain corralled on reserves."⁶¹

The second factor was that the North West Mounted Police increasingly had misgivings about enforcing illegal regulations to the detriment of their credibility in the Indian community. In 1884, Commissioner Irvine had expressed reservations about the idea of a pass system because it "would be tantamount to a breach of confidence with the Indians,"⁶² but once the system came into being the immediate response of the police was to cooperate. Indicative was a communication in 1888 from the assistant Indian commissioner to the commissioner of police,

noting that a number of Indians were camped near Battleford much to the annoyance of local residents, and asking the commissioner to instruct his officers there to enforce the pass system.⁶³ In response, orders were immediately telegraphed to the officer commanding at Battleford: "Indians without passes must be kept out of Battleford. Arrest all those without passes, and after due warning, if they do not leave neighborhood of town try them as vagrants."⁶⁴

According to one writer, this kind of cooperation became characteristic, so much so that by the late 1880s police qualms about the pass system, at least at the official level, had evaporated.⁶⁵ Such a conclusion, however, is not consistent with the correspondence. It is quite clear that by 1890 the police were withdrawing their endorsement of the pass system because they feared that its illegal enforcement would jeopardize the Indians' respect for the law. In 1891, the commanding officer in the Macleod District expressed his concerns about confining Indians to their reserves:

I doubt the possibility of keeping the Indians at home by such coercive measures as stopping their rations or refusing a pass, they will go in spite of all their Agent can do.... There is an order throughout the district to turn back any Indians without a pass but a difficulty arises in the fact that few of our men can speak sufficient Blackfoot to make themselves understood and the Indians when it suits their purpose can be very obtuse: they are aware too that we have no legal right to turn them back.⁶⁶

The implications of such a situation were hinted at in a second report, this time by officer R.B. Deane, stationed in Lethbridge:

As to sending back to the Reserve, Indians who came here without a pass, I do so on every possible occasion, but seeing that the Police have no right to do anything of the kind, it behoves one to be very careful so as not to have to take "back-water."⁶⁷

Among other things, the prospect of an Indian backlash prompted Commissioner Herchmer to seek legal advice and in 1892 he was assured in no uncertain terms, both by some circuit court judges and government law officers, that the pass system was illegal.⁶⁸ By the following year, opinion was so strongly against the enforcement of the pass system that in May 1893 the police commissioner issued a general circular ending the practice of sending Indians back to their reserves without legal justification.⁶⁹ Three years later, the whole issue was raised once more when, in response to an influx of troublesome Cree from Montana, the Indian Department petitioned the police to keep the newcomers on their reserves. In evaluating the request, the officer commanding in Regina was absolutely adamant that, in responding to the wishes of the department, the police operate strictly within the law. As he explained,

Should an illegal arrest be attempted and resistance offered there would be no protection to us. Such a result would be disastrous to our prestige with the Indians.⁷⁰

Somewhat later, a final comment on the matter was contained in a letter from the police commissioner to the North West Mounted Police comptroller:

The moral suasion power that the policeman exercised in the past, will not always accomplish the desired result today and I am of the opinion that until the law is changed in this respect, it is not advisable to issue an order which we have not the power to enforce.⁷¹

The change in attitude, both by Indians and policemen, did not end the pass system, but it did alter it in a most fundamental way. By the 1890s, there was mounting tension between the Indian Department and the police,⁷² and generally, people like Hayter Reed found themselves on the defensive in justifying the use of passes. Reed himself, having replaced Dewdney as Indian commissioner in 1888 and Vankoughnet as deputy superintendent in 1893, very much reflected the changing perceptions of Indian rights and the application of the law. This was underscored in a remarkable letter which Reed sent to the minister of the interior in 1893. He began by saying that, all things considered, the department had been successful in keeping Indians at home. He then admitted by inference that the old pass system, as it had originally been conceived, was no longer feasible and he concluded with a statement that spoke to a far more limited purpose for the pass system:

Nomadic by nature they [Indians] would roam when the fit was in them, even if by doing so they left abundance behind them, and an army of soldiers or police could not prevent their slipping away.

