

FILE No. 156610

Vol 5

ABD

INDIAN AFFAIRS BRANCH

VOL. 5

Pottawatomie Claim

FROM July 7 1930

495.2-2

TO Jan 17 1933

REFERRED TO	PURPOSE FOR WHICH REFERRED	DATE OF R. F.	INITIALS	REFERRED TO	PURPOSE FOR WHICH REFERRED	DATE OF R. F.	INITIALS

FILE No. 156610-2 Vol 5

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ABD  
156610 1025

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

COPY/SG

Wabigoon, Ont.

July 7th, 1930.

A.G. Chisholm, K.C.,  
London, Can.

Dear Sir,

Its a long time since I heard from you in re Pottawatomies and I have been investigating the case a little and found out its a Fraud and am going to take matters up seriously as I dont think it could be allowed in Canada, and a report will be sent in to the Indian Department in a very short period so before going into it will wait for an early reply.

Yours respectfully,

Levi McGraw,

Box 17, Wabigoon, Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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COPY/SG

A.G. CHISHOLM, K.C.  
Barrister, &c.

London, Canada, July 14, 1930.

W. Stuart Edwards, Esq., K.C.,  
Deputy Minister of Justice,  
Ottawa, Ont.

Dear Sir, re Pottawatomies - A. 864-3

Some short time ago, Dr. Scott communicated to me the decision of yourself and Dr. Skelton after our conference at the latter's office, that as a solution of this case, efforts should be continued to have the same arbitrated, and abandoned as to the Court of Claims, as a convenient medium for the purpose. As you are quite aware of my views on the subject, I need only reiterate my disappointment at a decision, which I believe unless something unforeseen intervenes, must only postpone indefinitely any hope of having the case liquidated.

Having regard to my own strong opinions and my duty to my clients, as well as to the constant representations being made them on behalf of American attorneys of the latter's ability to successfully prosecute the claim, which claimants in view of our own hitherto unsuccessful efforts, cannot be altogether blamed for listening to, I fully resolved to invoke the agreed on assistance of the Indian and your own Departments in the apparently reached impasse, and have only been prevented hitherto from doing so by a difficulty felt as to just how to approach you in the matter. I have not in any way altered my view that a decision of the Court of Claims with liberty to either side to appeal on law or facts to the Supreme Court, leaves nothing to be desired as a medium for settlement.

I enclose you copy of a letter received by me today from one of these claimants and I have reason to believe that what he charges, many of his friends are saying and believe.

Your Department is responsible for the position I find myself in today of, after informing my clients we were making every effort to get the case before the Court of Claims, have now to explain why such should be abandoned, and so the matter is left in the air; for to be frank, to hope for arbitration at the present time, in my opinion is simply fantastic.

I should be glad to have your views and would be obliged if you would have copy of this letter and enclosure sent to Dr. Scott, to whom I am advising my correspondent to address himself.

Faithfully yours,

(SGD) A.G. CHISHOLM.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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156610-4

ELJ.



PLEASE ADDRESS  
THE DEPUTY MINISTER OF JUSTICE  
OTTAWA

OTTAWA July 16, 1930.

DEPARTMENTAL SOLICITOR

A.864-3.

Re: Pottawatomies.

Dear Sir,

I enclose for your information copy of a letter dated the 14th instant from Mr. A. G. Chisholm, K.C., together with copy of the communication therein referred to.

"ENC."

I shall be glad to receive any comments you may desire to make upon Mr. Chisholm's letter.

Yours truly,

*W. Stewart Edwards*

Deputy Minister of Justice.

The Deputy Superintendent General,  
Department of Indian Affairs,  
O t t a w a.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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156610-4  
CANADIAN BANK OF COMMERCE CHAMBERS  
CORNER DUNDAS AND RICHMOND STS.

A. G. CHISHOLM, K. C.  
Barrister, &c.

London, Canada, August 6, 1930.

*Millions*

R



Duncan C. Scott, Esq., D. Lit., &c.,

Deputy Superintendent General Indian Affairs,  
Ottawa, Ont.

Dear Dr. Scott:-

re Pottawatomies.

I had hoped there would be some comment from you on my letter of July 14th in the above matter, to Mr. Edwards, of which I understand from him, you were furnished copy.

I quite bear in mind what you stated in a former letter, that you were bound by the advice of the Justice Department to seek arbitration of this claim, but you know my views on the subject, and they do not seem to be questioned, that any present prospect of arbitration is quite nebulous.

No suggestion of any alternative step being taken to bring about some adjustment of the claim, has been made to me, and I think I should state to you my impatience at what would seem a laissez faire policy in connection with the case.

Is there nothing you can do or suggest to help matters along?

Faithfully yours,

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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COPY

London, Ontario.

August 18, 1930.

Hon. T. G. Murphy,  
Minister of the Interior,  
Ottawa, Ontario.

Dear Mr. Murphy,-

I have a letter from Mr. A.G. Chisholm  
of London as follows -----

"I am Counsel recognized by the Government for the Pottawatomie Indians of Wisconsin, in Canada, in certain large claims these people are making against the United States Government. The Canadian Government is standing firmly behind the Indians as there can be no doubt of their right to relief; but, at the present time there is some divergence of opinion between the Indian Department, or perhaps more correctly, the Deputy Superintendent General Indian Affairs - Doctor Scott - and myself, as to just what are the appropriate steps to be taken to obtain satisfaction for claimants.

I would be very much obliged if you would confidentially ask the new Superintendent General of Indian Affairs, the Honourable T.G. Murphy, Minister of the Interior, in case he is asked to agree to any recommendations, or Order-in-Council, on this subject, to direct that before taking action, I be requested to state my views on behalf of claimants, in connection with any such proposals. A letter from yourself to Hon. Mr. Murphy would probably be sufficient for the purpose."

It would seem to me from what information I have that the request made in this letter is a reasonable one. I do know of some friction which had developed between Dr. Scott and Mr. Chisholm in former times but cannot say anything as to the pros and cons of the matter in dispute. In any event I suppose you are willing to accede to the request of Mr. Chisholm.

Yours truly,

(Sgd.) J.F.White.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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ARCHIVES PUBLIQUES  
CANADA

August 22nd. 1930.

Memorandum,-

Honourable Thomas G. Murphy.

With respect to the matter referred to in Mr. White's letter of the 18th instant on behalf of Mr. A.G. Chisholm of London, I have to say that the Pottawatomie Claim to which he refers arose out of a Treaty between the Pottawatomie Nation and the United States Government dated the 26th September, 1833, under which the Pottawatomie Nation sold their lands to the Government and agreed to remove west of the Mississippi River. About two thousand removed to the State of Kansas and about an equal number went to northern Michigan and Wisconsin and to Canada.

In 1906 the Secretary of the Interior at Washington caused an investigation to be made of the claims of the Wisconsin band of Pottawatomie Indians and submitted to Congress a census roll of the members of this band residing in the United States and those residing in the Dominion of Canada.

At the time of this enrolment, there appeared to be 457 persons of Pottawatomie blood residing in Michigan and Wisconsin and 1550 living in Canada.

Shortly after this, Mr. Chisholm interested himself in the claim of the Canadian Pottawatomies and secured powers of attorney from the greater number of these Indians to prosecute their claim on payment to him of a substantial amount of the funds that might be recovered. Subsequently, Mr. Chisholm invoked the assistance of this Department in the prosecution of this claim and, feeling that if there were a claim, it should have the support of the Government and, further, if they were successful in their claim, they should be protected against any improvident bargain they may have entered into in the powers of attorney given by them, the Department

*del*  
*W.S.*

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

entered into an agreement with Mr. Chisholm for the prosecution of this claim on payment to him of whatever costs might properly be taxed in the matter.

I may say that on the appointment of the Honourable Mr. Massey as Minister to Washington, he personally took up this claim with the United States Government. Moreover, Mr. Christopher C. Robinson, K.C., who successfully prosecuted the Cayuga Claim against the United States Government, has been for some time employed as Special Counsel in this case and has given the matter considerable attention. The conduct of these negotiations has been in the hands of the Department of Justice for some time.

Two ways have been suggested for having this claim investigated and determined one, supported by Mr. Chisholm, that this Government should endeavour to have enabling legislation passed at Washington which would give jurisdiction to the Court of Claims to hear this case, and the other, supported by the Department of Justice, is to try to get this case on for hearing before the Pecuniary Claims Tribunal, upon the view that this claim had been already notified to the United States Government under the terms of the Pecuniary Claims Convention.

I may say that during the latter part of April of this year Mr. Chisholm had an interview with the Deputy Minister of Justice and with Dr. Skelton at which he set forth his views with respect to the course that should be taken in the prosecution of this claim. Following this interview, the undersigned received a letter from Mr. Edwards, Deputy Minister of Justice, setting forth that, notwithstanding Mr. Chisholm's views in the matter, Dr. Skelton and himself were of opinion that the claim should be prosecuted through the Pecuniary Claims Tribunal, and I am enclosing a copy of this letter. I may say that the undersigned communicated the contents of Mr. Edwards' letter to Mr. Chisholm and my letter concluded as follows :

"As there is nothing to indicate that we could more readily get this claim before the Court of Claims than before an International Tribunal, and as we have to rely upon the Department of Justice for guidance in these matters, I am



3.

"disposed to continue the effort to get the case before the Pecuniary Claims Tribunal."

Mr. Chisholm replied expressing his views and his letter was forwarded to Mr. Edwards, without comment, for any observations that he might have to make. Mr. Edwards replied on May 30th, a copy of which is enclosed; it speaks for itself.

You will observe that I am being guided entirely by the Department of Justice in this matter and it is ridiculous for Mr. Chisholm to state in his letter to Mr. White that the course I am taking in the matter is due to some divergence of opinion between him and myself, intimating, as he must have done, to Mr. White that this divergence is based on some friction between Mr. Chisholm and myself.

*Duncan*

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
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CANADA

A. G. Chisholm, K.C.,

London, Canada, Sept. 3, 1930.

Confidential.

*Mr. Edwards*

Mr. Stuart Edwards, Esq., K.C.,  
Deputy Minister of Justice,  
Ottawa, Ont.

Dear Mr. Edwards:-

re Pottawatomies--A. 864-3.

I had your letter of 16th July last, stating you were forwarding copy of my letter of 14th July to the Deputy Superintendent General Indian Affairs; I have not heard from Dr. Scott since, though on 6th ult. I wrote him asking him whether there was nothing he could do or suggest, to help matters along. Possibly, Dr. Scott considered that as he had already written me yourself and Dr. Skelton thought that this claim having been already notified to the United States under the terms of the Pecuniary Claims Convention and that it was altogether likely that at some time the case could be disposed of under the terms of the Convention, where the interest of the Indians would be safer in the hands of the Tribunal, than they would be in the Court of Claims, he had nothing to add to this statement. However, I have not heard from him further.