It was especially stipulated by them when they entered Treaty that they should not be tied down to their Reservations, and although I have often taken the responsibility of employing police to send them home, the greatest caution has to be exercised, for were they to offer resistance and conflict ensue, they have the law on their side. Under these circumstances Agents must often against their own wishes issue Passes to Indians who they know will leave in any case, and so preserve an appearance at least of control, and a knowledge of their movements.⁷³

This was, in fact, an admission that the pass system as an instrument of compulsory confinement was dead. What Reed was saying was that, where possible, the department would continue to assume an air of authority in requiring passes for those who wished to leave the reserve, but that passes would be freely issued as a monitoring device to keep track of Indian activity. This, of course, was a far cry from the original purpose of the passes and had three important implications.

First, it meant that Indians were given much freer rein to travel as they pleased, especially when engaged in economic activities such as hunting and wage labour. But their freedom also extended to a range of other activities which, under earlier circumstances, would have been banned. A telling commentary is the fact that by the turn of the century passes were being issued for virtually every purpose imaginable and often for extended periods of time. In one instance, a group of northern Cree visiting the Blackfoot during Sun dance season was given a pass for no less than seventy-five days — taking up the entire summer.⁷⁴ Fairs, picnics, sports days, local stampedes, and a range of off-reserve labour activities catered to a general mobility which increased through the early decades of the twentieth century. As the Battleford Indian agent reported in 1926,

The Indians of the Agency are ... visiting all over the country and large numbers were at Duck Lake for the Annual Catholic Prayer week, the visiting seems to be worse than usual this summer and Indians have been passing through here heading for Alberta reserves and Indians from there are passing to [the] east almost every day.⁷⁵

Second, in abandoning the illegal aspects of the pass system, Indian Affairs turned to the legislative process in order to deal more effectively with specific problems. This was true especially of the Sun dance. In that respect, the department occasionally found it convenient to invoke the provisions of an 1884 amendment to the Indian Act banning "give-away" ceremonies, originally intended to stamp out the potlatch in British Columbia.⁷⁶ In 1895, an amendment to the Indian Act proscribed all ceremonies involving "wounding or mutilation," an obvious reference to what Sun dancers referred to as "making braves," and in 1906 (with slight changes in 1914) the Indian Act was again amended to place a general ban on dancing of every description.⁷⁷ Evidence suggests that these initiatives were not entirely successful and that, as in other attempts to coerce Indians, band members responded with resistance and threats of violence. Representative was an incident that occurred on Poor Man's Reserve in 1902: apparently, the local Indian agent had a group of Indians arrested and tried for dancing illegally. The offenders were given a suspended sentence, under pain of six months of hard labour should they dance again. They were so incensed that immediately after the trial they cornered the agent and one of them apparently threatened his life. Clearly intimidated, the agent on the following day showed up at the reserve and conceded that the Indians could dance all they wanted, the only stipulations being that they not engage in give-aways and that the farm instructor be present.⁷⁸ This was only one of many indications that even legally backed coercion was not always effective in manipulating Indian society.

The third implication is that, in adopting a more limited purpose for the pass system, Indian Affairs guaranteed that the system would survive into the twentieth century. According to one source, passes were used in the Battleford area until at least 1918 and in some areas until the mid-1930s,⁷⁹ a time frame generally endorsed by other writers.⁸⁰ For the most part, this conclusion is based on the existence of two pass stubs issued in Battleford during World War I and on the oral testimony of two Indian Affairs officials who recalled the use of passes in Alberta during the Depression.⁸¹ What is not known is the extent to which the pass system was used during its final stages. It may be assumed that, where warranted and tolerated by Indians, passes were used to the benefit of agency personnel and undoubtedly invested with all the authority that the Department of Indian Affairs could muster; however, given the enduring nature of Indian opposition and the legal limitations placed on passes, it seems unlikely that the system was applied generally or that it survived as anything other than a pale shadow of its original self. The issue is also confounded by a certain semantic confusion. A careful reading of the Battleford Indian Agency papers suggests that by the 1920s Indian agents sometimes indiscriminately referred, not to "passes,"