You may recollect Mr. Robinson's statement to you in his letter of October 21, 1929, that, - "He (Sir Cecil Hurst) tells me there is no present prospect of the British Government taking any steps to negotiate a second schedule. The present position of dead lock suits them and they do not intend to do anything to disturb it. We cannot therefore look for any help from them in negotiating a second schedule. This being so, Hurst suggests that if we want to have the outstanding Canadian claims arbitrated, we should try to arrange, independently of the British Government, for a second Schedule to include only claims by and against Canada." Of course, Mr. Robinson goes on to point out the obvious difficulties of such a course, in which I think we can all agree with him.

In writing Dr. Scott I expressed the hope a laissez faire attitude might not ensue regarding the case, and on giving the matter consideration, the question of exploring the possibilities suggested by Sir Cecil Hurst, necessarily occurred to me.

I would appreciate it greatly, to be advised by you on this point, and indeed fully, as to any steps being taken for the purpose of a solution to the case.

Sincerely yours,

(sgd.) A.G. Chisholm.

Copy.

MW.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

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CANADA

156610-4

WSE/ELJ.

OTTAWA,.....October..25,.....19.30.

*Mr. W. Edwards*



A. 864-3.

Re: Pottawatomes.

Dear Dr. Scott,

"ENC."

I enclose herewith copy of a letter dated the 3rd ultimo which I received from Mr. A. G. Chisholm, K.C. I shall be glad if you will let me have an indication of the reply, if any, which you desire that I should make to this communication.

Yours truly,

*W. W. Edwards*

D. M. J.

D. C. Scott, Esq.,  
Deputy Superintendent General,  
Department of Indian Affairs,  
O t t a w a.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
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CANADA

( c o p y )

156610-4.

Ottawa, February 22, 1928.

Dear Sir:-

Mr. Chisholm of London has forwarded to me a copy of your letter to him dated the 23rd ultimo in which you refer to the presence of some people on the Island securing the names of Pottawatomie Indians. I have also a copy of Mr. Chisholm's letter to you in reply in which he assures you that the Department is doing everything possible to further the interests of the Pottawatomie Claimants. Mr. Chisholm was quite right in pointing out the advisability of these claimants relying on the Department rather than on adventurers who have no interest in the Indians except for what they can get out of them.

There are two reasons in particular why these claimants should not become involved with outsiders in the prosecution of this claim. The first is that such action will only complicate and delay the whole proceedings and the second is that the Department of Justice which, with the assistance of Mr. Chisholm, has this claim in hand on behalf of this Department and the Indians, is in a much better position to bring about action in the matter than any private individual could do and, moreover, the claim is being handled with the least possible expense to come out of whatever amount may be recovered, whereas outsiders handling this claim would naturally take all they could possibly get out of it for themselves.

You should advise the claimants to pay no attention to anyone offering to prosecute this claim and under no circumstances to sign any documents.

Yours very truly,

" Duncan C. Scott "

Deputy Superintendent General.

Mr. M. J. Sandy,  
Christian Island, Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
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CANADA

( C O P Y )

Charles H. Merrillat,  
Attorney at law,  
Maryland Building,  
Washington D.C.

July 1st., 1926.

Mr. Henry Jackson,  
Christian Island, Ont.

Dear Sir:-

Yours of the 23rd ultimo received. We cannot request our State Department to act. It cannot do so. It deals only with the Government of Great Britain and as long as the Canadian Pottawatomies are living in a part of Great Britain it must defer to Great Britain as to who are authorized to represent Indians resident in Canada. The State Department will not push the claim of course, but if Canada, through the British Ambassador writes that Mr. Chisholm no longer represents the Indians but ~~we~~ do, it will gladly recognize us as entitled to act. The matter therefor is one for the Indians in Canada to settle for themselves. When they do, if we are the accredited attorneys ~~we~~ will use our best efforts. But until (sic) we cannot be put in the position of having the British Ambassador ~~we~~ are not the Indians' attorney but Mr. Chisholm is, our policy must be one of leaving the Indians claim alone.

Yours truly,

" C. H. Merrillat "

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

A. G. CHISHOLM, K. C.  
Barrister, &c.

( C o p y )

*London, Canada, October 20, 1930.*

Samuel Kramer, Esq.,  
Attorney &c., 25 Broad Street,  
New York City, U.S.A.

Dear Sir:-

re Pottawatomies.

Your courteous letter in the above matter, of 16th instant is before me. I am the only accredited legal representative of the Pottawatomie Indians of Wisconsin or their descendants resident in Canada, and have been so notified to the State Department, Washington, through the proper diplomatic authority.

The difficulty to be experienced by any attorney in the United States seeking to intervene in the claim is exemplified by the letter of Mr. Charles H. Merrillat of Washington ( July 1, 1926 ) copy of which was furnished me, and copy of which is attached. My position is shown very clearly in the copy of letter of February 22, 1928, from the Deputy Superintendent General of Indian Affairs ( Canada ) to one of claimants, of which I also attach copy.

It would give me a great deal of pleasure to accept the pleasant invitation you have extended to me and visit you in New York at some arranged date, to discuss the prosecution of this claim, if any useful purpose might be served thereby, but I think after perusing this and enclosures, you will perceive the impossibility of taking any action not invoked or authorized by the Canadian Government.

Assuring you of my recognition of your kindness in mentioning this matter to me, believe me,

Faithfully yours,

" A. G. Chisholm "

( C o p y )

Samuel Kramer,  
Attorney

25 Broad Street,  
New York

October 16, 1930.

Dear Sir:-

I have been approached by Mr. J. G. Johnson. Mr. Johnson is a brother-in-law of the late Mr. Manley Chew and I understand that he is now the representative of the Pottawatomie Indians in Canada with respect to their claims against the United States and that he is carrying on in Mr. Chew's place. The files are, of course voluminous. I have however, come across your name and have noted your intimate connection with the case. I have told Mr. Johnson that so far as I could base an opinion on a cursory examination of such papers as he has, I felt inclined to undertake to look after these claims below the Canadian Border. By that I mean, I would be prepared to present the claim to the United States Government provided that such details as Mr. Johnson's representation and the Canadian authorities co-operation, and so on, had been satisfactorily arranged and I assured Mr. Johnson that if I do undertake to handle these claims I will, through business associates, arrange for any necessary financing.

It occurred to me that you and I should discuss this matter; unfortunately my professional commitments are such that I cannot come to see you, but I would be very pleased to have you come to see me. If you can come to New York for that purpose, I would be pleased to have you accept the privileges of the Yale Club as my guest so that we might spend a few days leisurely going through this rather complicated situation. My present inclination is to invite you to co-operate with me in the event that I decide to take the case on and no doubt a meeting, such as I suggest, would go a long way towards enabling both of us to make up our minds on the matter.

Won't you be good enough to write me as soon as possible?

SK/M

Very truly yours,

"Samuel Kramer"

A. G. Chisholm, Esq.,  
Barrister, Solicitor,  
79 Dundas Street,  
London, Ontario.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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156610-4

CANADIAN BANK OF COMMERCE CHAMBERS  
CORNER DUNDAS AND RICHMOND STS.

G. CHISHOLM, K. C.  
Barrister, &c.

London, Canada, November 3, 1930.

*[Handwritten signature]*  
Duncan C. Scott, Esq., Lit. D. &c.,  
Deputy Superintendent General Indian Affairs,  
Ottawa, Ont.

NOV 5 1930

Dear Sir:-

re Pottawatomies.

I delayed sending you copy of the correspondence you will find herewith, as I thought possibly there might be something further from Mr. Kramer, but I have not heard from him since replying to his communication.

I am quite ignorant of what is being done in this matter, if anything, although I wrote Mr. Edwards on September 3rd last making inquiry, and suggesting the question of exploring the possibilities suggested by Sir Cecil Hurst, as quoted in Mr. Robinson's letter of October 21, 1929, to Mr. Edwards.

I am quite convinced myself though that unless something definite is done here, before very long, it is just a question of time when claimants will succeed in having either Congress or the State Department recognize their right to proceed independently for the recovery of their claim. It is quite evident the apprehension as to the alleged bias of the Court of Claims, is not shared by the responsible American attorneys who have on different occasions sought ~~my~~ collaboration in the case.

I hope you will approve of what I said to Mr. Kramer.

Faithfully yours,

*[Handwritten signature]*

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

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CANADA



(copy)

November 7, 1930.

Samuel Kramer, Esq.,  
Attorney &c., 25 Broad Street,  
New York City, U.S.A.

Dear Sir:-

re Pottawatomies.

I have yours of the 3rd instant. Mr. Chew was never associated with me in this matter. He proposed that he should be, and made certain representations to me, which when I submitted them to the Government, I found to be incorrect. Afterwards the Deputy Superintendent General Indian Affairs addressed a communication to Mr. Chew, of which you will find copy herewith. What Mr. Chew did after this, I have only heard of incidentally and know nothing of what were his arrangements with the Indians. Of course, as Mr. Chew had no legal qualifications, and for other reasons, any contracts made by him with the Indians, would be utterly void for maintenance and champerty.

At the present time, the business of this claim is being dealt with by diplomatic representations and exchanges between the Governments of Canada and the United States, and occasion has not yet arisen for the employment of any attorneys in the United States.

I think, if I may be permitted to express an opinion, any attorney should be very cautious about committing himself to any advocacy of the late Mr. Chew's alleged claim to represent these Indians. However, this is a matter entirely for your consideration.

Faithfully yours,

*W. J. C.*

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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(copy)

November 7, 1930.

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Faithfully yours,

*W. H. C.*

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

156610-4

CANADIAN BANK OF COMMERCE CHAMBERS  
CORNER DUNDAS AND RICHMOND STS.

G. CHISHOLM, K. C.  
Barrister, &c.

London, Canada, November 3, 1930.

RECEIVED  
NOV 6 1930  
DEPT. OF INDIAN AFFAIRS

*G. W. [Signature]*  
Duncan C. Scott, Esq., Lit. D. &c.,  
Deputy Superintendent General Indian Affairs,  
Ottawa, Ont.

Dear Sir:-

re Pottawatomies.

I delayed sending you copy of the correspondence you will find herewith, as I thought possibly there might be something further from Mr. Kramer, but I have not heard from him since replying to his communication.

I am quite ignorant of what is being done in this matter, if anything, although I wrote Mr. Edwards on September 3rd last making inquiry, and suggesting the question of exploring the possibilities suggested by Sir Cecil Hurst, as quoted in Mr. Robinson's letter of October 21, 1929, to Mr. Edwards.

I am quite convinced myself though that unless something definite is done here, before very long, it is just a question of time when claimants will succeed in having either Congress or the State Department recognize their right to proceed independently for the recovery of their claim. It is quite evident the apprehension as to the alleged bias of the Court of Claims, is not shared by the responsible American attorneys who have on different occasions sought ~~my~~ collaboration in the case.

I hope you will approve of what I said to Mr. Kramer.

Faithfully yours,

*G. W. [Signature]*

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

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( c o p y )

Ottawa, May 5, 1926.

Dear Mr. Chew:-

re Pottawatomie Claim.

I have been annoyed lately by receiving communications to the effect that some one is endeavouring to unsettle the minds of the Indians and prejudice them against the course which our Government is taking in the prosecution of their claim against the United States Government. Your name is frequently mentioned in this matter, and if you are associated with an Indian called Henry Jackson in unsettling the minds of the Pottawatomie Indians, I should be very much obliged if you would cease taking this action. You should know that the Dominion Government does not intend to change its course of action in this matter, and it is quite futile for anyone to endeavour to alter the method of paying any money that may be recovered.

Yours very truly,

" Duncan C. Scott "

Deputy Superintendent General.

Manley Chew, Esq.,  
Midland, Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA**

( C O P Y )

Samuel Kramer

Attorney

25 Broad Street,

New York

November 3, 1930.

Dear Sir:-

re Pottawatomies.

I thank you for your letter of the 20th ultimo. Of course, I would not care to have anything to do with this claim unless I was placed in a position of having the co-operation of yourself and the Canadian authorities and I endeavoured to make this clear in my letter to you of the 16th ultimo.

While the record does seem to indicate that you are the accredited legal representative of the Pottawatomie Indians in Canada, nevertheless, the record also indicates that the late Mr. Manley Chew was associated with you. Such interest as I might have in the claim would be by reason of the fact that I would be representing Mr. J. G. Johnson who is a brother-in-law of the late Mr. Manley Chew, and who has some evidence of authority from the Indians.

It has occurred to me that, granted for present purposes, you are the sole accredited legal representative of the Indians in question I, on behalf of the Estate of Manley Chew, might work with you in this matter and furnish a means through which your efforts might more readily be presented to the authorities at Washington. More specifically, if I should become interested in the claim on behalf of the Estate of the late Manley Chew, I may carry on at Washington as your representative and being not without experience in such matters, I might be able to offer some suggestions as to method of procedure and so on. It is also possible, if the late Mr. Chew's interest was a reasonable one, that I might be able to have provided for, as suggested in my last letter to you, a means of furnishing any necessary financing.

After considering your letter it occurred to me that I should inquire of you ( as I am now doing with Mr. Johnson's approval ) as to just what your financial arrangements are with the Indians and what the late Mr. Manley Chew's arrangements were. Mr. Johnson has intimated to me what these arrangements may have been, but I would be pleased to receive your confirmation.

Assuming that Mr. Chew's recognized interest is a substantial one and that you would care to work with me and through me, I believe that some useful purpose might very well be accomplished

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

by your being good enough to accept my invitation. You will understand, however, that I would entertain no proposal to try to supercede you and as my interest would come primarily from the interest of the Estate of Mr. Chew, I must necessarily have confirmed by you just what that interest is so that I will know whether or not the matter is substantial enough to warrant my being further interested in it.

Will you be good enough to confirm to me just what the interest of the Estate of Manley Chew is and then I will write you further.

Very truly yours,

SK/M

" Samuel Kramer "

A. G. Chisholm, K.C.,  
Barrister, Solicitor,  
79 Dundas Street,  
London, Ontario.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA

156610-4

CANADIAN BANK OF COMMERCE CHAMBERS  
CORNER DUNDAS AND RICHMOND STS.

G. CHISHOLM, K. C.  
Barrister, &c.

London, Canada, November 7, 1930

*[Handwritten signature]*

DEPT. OF INDIAN AFFAIRS  
8 1930

Duncan C. Scott, Esq., Lit. D. &c.,  
Deputy Superintendent General Indian Affairs,  
Ottawa, Ont.

Dear Sir:-

re Pottawatomies.

In connection with the matter I wrote you of on the  
3rd instant, I now enclose you copies of further correspondence  
between Mr. Kramer and myself.

Faithfully yours,

*[Handwritten signature]*

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
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CANADA

R

18th April, 1931.

Memorandum:

Honourable Thomas G. Murphy,

In reply to memorandum of the 27th ultimo enclosing correspondence from Mr. Chisholm, K.C., of London, to J. Frank White, Esq., M.P., with respect to the Pottawatomie claim, I beg to say that I have nothing to add to the statement of facts set forth in my memorandum of the 22nd August last.

As set forth in that memorandum in Paragraph 3 on Page 2, there was a difference of opinion between the late Government and Mr. Chisholm as to what procedure should be taken with respect to this claim. The Government's position being that the proper procedure was to get these cases on for hearing before the Pecuniary Claims Tribunal as soon as such an arrangement could be effected with the United States Government. If the present administration adheres to that position, I do not think that there is any good purpose to be served by Mr. Chisholm's suggested visit to Ottawa. It may be, however, that the present administration may be favourably disposed toward the position taken by Mr. Chisholm, namely, that the Canadian Government should endeavour to have enabling legislation passed at Washington which would give jurisdiction to the Court of Claims to hear this case. I would suggest that the attitude of the Prime Minister with respect to the prosecution of this claim be ascertained.

Enclosures are returned herewith.

*TS*  
*aw.*  
enc.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA



(COPY)

A.G. CHISHOLM, K.C.  
Barrister, &c.

Canadian Bank of Commerce  
Chambers  
Cor. Dundas and Richmond Sts.

LONDON, Canada, 11th May, 1931.

Right Honourable R. B. Bennett, K.C., P.C., &c.,  
Secretary of State for External Affairs,  
Ottawa, Ontario.

Dear Sir,

There was some correspondence between myself and your Department (June, July 1929) regarding the method of forwarding the claim of the Pottawatomie Indians against the United States, and subsequently (March, 1930), Mr. Edwards, Deputy Minister of Justice, and myself, interviewed Dr. Skelton on the subject. As a result, it was concluded against my wishes, not to alter the method of attempt to secure an adjudication of the claim before the Pecuniary Claims Tribunal.

The Order-in-Council passed (October 18, 1919) regarding the Pottawatomie claim provided that if it were not found feasible to have the claim disposed of before the Tribunal, a solution be sought before the Court of Claims of the United States. It has for a long time been apparent that it is not feasible to have the matter disposed of before the Pecuniary Claims Tribunal.

As the only alternative to the methods indicated by the Order-in-Council is for the claim to become dormant, it is submitted on behalf of claimants, who number between 1500 and 2000, that immediate steps be taken to seek appropriate relief before the Court of Claims.

I suggest an early conference be held at your office to determine on a final course of proceedings regarding this important matter, which involves now, approximately some four million dollars. I have many reasons to offer such a conference in favour of the course I suggest.

The immediate occasion for this communication is that I am informed by Mr. Frank White, M.P., who has been interviewing him in this connection, that the Honourable Superintendent General of Indian Affairs, proposes to address your Department on the subject.

Faithfully yours,

"A.G. Chisholm"

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA

(COPY)

DEPARTMENT OF EXTERNAL AFFAIRS

OTTAWA, May 22nd, 1931.

Dear Mr. Edwards:

A letter from A.G. Chisholm, K.C., relating to the claim of the Pottawatomie Indians, addressed to the Prime Minister, has been referred to this Department for consideration. I understand that it has also been referred to you but, in case you have not received it, I am enclosing a copy of the letter.

On the last occasion when the question was discussed with your Department I understand that you took up the matter with the Department of Indian Affairs and that that Department was opposed to any action that would involve the abandonment of the place of this claim on the second schedule, with a view to its submission to the Court of Claims.

It is my understanding that both the United States Government and the Foreign Office are opposed to reconvening the Pecuniary Claims Tribunal and, in that event, there appears to be no prospect for any action that would finally dispose of this matter.

I should like to have your views as to what action should be taken.

Yours sincerely,

(Sgd.) O.D. Skelton.

W. Stuart Edwards, Esq., K.C.,  
Deputy Minister of Justice,  
OTTAWA, Canada.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA

156610-4

WSE/ELJ.

DEPT. OF INDIAN AFFAIRS  
JUN 2 1981  
RECORDS

PLEASE ADDRESS  
THE DEPUTY MINISTER OF JUSTICE  
OTTAWA

OTTAWA May 29, 1931.

DEPARTMENT OF JUSTICE  
DIRECTOR

*Mr. Williams*  
*would like to*  
*discuss this matter*  
*with you*

A. 864-3.  
Re: Pottawatomies.

Dear Sir,

"ENC."

Referring to my conversation with you today, I enclose copy of a letter dated the 22nd instant which I received from Dr. Skelton, together with copy of the letter from Mr. A. G. Chisholm, K.C. to the Prime Minister, therein referred to.

I shall be glad if you will let me have your views. Personally I should be glad if some means could be found of relieving the Government or the Superintendent General of Indian Affairs of any further responsibility in this matter.

Yours truly,

*W. Stuart Edwards*

Deputy Minister of Justice.

The Deputy Superintendent General,  
Department of Indian Affairs,  
O t t a w a.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
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CANADA

File No. 156610-4

22nd June, 1931.

Dear Mr. Edwards,

Re: Pottawatomies.  
Your ref. No.A. 864-3.

I have before me your letter of the 29th ultimo enclosing a copy of a letter from Dr. O.D. Skelton together with a copy of a letter from Mr. A.G. Chisholm, K.C., and note your observation that personally you would be glad if some means could be found of relieving the Government and the Superintendent General of any further responsibility in this matter.

In reply I beg to say that I am heartily in accord with your views and I should like to have an opportunity of discussing the situation with Dr. Skelton and yourself at an early date.

*W.S.E.*  
*W.S.E.*  
Yours very truly,

W. Stuart Edwards, Esq., K.C.,  
Deputy Minister of Justice,  
Ottawa.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA

WSE/ELJ .

OTTAWA,.....June 22,.....1931..

A.864-3.

Re: Pottawatomies.