but to "permits" allowing the Indians to leave the reserve.⁸² The latter term actually had nothing to do with attempts to monitor Indian movement, and more appropriately applied to provisions in the Indian Act prohibiting Indians from selling reserve produce to non-Indians unless they first obtained a permit to do so from the Indian agent. The confusion is reinforced by the fact that there was a connection between passes and permits in that the need for a pass was sometimes contingent upon the Indian getting a permit as a means to financing his activities off the reserve.⁸³ The confusion of the terms also extended into the Indian community, as suggested by a recent interview of an elder from the James Smith band in Saskatchewan. He vividly recalled that the pass system on his reserve had been terminated by Indian Affairs in the 1930s because of a particular incident. What happened was that an Indian visiting the James Smith band had used his pass as a kind of credit card, charged against Indian Affairs, to finance repairs on his car in order to return home; when others attempted the same thing, Indian Affairs intervened to end the practice.⁸⁴ Yet when the elder elaborated on the incident, it became quite clear that he was not describing a pass, but rather a permit, which of course held promise of cash payment once the individual's produce had been sold. What all of this suggests is that, in light of the limited information available, it is not possible to make a conclusive statement about the pass system in its dying moments, apart from the fact that the system, already emaciated, simply passed out of existence unnoticed and without fanfare.

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In the final analysis, it must be conceded that the pass system, especially as it was originally conceived, very much justified the accusation levelled against Prime Minister Mulroney. While direct parallels between South Africa and Canada may be imperfect, the fact remains that Canadian attempts to culturally assimilate the Indian were riddled with racist assumptions about the inferiority of Indians and the need to control and segregate them as a people. Hayter Reed and others had no qualms whatsoever in completely disregarding the human and civil rights of those who wished to leave the reserves. And there is every indication that, had they been able to fashion a pass system entirely to their liking, one solidly backed by the might of the police, they would have created a system of control over Indians analogous in some respects to that for blacks in South Africa. By the same token, however, the similarities between apartheid and the segregation of Canadian Indians should not be overstated. In practice, the pass system unfolded in a way which made it only a weak reflection of what transpired in South Africa. The fact is that the legal rights of Indians could not be overridden by administrative expediency, no matter how legitimate the rationalizations seemed. Nor was the political and constitutional climate in Canada conducive to any attempt to give legislative authorization to the pass system. From beginning to end, it evolved as a form of local administrative tyranny, applied selectively, but never enjoying the coercive power and public legitimization conferred by official state sanction.

For that reason, it proved to be a rather imperfect instrument of racial oppression.

NOTES

- 1 See F.L. Barron, "A Summary of Federal Indian Policy in the Canadian West, 1867-1984," *Native Studies Review* 1, no. 1 (Winter 1984): 28-39.
- 2 Donald Purich, *Our Land: Native Rights in Canada* (Toronto: James Lorimer and Company, 1986), 129-32.
- 3 Sarah Carter, "Controlling Indian Movement: The Pass System," *NeWest Review* (May 1985): 8-9.
- 4 John Jennings, "The North West Mounted Police and Indian Policy After the 1885 Rebellion," in F. Laurie Barron and James B. Waldram, eds., *1885 and After: Native Society in Transition* (Regina: Canadian Plains Research Center, 1986), 228-30.
- 5 John Tobias, "Indian Reserves in Western Canada: Indian Homelands or Devices for Assimilation," in D.A. Muise, ed., *Approaches to Native History in Canada: Papers of a Conference Held at the National Museum of Man, October 1975* (Ottawa: National Museum of Man, 1977).
- 6 Brian Titley, "Hayter Reed and Indian Administration in the West" (paper presented at the Western Canada Studies Conference, University of Alberta, November 1985), 12-13.
- 7 B. Bennett, "Study of Passes for Indians to Leave their Reserves." Prepared for the Treaties and Historical Research Centre (October 1974).
- 8 Sarah Carter, "Controlling Indian Movement," 8.
- 9 Ibid.
- 10 John Jennings, "The North West Mounted Police and Indian Policy," 228.
- 11 Ibid.
- 12 Ibid., 228-29.
- 13 Ibid., 229.
- 14 Public Archives of Canada (hereafter PAC), RG 10, Vol. 3710, file 19, 550-3. Hayter Reed to Edgar Dewdney, 20 July 1885.
- 15 Ibid., 14 August 1885.
- 16 Ibid., Lawrence Vankoughnet to John A. Macdonald, 14 August 1885.
- 17 Dominion of Canada. *Sessional Papers*, Annual Report of the Department of Indian Affairs for the Year Ending 31 December 1881 (Ottawa: Queen's Printer), 75.
- 18 Ibid., p. 82.
- 19 Ibid., p. xvi.
- 20 Ibid., p. 82.
- 21 Ibid.
- 22 Ibid., p. 77.
- 23 Ibid., pp. xvii, 75-76, 81.
- 24 B. Bennett, "Study of Passes," 3.
- 25 PAC, Dewdney Papers, North-West Rebellion, MG 27, 2076-87. Hayter Reed to Edgar Dewdney, 16 August 1885. The reference to daily patrols presupposes that the pass system as Reed describes it had been in place for some time, probably even before Vankoughnet had received the Reed memorandum via Dewdney.
- 26 See Macdonald's remarks referenced in note 16.
- 27 B. Bennett, "Study of Passes," 4.
- 28 John Jennings, "The North West Mounted Police and Indian Policy," 229-30.
- 29 Cited in Sarah Carter, "Controlling Indian Movement," 9.
- 30 Ibid.
- 31 Jacqueline Gresko, "White 'Rites' and Indian 'Rites': Indian Education and Native Responses in the West, 1870-1910," in A.W. Rasporich, ed., *Western Canada Past and Present* (Calgary: McClelland and Stewart West Ltd., 1975), 173-78.
- 32 Alice B. Kehoe, "The Ghost Dance Religion in Saskatchewan, Canada," *Plains Anthropologist* 13, no. 42, part 1 (1968): 302.
- 33 PAC, RG 18, Vol. 1220, No. 245. Superintendent Steele to North West Mounted Police (NWMP) commissioner, 17 January 1892.
- 34 PAC, RG 18, Vol. 1540, file 69, 1904. J.H. Bossange to officer commanding Regina District, 28 August 1904.