Dear Dr. Scott,

Mr. Read of the Department of External Affairs reminded me this morning that I have not yet replied to Dr. Skelton's letter of the 22nd May, a copy of which I forwarded to you on the 29th May.

Before sending any formal reply to Dr. Skelton I should like to know what the desires of your Department are in the matter, and shall be glad, therefore, if you will let me hear from you as soon as convenient.

Yours sincerely,

*W. Stuart Edwards*

D. M. J.

D. C. Scott, Esq.,  
Deputy Superintendent General,  
Department of Indian Affairs,  
O t t a w a.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA

Minister's Office  
El.

MEMORANDUM

June 20, 1931.

Dr. Scott.

H

Herewith is a further letter from  
Mr. J. F. White, M.P., of London, concerning  
Pottawatomie Indian claims.

Will you please return the same  
together with a suggested reply for the  
Minister's signature.



Private Secretary.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA

Ottawa, 23rd June, 1931.

Dear Mr. White,

Re: Pottawatonic Claim.

I have to acknowledge your letter of the 18th instant giving extracts from correspondence in connection with the status of this claim and note your anxiety that this matter, which has been delayed for so many years, might be dealt with at as early a date as possible.

In reply I have to say that the situation of the matter is fairly set forth in the correspondence which you have quoted. The slow progress being made in connection with the matter is one of the incidents of international claims. I may say that my Deputy expects in the course of a few days to have an interview with the Deputy Minister of Justice and Dr. C.D. Skelton of the Department of External Affairs with a view of considering what course should now be taken in connection with the matter in consequence of the difficulties which appear to stand in the way of the determination of this Claim. I do not think, however, at this juncture that the interests of the matter would be furthered by bringing Mr. Chisholm to Ottawa.

Yours very truly,

*a.b.w.*  
J.F. White, Esq., M.P.,  
House of Commons,  
Ottawa.

*For the Minister's Signature*

(Copy)

P.C. 2140.

Certified copy of a Report of the Committee of the Privy Council, approved by the Deputy Governor General on the 18th October, 1919.

PRIVY COUNCIL  
CANADA

The Committee of the Privy Council have had before them a Report, dated 3rd October, 1919, from the Superintendent General of Indian Affairs submitting the attached petition of 8th August, 1918, from the Solicitor for certain Pottawatamie Indians residing in Canada, setting forth a claim against the Government of the United States for arrears of annuity money under certain treaties between the Government and the said tribe of Indians, including the treaty known as the Chicago Treaty.

The Minister observes that in an Order in Council dated the 12th day of February, 1912, it is narrated that under a treaty with the United States known as the Chicago Treaty the said tribe of Indians sold a large quantity of land and were removed to land situate west of the Mississippi River but that finding the land swampy and devoid of game they returned to their old homes, and being compelled to leave again a number of them fled to Canada where they have continued to reside, and that it was by the said Order directed that a claim for the share of these Canadian Pottawatamie Indians in the moneys due the tribe under the said Chicago treaty should be presented to the United States Government in order that it might be included in the second schedule to the Pecuniary Claims Agreement of the 18th August, 1910.

In accordance with the recommendation therein contained a copy of the said order was transmitted to His Majesty's Ambassador at Washington with a request that the claim might be presented to the United States Government for determination under the said Pecuniary Claims Agreement.

The Minister further observes that it would appear from the said Petition herewith that the claim as described by the order in Council and as transmitted to Washington is inadequately stated inasmuch as the rights of the Indians are based not on the Chicago treaty alone but also upon fifteen other treaties, under all of which they base their claim for relief.

The Committee, therefore, on the recommendation of the Superintendent General of Indian Affairs, advise that a copy hereof together with a copy of the said petition, be transmitted to His Majesty's Ambassador at Washington with a request that the claim as now put forward may be presented to the Government of the United States for determination under the said Pecuniary Claims Agreement, or, if that course be not feasible, that the petition be referred to the Court of Claims of the United States or to some other appropriate tribunal for adjudication, the claim as now made to be in substitution of the one set out in the said Order of the Governor General in Council of the 12th February, 1912.

All which is respectfully submitted for approval.

Rodolphe Boudreau.

Clerk of the Privy Council.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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ARCHIVES PUBLIQUES  
CANADA



*Certified copy of a Report of the Committee of the Privy Council, approved by His Royal Highness the Governor General on the 12th February, 1912.*



*H*

The Committee of the Privy Council have had before them a report, dated 5th February, 1912, from the Secretary of State for External Affairs, submitting - with reference to the Minute of Council of the 2nd December, 1911, on the subject of a claim which certain Pottawattomie Indians residing in Canada are prosecuting against the United States Government for arrears of annuity money - that it would appear that under a Treaty between the United States Government and the Pottawattomie Indians known as the Chicago Treaty, the Indians sold a large quantity of land to the United States and were removed to land situate west of the Mississippi River, but that finding the land swampy and devoid of game, they returned to their old homes and being compelled to leave again a number of them fled to Canada where they have since resided.

The Minister observes that Your Royal Highness' advisers are of opinion that a claim for the share of these Canadian Pottawattomie Indians in the moneys due the tribe under the treaty referred to should be presented to the United States Government in order that it may be included in the second schedule to the Pecuniary Claims Agreement of the 18th August, 1910.

The Minister understands that His Majesty's Ambassador at Washington has sufficient information in regard to this claim to enable him to take the necessary action.

The Committee, on the recommendation of the Secretary of State for External Affairs, advise that Your Royal Highness may be pleased to transmit a copy hereof to His Majesty's Ambassador at Washington, with a request that the claim may be presented to the United States Government for settlement under the Agreement referred to.

All which is respectfully submitted for approval.

*G. H. Keizer*

*act* Clerk of the Privy Council.

26th June, 1931.

Memorandum:

Honourable Thomas G. Murphy.

Re: Pottawatomes.

Yesterday we had a meeting at the office of Dr. Skelton, Under-Secretary of State for External Affairs, which had been arranged by Mr. Edwards, Deputy Minister of Justice, to consider what course we should take with respect to this claim. The Order in Council of the 18th October, 1919, which was passed at the time of the filing of the Petition of the claimants with His Majesty's Ambassador at Washington, provided as follows:-

"The Committee, therefore, on the recommendation of the Superintendent General of Indian Affairs, advise that a copy hereof together with a copy of the said petition, be transmitted to His Majesty's Ambassador at Washington with a request that the claim as now put forward may be presented to the Government of the United States for determination under the said Pecuniary Claims Agreement, or, if that course be not feasible, that the petition be referred to the Court of Claims of the United States or to some other appropriate tribunal for adjudication, the claim as now made to be in substitution of the one set out in the said Order of the Governor General in Council of the 12th February, 1912."

This claim had been notified to the United States Government for the second Schedule of the Pecuniary Claims Commission. The said Schedule, however, was never formulated or compiled, and in the opinion of Dr. Skelton and Mr. Edwards it is uncertain as to when, if ever, the Pecuniary Claims Tribunal will again assemble. There is no prospect therefore of getting ahead with this claim before such Tribunal.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
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CANADA

The alternative as set forth in the Order in Council above referred to is to endeavour to have the case referred by the United States Government to the Court of Claims. The Court of Claims, however, will not hear and determine an international claim and in order to get the Potawatomi Claim before such Tribunal the Government of Canada would it appears have to withdraw from the case. The Indians, however, or the Superintendent General on their behalf could prosecute the case before the Court of Claims. In order to make sure that the case will be considered by the Court of Claims, it is proposed to suggest to the United States Government that we will withdraw the case from the proposed second Schedule of the Pecuniary Claims Commission upon the undertaking of the United States Government that the case will be considered by the Court of Claims.

The Honourable W.D. Herridge is expected in Ottawa early next week and Dr. Skelton proposes to take the matter up with him and if possible with the Prime Minister at the same time to ascertain whether the above suggestions with respect to the prosecution of this claim would meet with their approval.

*Dr. Skelton*

WALLACE RANKINE NESBITT

801 DOMINION BANK BUILDING



TORONTO

ELGIN 3451

June 25th, 1931.

Duncan C. Scott, Esq., F.R.S.C., Litt. D.,  
Department of Indian Affairs,  
Ottawa, Ontario.

Dear Dr. Scott:

It was delightful seeing you the other day and I only hope before the summer is over, you will find time to come up to the Bay for a day or so and give us the pleasure of having you visit us, and our proteges at the Village a chance of seeing the Great White Chief.

I am sorry to bother you with the following but they have brought to my attention a matter in regard to the Pottawatamie Indian claim of the Wisconsin Band under the treaty of 1833. My understanding is that Henry Jackson of both Christian Islands and Sans Souci who was for sometime in the employ of Mr. Ludwig of Toronto, is the chief mover as far as our people are concerned in this matter. They have been writing me and Jackson saw me about this and gave me to understand that the only thing they wanted was to have the Department approve of having a meeting held to discontinue the services of the present person, Mr. A.G. Chisholm, who is supposed to be looking after this and approve the appointment of another person to take his place.

I, of course, don't wish to get involved in any Departmental matters but would be glad if you could let me have the complete story so that as and when they again tackle me on the subject at the Bay, as they most assuredly will, I will know something about the matter and can attempt to appease them and at the same time not get involved. When I saw Jackson, I understood from him that the Department of Justice was also involved in this and that they were prepared to sanction what action your Department took. He also said that there was a very good chance of the American Government now taking up the matter, -- this latter I took with the usual grain of salt -- and that there was a possibility of them obtaining some real satisfaction. He also said that a good percentage of the claimants were non-treaty Indians and therefore

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA

WALLACE RANKINE NESBITT

801 DOMINION BANK BUILDING

ELGIN 3481

TORONTO

not under the control of your Department, but that these  
letter were not in the majority and therefore any action  
would have to be sanctioned by you before matters can take  
any course.

Please accept my apologies for bothering  
you in this matter but as you know I am looked upon as being  
near the throne and in a position to dispense at least advice  
to the ones around the shore and I would like to get an idea  
of what they are talking about apart from their own story  
so that I can attempt to use my diplomatic instincts in  
avoiding trouble and retain the confidence of that small band  
of the children of our nation.

With kindest personal regards.

Very sincerely yours,

*Rankine Nesbitt*

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Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA**

156610-4

file

27th June, 1931.

Dear Mr. Nesbitt,

I have to acknowledge your letter of the 25th instant making enquiry with respect to the Pottawatomie Claim. The story in brief is as follows:-

The Pottawatomie Claim arises out of apparently fifteen treaties made between the Indians and the United States Government including in particular one made on the 26th September, 1833, under which the Pottawatomie Nation sold its lands to the Government and agreed to remove west of the Mississippi River. About 2000 removed to the State of Kansas, and about an equal number went to northern Michigan and Wisconsin and to Canada.

In 1906 it appears the Secretary of the Interior at Washington caused an investigation to be made of the claims of the Wisconsin band of Pottawatomie and submitted to Congress a census roll of the members of this band residing in the United States and those residing in the Dominion of Canada. At the time of this enrolment, there appeared to be 457 persons of Pottawatomie blood residing in Michigan and Wisconsin and 1550 living in Canada.

About 20 years ago Mr. Chisholm interested himself in the claim of the Canadian Pottawatomies and secured powers of attorney from the greater number of these Indians to prosecute their claim on payment to him of a substantial amount of the funds that might be recovered. Subsequently, Mr. Chisholm invoked the assistance of this Department in the prosecution of this claim and, feeling that if there were a claim, it should have the support of the Government and, further,

oel

Wallace Rankine Nesbitt, Esq.,  
801 Dominion Bank Building,  
Toronto, Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

if they were successful in their claim, they should be protected against any improvident bargains, the Department entered into an agreement with Mr. Chisholm for the prosecution of this claim on payment to him of whatever costs might properly be taxed in the matter.

I may say that on the appointment of the Honourable Mr. Massey as Minister to Washington, he personally took up this claim with the United States Government. Moreover, Mr. Christopher C. Robinson, K.C., who successfully prosecuted the Cayuga Claim against the United States Government, has been for some time employed as Special Counsel in this case and has given the matter considerable attention. The conduct of these negotiations has been in the hands of the Department of Justice for some time.

Two ways have been suggested for having this claim investigated and determined one, supported by Mr. Chisholm, that this Government should endeavour to have enabling legislation passed at Washington which would give jurisdiction to the Court of Claims to hear this case, and the other, supported by the Department of Justice, is to try to get this case on for hearing before the Pecuniary Claims Tribunal, upon the view that this claim had been already notified to the United States Government under the terms of the Pecuniary Claims Convention.

I may say that it is becoming more and more apparent that there is little prospect of getting ahead with this claim before the Pecuniary Claims Tribunal as it is uncertain as to when it may meet again. During this week I have had a conference with Dr. Skelton, Under-secretary of State for External Affairs, and Mr. Edwards, Deputy Minister of Justice, as to what course should now be pursued. The view expressed was that we should now ascertain, if possible, from the United States Government whether in the event of our abandoning the claim before the Pecuniary Claims Tribunal we could have any assurance that the claim would be considered before the Court of Claims. This will of course take some time but we are proceeding with the matter immediately.

I may say that we would be glad to be relieved of the matter and to allow the Pottawatomies in Canada to undertake the prosecution of the claim on their own behalf but at

the moment it does not appear whether we would be justified in leaving the claim in that condition. It will depend on the result of the efforts that we are now undertaking with the United States Government as to whether the claim will finally be left to the Indians themselves.

The last two sentences are more for your information than for that of the Indians as they reflect the condition of my own mind with reference to this case. I am very glad to give you this detailed information. Jackson is quite wrong in thinking that non-treaty Indians do not come under the control of the Department. Under the Indian Act a non-treaty Indian is defined as being "any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada." None of the Pottawatomie Indians in this country can be called treaty Indians. I believe the United States position is that none of their Indians have the power of expatriating themselves and this may be a point in favour of the claim. We intend to come to a conclusion at an early date, as I am very keen to have the matter of procedure settled.

With my kindest regards,

Yours sincerely,

*Duncan Scott*



COPY/AL

A. G. CHISHOLM, K.C.  
Barristers.

LONDON, Canada.

July 17, 1931.

W. Stuart Edwards, Esq., K.C.,  
Deputy Minister of Justice,  
Ottawa, Ontario.

Dear Sir,

Re: Pottawatomies

I have learned that a decision has been arrived at in the above matter, to seek a jurisdictional Act, and have the case, if possible, disposed of by the Court of Claims. As an inducement, it is said to be proposed to offer the United States, a withdrawal of the notification for arbitration of the claim before the International Tribunal, given by Canada some years ago.

On behalf of claimants I would file my objection to raising any new issue between the United States and Canada, in this connection, and such a proposal would raise a new issue. In all the Wearisome, and often irrelevant, correspondence between the two countries on the subject of this claim, so far as I recollect, the United States have never taken the objection that as the claim had been notified for arbitration, it therefore should not go to the Court of Claims. I repeat, I do not think the question was ever raised by the United States.

On the other hand, I would see no objection to Canada notifying the United States, that the notification for arbitration was unreservedly withdrawn. If the object be to clear the air, this would suffice. If we want to make a bargain, the proposal to withdraw in consideration &c., would imply the right of the United States to bargain for our admission to the Court, which I would not concede.

I think you will agree that I have consistently argued that the true basis of our request for enabling legislation from the United States, is to be found in the doctrines of international comity and the terms of the Judicial Code of the United States, and I have little hope of success except by pursuing the matter on these lines.

I would point out to you that it would seem reasonable that I as representing claimants, should take part in any representations submitted to the State Department of the United States in this matter. I think I have a very clear idea of what is wanted and how to get it.

Faithfully yours,

(sgd.) A.G. Chisholm.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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CANADA

156610-4

Ravenswood Out

INDIAN AFFAIRS  
JUL 23 1981  
RECORDS

Mr. Duncan C. Scott.

July 20<sup>th</sup> 1931

Dear Sir

3

Referring to the claim  
the Canadian Sattawatomies have against  
the United States I beg to say that we  
have been quite anxious <sup>to hear</sup> something about it,  
as we have given a G. Chisholm of  
London but the contract quite a number  
of years ago we think it is about time  
that we were hearing something about  
it. But as far as depending on Mr Chisholm  
for a suitable answer he would never give  
us any satisfaction

As the old people are dropping off fast  
who has been quite anxious about it  
and they are the ones who can bring  
legal proof that we are the true claim-  
ants. we would like to see this thing  
brought a satisfactory settlement

We received a letter from Washington  
from one Charles J. Kasper attorney  
at law. Transportation Washington.  
he states that there is nothing being

II

done what ever to recover this claim  
he claims that he can bring this matter  
to satisfactory conclusion he has been  
successful in getting this kind of  
claim for other Pottawatomes in  
the United States and claims that our  
claim could be worked out successfully  
on the same grounds as this other claim  
and we understand that Mr Christolow  
is now a Judge instead of a Lawyer  
we have an idea that he should have  
nothing more to do with it.

As Mr Kasper will not undertake  
this work without the consent of the  
Department of Indian Affairs at Ottawa  
and as we have waited for Mr Christolow  
for so long and has nothing to show  
would it be possible to drop him out  
altogether and hire Mr Kasper to do the  
work we think we would not have to  
wait much longer if we give him the  
contract.

There are two old men here who  
are anxiously waiting to hear some  
thing about it one is 97 years old  
and the other 90 (brothers)

III

these old men are our own parents and they can produce plenty of proof that we are the true claimants.

For bringing this letter to a close we humbly ask you to give this matter your carefull. consideration as it is of a great importance to us and this claim would indeed be a blessing to us these hard times, awaiting a favorable reply at an early date. I beg to remain

Yours Respectfully

William George.

Ravenswood Ont

156610-4

*DM*



*B*

DEPT. OF INDIAN AFFAIRS  
JUL 16 1931  
RECORDS

House of Commons  
Canada

OTTAWA, July 15, 1931.

Dr. Duncan Campbell Scott,  
Deputy Superintendent General,  
Department of Indian Affairs,  
Ottawa.

Dear Sir,

Re: Pottawatomie Indian Claims  
against the United States.

Mr. Henry Jackson, of Christian Island,  
who claims to be a representative of those interested in  
the above claim, has asked me to see if I could do anything  
to help advance this matter.

I would like very much if you would  
kindly let me know the present position of this claim. I  
understand from Mr. Jackson that it has been pending for  
over twenty years and that apparently not much progress has  
been made towards settlement. I am writing to the De-  
partment of External Affairs and to the Department of  
Justice as I understand the matter comes before them as well.

Kindly give me as full information as  
possible as soon as possible, and oblige,

Yours very truly,

*A. B. Shaw*  
*M.P. East Branch*

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

156610-4A

*ASW*  
*ASW*

Ottawa, July 28th., 1931.

Sir,-

I beg to acknowledge your letter of the 20th. instant with reference to the Pottawatonic Claim.

In reply I regret to say that we are unable to report any progress in this matter notwithstanding the fact that every effort is being made to have the claim heard and determined.

Your obedient servant,

*ASW*  
*ASW*

*A. P. Mackenzie*  
A. P. Mackenzie,  
Secretary.

Mr. William George,  
Ravenswood,  
Ontario.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

( C o p y )

Christian Island, Aug. II, 1931.

A. G. Chisholm, K.C.,

London.

Sir:-

I am rather sorry to repeat the same matter as I had mentioned in my last letter to you. About Hawk and Jackson, they moving in full swing at present, and I understand they going to have a meeting in Cape Croker tomorrow 12th this month.

Jackson was in Ottawa and when he came back he told the people that you out of business. The Department thinks that you were doing nothing, so you were dropped, so I want you to see about this if it's true, and get things right in the open. How can one man like Jackson, could suspend us off our contract without any notice of any kind, and how does the Department seem to agree with Jackson. The majority of the claimants on this reserve is with me. Let me hear from you at once.

I am yours truly,

" M. J. Sandy "

P. S. There is only 3 or 4 men on this Island that agree with Jackson and they may be few in the other places.

M. J. S.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

156610 4

CANADIAN BANK OF COMMERCE CHAMBERS  
CORNER DUNDAS AND RICHMOND STS

B

A. G. CHISHOLM, K. C.  
Barrister, &c.

*Mr. Williams*

London, Canada, August 13, 1931.

DEPT. OF INDIAN AFFAIRS  
AUG 14 1931

Duncan C. Scott, Esq., D. Lit. &c.,  
Deputy Superintendent General Indian Affairs,  
Ottawa, Ont.

Dear Dr. Scott:-

I enclose you copy of letter received by me this morning from M. J. Sandy of Christian Island, who was and still is, so far as I know, President of the association of Pottawatomie claimants. It will speak for itself.

I have had many letters referring to Jackson's activities which I have not troubled you with, but this one contains a specific statement which I think should be authoritatively contradicted.

I would be greatly obliged if you would write me a letter of which I could send copy to Sandy, which would put a quietus on such mistatement.

Faithfully yours,

*A. G. Chisholm*

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA



W. K. D.

August 25, 1931.