- 35 Cited in Sarah Carter, "Controlling Indian Movement," 9.
- 36 PAC, RG 10, Vol. 1043, file 100, 1886. S.B. Steele to NWMP commissioner, 1 July 1886.
- 37 PAC, RG 18, Vol. 1354, file 76, part 3, 1896. Sergeant S.J. Dunning to officer commanding Fort Saskatchewan and District, 14 April 1896.
- 38 B. Bennett, "Study of Passes," 6.
- 39 Ibid., 7.
- 40 See D.M. McLeod, "Liquor Control in the North-West Territories: The Permit System, 1870-91," *Saskatchewan History* 16, no. 3 (Autumn 1963): 81-89.
- 41 PAC, RG 18, Vol. 1256, No. 359, 1892. Inspector A. Ross Cuthbert to NWMP commissioner, 16 August 1892.
- 42 PAC, RG 18, Vol. 1571, file 49, part 3, 1906. NWMP commissioner to deputy attorney general, Province of Saskatchewan, 18 September 1906.
- 43 PAC, RG 18, Vol. 1256, No. 359, 1892. Inspector A. Ross Cuthbert to NWMP commissioner, 16 August 1892.
- 44 PAC, RG 18, Vol. 1280, file 279, 1893. Inspector Moodie to officer commanding C Division, Battleford, 15 March 1893.
- 45 PAC, Hayter Reed Papers, MG 29 E106, Vol. 12, file George Davidson, 1891. Unidentified newspaper.
- 46 Ibid.
- 47 Ibid., Vol. 14, file T.W. Day. Hayter Reed to the minister of the interior, 6 January 1893.
- 48 PAC, RG 18, Vol. 1200, No. 245. Sergeant Magnus Begg to NWMP commissioner, 12 January 1891.
- 49 See series of reports in PAC, RG 18, Vol. 1220, No. 245.
- 50 PAC, RG 18, Vol. 1523, file 69, 1903. Circular letter by Indian Commissioner D. Laird, 7 August 1903.
- 51 Ibid.
- 52 Ibid.
- 53 PAC, RG 18, Vol. 1100, Nos. 134-35. Assistant Indian commissioner to NWMP commissioner, 20 September 1888.
- 54 Ibid. Edgar Dewdney to L.W. Herchmer, 14 June 1888; and L.W. Herchmer to officer commanding Maple Creek, 9 August 1888.
- 55 PAC, RG 18, Vol. 1354, file 76, part 3, 1896. Inspector Howe to officer commanding E Division, 22 May 1896.
- 56 Ibid.
- 57 PAC, RG 18, Vol. 1456, file 76, 1901. NWMP commissioner to NWMP comptroller, 27 August 1901.
- 58 Ibid., 1900. (Weekly) report of Superintendent Duane, Fort MacLeod, 13 June 1900.
- 59 Ibid., 1902. Corporal Denis to officer commanding F Division, Prince Albert, 8 August 1902.
- 60 John Jennings, "The North West Mounted Police and Indian Policy," 230.
- 61 Ibid., 232.
- 62 Cited in *ibid.*, 229.
- 63 PAC, RG 18, Vol. 1100, Nos. 134-35. Assistant Indian commissioner to NWMP commissioner, 20 September 1888.
- 64 Ibid., L.W. Herchmer to officer commanding Battleford.
- 65 John Jennings, "The North West Mounted Police and Indian Policy," 230.
- 66 Cited in B. Bennett, "Study of Passes," 4.
- 67 PAC, Hayter Reed Papers, MG 29 E106, Vol. 12, file R. Burton, 1891. Sergeant R. Burton Deane to NWMP commissioner, 12 February 1891.
- 68 Sarah Carter, "Controlling Indian Movement," 9.
- 69 The 1893 furor over the issue is discussed in NWMP commissioner to NWMP comptroller, PAC, RG 18, Vol. 1456, file 76, 1901. See also Sarah Carter, "Controlling Indian Movement," 9.
- 70 PAC, RG 18, Vol. 1354, file 76, part 3, 1896. Officer commanding Regina to NWMP commissioner, 8 July 1896.
- 71 PAC, RG 18, Vol. 1456, file 76, 1900. NWMP commissioner to NWMP comptroller, 27 August 1900.