Dear Sir,-

I beg to acknowledge your letter of the 13th instant enclosing a copy of a letter received from Mr. M. J. Sandy, of Christian Island, with respect to the activities of Henry Jackson in connection with the Pottawatomie Claim.

In reply I have to say that there has been no change in the situation. As you are aware, the officials of the Department of Justice and yourself are endeavouring to effect some progress with the United States Government. Such negotiations always take a long time but nothing can be done without the sympathy and concurrence of the United States Government. We quite understand that the Indians may become impatient with the long delay but it is to be hoped they will not be carried away by any agitators who may be putting forward ridiculous claims.

The Department recognizes your intimate knowledge of this claim and we are convinced that everything that can be done has been done by you to have the case adjusted. The statement that you are no longer associated with the case is not true.

Yours very truly,

  
 Acting Deputy Superintendent General.

*A.G.W.*  
 A. G. Chisholm, Esq., K.C.,  
 Barrister, etc.,  
 Canadian Bank of Commerce Chambers,  
 London, Ont.

156610-4

CANADIAN BANK OF COMMERCE CHAMBERS  
CORNER DUNDAS AND RICHMOND STS.

A. G. CHISHOLM, K. C.  
Barrister, &c.

London, Canada, August 26, 1931.

*File*

DEPT. OF INDIAN AFFAIRS  
AUG 27 1931  
RECORDS

A. S. Williams, Esq.,  
Acting Deputy Superintendent General Indian Affairs,  
Ottawa, Ont.

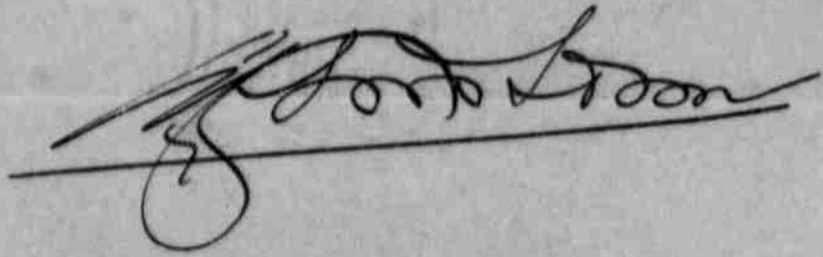
Dear Sir:-

re Pottawatomies - 156610-4a

**B**

I have to acknowledge the receipt of your letter of the 25th instant and am greatly obliged for the same and for the kind way in which you enable me to thoroughly refute the false statements made by Henry Jackson, regarding my connection with the above claim.

Faithfully yours,



Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

DEPT. OF INDIAN AFFAIRS  
CANADA



OFFICE OF  
INDIAN AGENT

156610-4  
Parry Sound, Ont.  
August 31, 1931.

T3258 *Handwritten signature*

The Secretary,  
Department Indian Affairs,  
Ottawa, Ont.



Sir:

I have to report that Charles J. Kappler, Esq. Transportation Building, Washington D.C. rang me up from Pirie and Stone's Law office here in town asking me to meet him. When I went down to meet him in Pirie and Stone's Office, he introduced himself and told me that he was very much interested in the Pottawatamac Indians and that he had a visit from Indians in Canada and letters from Indians, one of which he showed me from an Indian at Sarnia. He had written to this Indian at Sarnia and it was a reply stating that he wanted him to take up his case and get his money.

Mr. Kappler informed me that he was desirous of appointing a representative for himself in Parry Sound District, and he thought that Pirie and Stone are the right people. I did not commit myself in any way, merely stated I would do anything I could to assist him. While I was saying this I was remembering that Mr. A. J. Chisholm K.C. London Ont. is appointed to look after the interests of the Pottawatamac Indians in Canada.

Would the Department please instruct me what I should do in this matter should Mr. Kappler write me which he has promised to do.

The consideration of the Department in this matter at their earliest convenience will be very much appreciated.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

- 2 -

Trusting this will be satisfactory.

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

*John M. Daly*

Agent.

JMD/EK.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

**PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA**

156610-4

Ottawa, 3rd September, 1931.

Sir,

I beg to acknowledge the receipt of your letter of the 31st ultimo, with reference to your interview with Mr. Charles J. Kappler, of Washington, regarding the Pottawatomie claim.

In reply I beg to say that the prosecution of this claim is in the hands of the Department of Justice with whom is associated Mr. A.G. Chisholm, K.C., of London. Everything that can be done is being done with respect to this matter and we would suggest that you might state the same in reply to any enquiries that are made of you and state also that there is nothing that you can do in the matter.

Your obedient servant,

*A. J. MacNeil*  
Secretary.

*2301*  
*AJM*

John M. Daly, Esq.,  
Indian Agent,  
Parry Sound, Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

*Not sent  
See letter  
above -*

**O.D.**

Ottawa, 22nd September, 1931.

Dear Mr. Finlayson,

Re Pottawatonic Claim.

I beg to acknowledge the receipt of your letter of the 11th instant, on behalf of various Indians of the Christian Island band making enquiry as to the present status of this claim.

*WJ*

In reply I beg to say that this claim arises out of various treaties made between the Pottawatonic Indians and the United States Government with respect to lands which they formerly occupied. About twenty years ago Mr. Chisholm, K.C., of London, Ontario, interested himself in this claim and subsequently it was taken up by the Department in conjunction with Mr. Chisholm and the Department of Justice. Mr. Chisholm's view was that an effort should be made to have this matter determined by the United States Court of Claims. The Department of Justice considered, however, that the claimants would fair better before the Pecuniary Claims Tribunal and this claim was noted for the second schedule. This schedule, however, was not completed before the war broke out since when there has been no meeting of this Tribunal.

*ASW*

I may say that on the appointment of the Honourable Mr. Massey as Minister to Washington, he personally took up this claim with the United States Government, and Honourable Mr. Hertridge, the present Minister, is interesting himself

Honourable William Finlayson, K.C.,  
Minister of Lands and Forests,  
Toronto,  
Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

13

in this case. It seems very doubtful as to when the Pecuniary Claims Tribunal may again assemble and we are endeavouring to ascertain from the United States Government whether they would consent to the case being referred to the Court of Claims if we would withdraw the case from the Pecuniary Claims Schedule. This information is confidential.

The Indians are naturally disappointed that no particular progress has been made in bringing this case before a proper tribunal although everything that can be done has been done in the matter. If we ascertain that there does not appear to be any prospect of our getting ahead with this claim we shall have to consider the question as to whether we should abandon it on our part and leave the matter in the hands of the Indians themselves. In the meantime we do not think it would facilitate their claim by engaging further counsel in the case.

Yours very truly,

(Minister's Signature)  
T. J. M.

Copy for DR. SCOTT

EXD.

*Office of  
The Minister of the Interior.*

**B** Ottawa, Ontario,  
Ottawa October 5, 1931

Dear Mr. Finlayson,

Re: Pottawatomie Claim

I beg to acknowledge the receipt of your letter of September 11th, on behalf of various Indians of the Christian Island band, making enquiry as to the present status of this claim, which arises out of various treaties made between the Pottawatomie Indians and the United States Government with respect to lands which the Indians formerly occupied.

About twenty years ago Mr. A.G. Chisholm, K.C., of London, Ontario, interested himself in this claim and subsequently it was taken up by the department in conjunction with Mr. Chisholm and the Department of Justice. Mr. Chisholm's view was that an effort should be made to have this matter determined by the United States Court of Claims, but the Department of Justice considered that the claimants would fare better before the Pecuniary Claims Tribunal and this claim was noted for the second schedule. This schedule, however, was not completed before the war broke out, since when there has been no meeting of the Tribunal.

I may say that on his appointment as Minister to Washington, the Honourable Mr. Massey personally took up this claim with the United States Government, and that the Honourable Mr. Herridge, the present Minister, is interesting himself in the case. It seems very doubtful as to when the Pecuniary Claims Tribunal may again assemble and we are endeavouring to ascertain

from .....

*WCF*  
The Honourable William Finlayson, K.C.,  
Minister of Lands and Forests,  
Toronto,  
Ontario.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA



Hon. William Finlayson, K.C.,  
Toronto, Ont.



*Office of  
The Minister of the Interior*

from the United States ~~Government~~ whether they would consent to the case being referred to the Court of Claims if we would withdraw the case from the Pecuniary Claims Schedule. This information is confidential.

The Indians are naturally disappointed that no particular progress has been made in bringing this case before a proper tribunal, although everything that can be done has been done in the matter. If we ascertain that there does not appear to be any prospect of our getting ahead with the claim we shall have to consider the question as to whether we should abandon it on our part and leave the matter in the hands of the Indians themselves. In the meantime we do not think it would facilitate their claim by engaging further counsel in the case.

Yours very truly,

Thomas G. Murphy

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

( Copy )

HOUSE OF COMMONS  
Canada

Penetanguishene, Ontario,  
Sept. 29, 1931.

Hon. T. G. Murphy,  
Minister of the Interior,  
Ottawa, Ont.

Dear Mr. Murphy,

Re: Pottawatomie Indians.

Mr. Jackson, the Indian who interviewed you in Ottawa last Spring has been in to see me several times lately. He thinks they can get action if your Department would withdraw from this matter and he has asked me to write to you again. He says that apparently your Department or the Department of External Affairs cannot get the authority from Washington to do anything and they want to have a go at it themselves.

Kindly have this matter arranged and oblige.

Yours very truly,

(Sgd.) A. B. Thompson

M.P. EAST SIMCOE

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

156610-4

fileOttawa, ~~October~~ 10th, 1931.MEMORANDUM:Mr. Baskard.

With reference to your memorandum of the 7th instant with attached copy of a letter from Mr. A. B. Thompson, with respect to the Pettawatonic claim, I have to say that I have communicated with Doctor Skelton of the Department of External Affairs and he advises me that owing to the many urgent matters which Mr. Herridge has had in hand, Mr. Herridge has not yet been able to take up with the United States Authorities the matter of the Pettawatonic claim. Doctor Skelton states that he will bring this matter to Mr. Herridge's attention at the earliest opportunity.

I may say that until we have exhausted every effort with United States Authorities, we do not feel that we would be justified in abandoning this claim and leaving it to the tender mercies of such a man as Jackson. We will keep in touch with the Department of External Affairs and will advise you as to developments.

a.b.w.

DLDuncan Scott

Minister's Office

El.

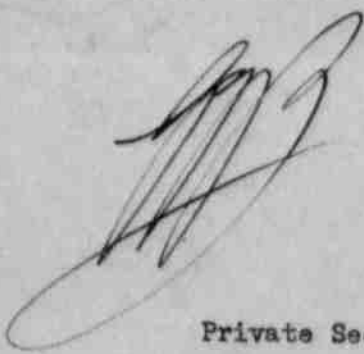
MEMORANDUM

October 7, 1931.

Dr. Scott.

I am sending you a copy of a letter addressed to the Superintendent General by Mr. A. B. Thompson, M.P. for East Simcoe, regarding the claim of the Pottawatomie Indians. You will note that the Indians are of the opinion that if the Department will withdraw from this matter, they can make some progress in having the claim settled.

The Minister instructed me to say that he would like you to communicate with the Department of External Affairs and ascertain through it how the matter stands at Washington.



Private Secretary.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

( Copy )

Penetanguishene, Ontario,  
Oct. 20, 1931.

Hon. Thomas G. Murphy, M.P.,  
Minister of Indian Affairs,  
Ottawa, Ont.

Dear Mr. Murphy,

The Representatives of the Pottawatomie Indians here are at me continually to see if I cannot get the Indian Department to abandon this Claim at Washington and see if they cannot themselves fight the matter. They claim that the position to-day is just the same as it was twenty-five years ago and they would like to see what they can do. I wish you would kindly see if this cannot be arranged.

Yours very truly,

(Sgd.) A. B. Thompson,

M.P. East Simcoe.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

**PUBLIC ARCHIVES**  
**ARCHIVES PUBLIQUES**  
**CANADA**

MEMORANDUM

Minister's Office

October 31. 1931.

R

DR. SCOTT:

Pottawatomie claim

The Minister has received the attached further letter from Mr. A.B. Thompson, M.P. urging that the Department abandon this claim and allow the Indians to handle it themselves. Mr. Victor Porteous, M.P. has made similar representations.

Will you kindly prepare a draft reply to the attached for the Minister's signature; and a draft letter to the Honourable Mr. Herridge asking that action be taken at the earliest opportunity.

Jc.  
for Private Secretary.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

Ottawa, 3rd November, 1931.

Dear Mr. Herridge,

Pottawatomic Claim.

I presume that you are already somewhat familiar with the claim of the Pottawatomic Indians of Canada against the United States Government which has been under way now for some years. In June last my Deputy had a conference with Dr. Skelton, Under-Secretary of State for External Affairs, and Mr. Edwards, K.C., Deputy Minister of Justice, to consider what course could properly be taken to facilitate the matter.

The Order in Council of the 18th October, 1919, which was passed at the time of the filing of the Petition of the claimants with His Majesty's Ambassador at Washington, provided as follows:-

"The Committee, therefore, on the recommendation of the Superintendent General of Indian Affairs, advise that a copy hereof together with a copy of the said petition, be transmitted to His Majesty's Ambassador at Washington with a request that the claim as now put forward may be presented to the Government of the United States for determination under the said Recuniary Claims Agreement, or, if that course be not feasible, that the petition be referred to the Court of Claims of the United States or to some other appropriate tribunal for adjudication, the claim as now made to be in substitution of the one set out in the said Order of the Governor General in Council of the 12th February, 1912."

I understand that this claim was notified to the

Honourable W.D.Herridge, K.C.,  
Canadian Minister to the United States,  
Washington,  
D.C.

United States Government for the Second Schedule of Pecuniary Claims. It appears that this Schedule was never completed, and there is some uncertainty as to when, if ever, the Pecuniary Claims Tribunal will again assemble.

The alternative as set forth in Order in Council above referred to is to endeavour to have the claim referred by the United States Government to the Court of Claims. At the conference between Dr. Skelton, Mr. Edwards and Dr. Scott, above referred to, the question was discussed as to whether this claim should be withdrawn from the Second Schedule of Pecuniary Claims with a view of having the claim considered by the Court of Claims. It was suggested that the matter might be taken up by you with the United States Government with a view of ascertaining whether in the event of the claim being withdrawn by the Canadian Government from the Second Schedule of Pecuniary Claims, the United States Government would give its assurance that the claim would be considered by the Court of Claims.

I may say that I am receiving from time to time enquiries on behalf of the Indians as to the status of this claim and requesting that the Government abandon it and allow the Indians to take up the matter themselves direct with the United States Government. I may say that we do not feel justified in abandoning the claim and leaving it to the Indians until we have exhausted every effort on their behalf, and I am writing to ascertain whether you have been able to get any satisfaction from the United States Government with respect to the prosecution of this claim.

Yours very truly,



Ottawa, 3rd November, 1931.


Dear Mr. Thompson,

I beg to acknowledge the receipt of your letter of the 20th ultimo in further reference to the Pottawatomie Claim.

In reply I beg to say that I have nothing before me to indicate that there is any request from the Pottawatomie claimants generally for the Government to abandon this claim. Even if there were such a request I should hesitate to recommend to the Government the abandonment of this claim until we are satisfied that it is impossible to make any further progress with the United States Government. Further efforts are now being made.

Yours very truly,

*a.s.w.*



A.S. Thompson, Esq., M.P.,  
Penetanguishene,  
Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

For the Minister's signature

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

**PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA**

Canadian Legation at Washington

May 17th, 1932.

No. 622.

Sir:

With reference to recent informal correspondence and discussions concerning the claim of the Pottawatomie Indians against the Government of the United States, I have the honour to inform you that the Department of State has refused to accept the suggestion advanced in December last that legislation should be recommended to Congress admitting the case to the Court of Claims, in return for an undertaking that Canada would withdraw it from the Second Schedule of Pecuniary Claims.

2. Mr. Wrong has today discussed the claim with ~~that~~ Mr. Hackworth, Legal Adviser of the Department of State, and Mr. Matré, who had just completed a thorough re-examination of the claim. Mr. Hackworth said that he was convinced, first, that Congress would refuse to pass legislation admitting the case to the Court of Claims, and secondly, that, even if legislation should pass, it would be improper to impose on the Department of Justice the burden of defending a claim which was felt to be without any valid grounds. In response to enquiries concerning the nature of the legal objections to the claim, he covered much the same ground as that taken by Mr. Kellogg in 1928 and reported/

The Right Honourable

The Secretary of State for External Affairs,

Ottawa, Canada.

Referred to - The Superintendent General of Indian Affairs,  
" Minister of Justice.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

reported in Mr. Massey's Despatch No. 942 of June 14th of that year. He was, however, more resolute than Mr. Kellogg had been in resisting the suggestion that the claim should be adjudicated by a domestic court.

3. Mr. Hackworth stated flatly that the successful claim of the New York Indians was in no way analogous to the Pottawatomie claim, since the New York Indians had been granted by treaty title in fee simple to Western lands, and since the provisions permitting forfeiture of title if they failed to move West had never been put into effect by the Government of the United States. They therefore had retained their right to share in the proceeds of the sale of these Western lands. The transactions concerning the Pottawatomie tribe embodied in the Treaty of Chicago of 1833 were of a different character, and only those members of the tribe who had moved westwards to the new reservation could legally share in the tribal funds and annuities. The Government of the United States could in no way be held legally responsible for remunerating those Pottawatomies who had failed to move with the tribe. The funds presented in 1907 and later years to the Pottawatomies who had remained on their old locations in the United States had been furnished entirely as an act of grace, following a policy initiated in 1864 in order to prevent the stray Indians from harassing settlers. Those who had fled to Canada had no title to share in this generosity.

4. In the course of the discussion Mr. Matr  remarked that in fifteen years' experience he had never dealt with a claim with a less solid foundation.

He/

He attributed the origin of the claim to a mistaken policy of the Bureau of Indian Affairs in making an enumeration of the Pottawatomies in Canada in 1906, when submitting to Congress an estimate of the share in the tribal funds to which the Wisconsin Pottawatomies would have been entitled had they moved West; this estimate was the basis for the award of \$447,339 to the Wisconsin Pottawatomies. Their enumeration lent plausibility to the belief of the Pottawatomies in Canada that moneys were legally due to them from the Government of the United States and made them responsive to the persuasion of attorneys who specialized in claims of this nature. He admitted that the Government of Canada had been justified in adopting the claim in order to prevent the Indians from possible exploitation.

5. Mr. Wrong pointed out that the legal grounds on which the United States opposed the claim had never been formally communicated to the Government of Canada. Mr. Kellogg in 1928 had stated his intention of expressing his objections in a note, which had never been received. Mr. Wrong suggested that such a statement should now be furnished for examination by the legal advisers of the Government of Canada. Mr. Hackworth acceded to this suggestion, and instructed Mr. Matré to prepare a memorandum. He proposed that this should be in the nature of a reply to an informal memorandum left by Mr. Massey with Mr. Kellogg on April 24th, 1928. A copy of this document is attached.

6. There appears to be little reason to  
believe/

No. 632 -- 4.

believe that the Department of State can be persuaded to change the attitude which it has now adopted towards admitting the claim to the Court of Claims.

I have the honour to be,  
with the highest respect,

Sir,

Your most obedient,  
humble servant,

(Sgd.) H. H. WRONG.

For the Minister.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

**PUBLIC ARCHIVES**  
**ARCHIVES PUBLIQUES**  
**CANADA**

CLAIM OF THE POTTAWATOMIE INDIANS OF  
WISCONSIN NOW IN CANADA.

This is a claim against the United States advanced on behalf of Wisconsin Pottawatomie Indians now in Canada for a proportionate share in certain annuities and trust funds of their Nation. This memorandum contains only a short and unofficial introduction to the facts of the claim. For an official statement of the claim reference must be made to a brief which was presented to the Secretary of State by the British Ambassador in February 1923. Since that date certain aspects of the claim have been discussed in diplomatic correspondence; and a concise statement of the grounds on which the claim is supported by the Canadian Government is given in Sir Esme Howard's note of October 8th. 1924.

The Indians on whose behalf the claim is made are the Canadian born descendants of certain members of the Pottawatomie Nation who fled from the United States to Canada between 1835 and 1840 in order to avoid their removal to lands west of the Mississippi. The Pottawatomies before 1833 occupied territory around the head of Lake Michigan. In 1833 by the Treaty of Chicago (ratified in 1835) the Nation ceded its lands there to the United States in return for a large tract in Iowa and a money indemnity. By later treaties the Pottawatomies who had moved across the Mississippi ceded their lands in Iowa in exchange for lands in Kansas, and a further substantial indemnity in money. Only about three-

page 2.

quarters of the Nation appear to have moved west after the Treaty of Chicago. A considerable number remained on their old locations and some 1100 fled to Canada. These Indians in Canada and their descendants, the greater part of whom were of the Wisconsin band, have received no share of the tribal property since 1838 when payments of annuities etc. at the old location finally ceased.