- 72 See Hayter Reed's angry response to criticism of Indian Affairs by the NWMP commissioner; Hayter Reed letter (no heading), 14 March 1890, PAC, Hayter Reed Papers, MG 29 E106, Vol. 14. See also the accusation by Fred White, the NWMP comptroller, that "Indian dept. Officials are so jealous of our Police communicating with Indians," in PAC, RG 18, Vol. 1496, file 76, 1902. Fred White to Major A.B. Perry, 1 August 1902.
- 73 PAC, Hayter Reed Papers, MG 29, E106, Vol. 14, file T.W. Day. Hayter Reed to minister of the interior.
- 74 PAC, RG 18, Vol. 1456, file 76, 1900. (Weekly) report of Staff Sergeant A.F. Brooke, Gleichen, 16 June 1900.
- 75 Battleford Indian Agent, Monthly Report for July 1926, Glenbow-Alberta Institute (hereafter GAI), Battleford Indian Agency Papers, Monthly Reports, 1926.
- 76 See reference to "give-aways" in the 1902 incident on Poor Man's Reserve, cited in note 78.
- 77 F.L. Barron, "A Summary of Federal Indian Policy," 31. The text of the 1906 amendment may be found in B. Bennett, "Study of Passes," 2. See reference to prosecutions under the 1914 amendment in Battleford Indian Agent, Monthly Report for July 1915, GAI, Battleford Indian Agency Papers, Monthly Reports, 1915.
- 78 The 1902 incident is described in the Crime Report of Constable N.M. Fyffe, 27 January 1904, in PAC, RG 18, Vol. 1540, file 69, 1904.
- 79 B. Bennett, "Study of Passes," 6.
- 80 Sarah Carter, "Controlling Indian Movement," 9.
- 81 B. Bennett, "Study of Passes," 6-7.
- 82 References to the use of the word "permit" for "pass" are found in Indian Agent S. Macdonald, Monthly Reports for June 1920 and August 1921, GAI, Battleford Indian Agency Papers, Monthly Reports, 1920 and 1921.
- 83 The Indian agent at Battleford made the point that most Indians engaged in haying to sell the product in order to keep themselves in funds for fairs, but that farm instructors had been ordered to refuse permits of sale until the Indians had put up enough hay for their own use. See Battleford Indian Agent, Monthly Report for July 1922, GAI, Battleford Indian Agency Papers, Monthly Reports, 1922.
- 84 Respondent A, interviewed on James Smith Reserve as part of a Native Studies 404.6 course project, University of Saskatchewan, March 1987.