In 1864 Congress took cognisance of the Pottawatomies who had remained in Wisconsin by appropriating \$10,000 to enable the Secretary of the Interior to take charge of them. This Act provided that the Treasury should retain to the credit of these stray bands the proportion of the annuities to which they would be entitled if they were on the reservations in the west with their tribes. No money was retained in the Treasury under this Act. Its passage, however, was one of the grounds for the successful claim submitted in 1903 by those members of the Pottawatomie Nation who had remained in Wisconsin after 1838.

This claim was presented in a Memorial which is printed as Senate Document 185, 57th. Congress, 2nd. Session. It was based on the memorialists' "right as members of the tribe to share according to their numbers in the tribal estate in whatever form it has existed for the years covered by the said claims". The Memorial asserted that this right had been specifically preserved to the Indians by the Act of Congress of 1864. On receipt of this Memorial Congress by an Act of 1906 ordered an

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA



page 3.

investigation to be made of the number of Pottawatomies who had remained in Wisconsin after 1833, of their due proportion of the funds in which they had not shared, and of other matters connected with the tribe.

The consequent report of the Secretary of the Interior of 1908 (H.R.Document 830, 60th.Congress, First Session) goes fully into the matter, and is relevant to the present claim on behalf of the Indians who had fled to Canada. The Report estimates that there was an average number of 1925 Wisconsin Pottawatomies in the United States and in Canada between 1838 and 1907. It finds on the basis of this figure that their share of the tribal funds in which they had not participated was \$1,964,565.87. An enrollment of the Wisconsin Pottawatomies revealed that there were living in 1907, 457 in the United States and 1550 in Canada - a total of 2007. Following this report, and without the claim being adjudicated by any court, Congress appropriated at various times the sum of \$447,339.00 as being due to "the Wisconsin Pottawatomic Indians of Wisconsin and Michigan under the Treaty of September 27th. 1833 and the Act of June 25th.1864". The final appropriation was voted at the present Session of Congress (Acts Public No.85, 70th.Congress). It should be emphasized that none of the Indians who shared in these appropriations had ever removed to the west; this is clearly stated in the Secretary of the Interior's Report of 1908.

This sum of \$447.339.00 is evidently  $\frac{457}{2007}$  of \$1,964,565.87; that is Congress has paid to the Wisconsin Pottawatomies now in the United States a sum which has been

page 4.

arrived at first by discovering the average number of Wisconsin Pottawatomies in the United States and in Canada between 1838 and 1907 (1925), then by estimating their total share in the tribal funds in which they had not participated because of their refusal to move west (\$1,964,565.87), and finally by deducting from this total the proportionate share of the 1550 Wisconsin Pottawatomies who were resident in Canada in 1907 (\$1,517,226.87). The Wisconsin Pottawatomies in Canada have received nothing, and their present claim is for \$1,517,226.87. The Canadian Government maintains that the Pottawatomic Indians who moved to Canada and their descendants are entitled to share in the tribal funds equally with the Pottawatomic Indians who remained in Wisconsin and Michigan whose claim has now been recognized and paid in full.

While one does not wish to be dogmatic in attributing motives to Congress in appropriating these monies without contest, it appears to be more than a coincidence that this claim of Wisconsin Pottawatomies in the United States was admitted shortly after a decision had been rendered by the Supreme Court and Court of Claims in a claim of the New York Indians. The basis of the New York Indian claim was the Treaty of Buffalo Creek of 1838, under which the United States agreed to set aside lands in the west for the Indians, on condition that those who had not moved within five years should forfeit their interest in the lands set apart. A small number only went west, and after 1860 the lands there reserved were sold by the United States. The Indians claimed for the value of the lands sold; and the Supreme Court held (on appeal from

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

the Court of Claims) that they were entitled to judgment for this amount, and that their failure to move had not constituted a forfeiture of their title to the lands in the west.

The same case came again before the Court of Claims in 1905, in order to determine what Indians were entitled to share in the judgment of the Supreme Court (40 Court of Claims Reports 448). In 1842 some of the New York Indians, like the Wisconsin Pottawatomies, had moved to Canada. The decision of the Court of Claims most clearly and explicitly upheld the right of those Indians in Canada to share in the award. Their removal to Canada was held not to constitute a forfeiture of their title to the lands or to the proceeds of their sale. The Court pointed out that the Indians who had moved to Canada had done more to carry out the policy of the United States than those who had remained in their old location. In consequence, the New York Indians in Canada have received their share of the monies found to be due by this judgment. It is contended on the basis of this decision that if the Wisconsin Pottawatomies in the United States were entitled to payment as Congress has recognized, so also are the Wisconsin Pottawatomies in Canada.

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Nearly five years ago the Canadian Government approached the Department of State with the request that legislation should be passed to enable the claim of the Wisconsin Pottawatomies in Canada to be submitted to the United States Court of Claims. This request which, after informal discussions, was officially made in a note dated October 20th. 1923, has not yet been answered. Certain

page 6.

specific objections to this course have been raised by the United States from time to time in diplomatic correspondence and in interviews with officers of the Department of State; but these objections would now appear in each case to have been removed. Thus in a note of December 1923, the Secretary of State cited Section 155 of the Judicial Code of the United States whereby admission to the Court of Claims can only be granted to aliens whose governments afford reciprocal rights to United States citizens; and brought forward as a bar to the submission of the Pottawatomie claim the withdrawal of a fiat to one Isenberg, a United States citizen, which had been issued to enable him to sue the Canadian Government. Canada answered with a statement of Canadian law showing that there was in fact no discrimination against aliens in granting permission to sue the Crown; and in any case the point no longer arises since a new fiat was granted to Isenberg some years ago.

In April 1924, the United States asked for a statement of "the precise grounds on which the Government of Great Britain feels warranted in intervening in behalf of these Indians". This information was furnished in the note dated October 8th. 1924, to which reference was made in the first paragraph of this memorandum. It may here be mentioned, however, that since this note was presented the arbitral award given in 1926 by the Pecuniary Claims Tribunal in the Cayuga Indian case would appear to confirm the position taken by the Canadian Government. In this case Canada maintained a claim on behalf of certain Cayuga Indians in Canada for a share of perpetual annuities payable to the Cayuga Nation

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

under Treaties concluded in 1789, 1790 and 1795, annuities in which the Cayugas who had moved to Canada had not shared since the war of 1812. The Tribunal maintained the right of the British (or Canadian) Government in international law to maintain the claim on behalf of the Cayugas:

"These Indians were permanently established on British soil and under British jurisdiction. They were and are dependent upon Great Britain, or later upon Canada, as the New York Cayugas were dependent on and wards of New York. If, therefore, the Canadian Cayugas have a just claim, according to the principles of international law and of equity, Great Britain is entitled to maintain it".

In April 1925 the Canadian Government repeated its request for the reference of the claim to the Court of Claims; and the request was renewed in October of the same year, and again in January 1926. In May 1926 the Secretary of State informed the British Ambassador with reference to this and to other British claims which required Congressional action, that in view of the sentiment which then appeared to exist in certain quarters in Congress, he was of the opinion that no good purpose would be served by recommending legislation at that time for the relief of the claimants. The arrangement concluded in May 1927 between Great Britain and the United States providing for the disposal of certain pecuniary claims arising out of the Great War is now presumed to have removed this obstacle to legislative action.

In June 1927 the Canadian Minister once more drew the attention of the Secretary of State to the Pottawatomie claim, and again repeated a request for its submission to the Court of Claims. Reminders were sent in September and in December 1927, but no reply has as yet been received.

\*\*\*      \*\*\*      \*\*\*      \*\*\*      \*\*\*      \*\*\*

The Government of Canada feels that the claim is of sufficient merit, and is based on legal grounds of sufficient strength to warrant at any rate the recommendation of legislation to Congress so as to permit the Court of Claims to adjudicate upon it. If there are grave legal defects in the claimants' case, these have not as yet been pointed out to the Canadian Government. The payment without contest of a substantial sum to the Pottawatomic Indians of Wisconsin who had remained in the United States without removing to the West, the manner in which the amount of this payment was determined, the judgment of the Supreme Court affirming the right of the New York Indians to the proceeds of the sale of Western lands to which they had not moved, the subsequent decision of the Court of Claims in the same case that the Indians who had moved to Canada were entitled to share in the judgment, these facts and precedents inter alia appear to constitute a prima facie case of sufficient strength to justify its decision by a court of law rather than by a departmental ruling.

w.e.

23rd. April 1928.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

CLAIM OF THE POTTAWATOMIE INDIANS  
OF WISCONSIN NOW IN CANADA.

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This is a claim against the United States advanced on behalf of Wisconsin Pottawatomie Indians now in Canada for a proportionate share in certain annuities and trust funds of their Nation. This memorandum contains only a short and unofficial introduction to the facts of the claim. For an official statement of the claim reference must be made to a brief which was presented to the Secretary of State by the British Ambassador in February 1923. Since that date certain aspects of the claim have been discussed in diplomatic correspondence, and a concise statement of the grounds on which the claim is supported by the Canadian government is given in Sir Esme Howard's note of October 8th, 1924.

The Indians on whose behalf the claim is made are the Canadian born descendants of certain members of the Pottawatomie Nations who fled from the United States to Canada between 1835 and 1840, in order to avoid their removal to lands west of the Mississippi. The Pottawatomies before 1833 occupied territory around the head of Lake Michigan. In 1833 by the Treaty of Chicago, (ratified in 1835) the Nation ceded its lands there to the United States in return for a large tract in Iowa and a money indemnity. By later treaties the Pottawatomies who had moved across the Mississippi ceded their lands in Iowa in exchange for lands in Kansas, and a further substantial indemnity in money. Only about three-quarters of the Nation appear to have moved west after the Treaty of Chicago. A considerable number remained on their old locations and some 1100 fled to Canada. These Indians in Canada and their descendants, the greater part of whom were of the Wisconsin band, have received

no share of the tribal property since 1838 when payments of annuities, etc. at the old location finally ceased.

In 1864 Congress took cognisance of the Pottawatomies who had remained in Wisconsin by appropriating \$10,000 to enable the Secretary of the Interior to take charge of them. This Act provided that the Treasury should retain to the credit of these stray bands the proportion of the annuities to which they would be entitled if they were on the reservations in the west with their tribes. No money was retained in the Treasury under this Act. Its passage, however, was one of the grounds for the successful claim submitted in 1903 by those members of the Pottawatomie Nation who had remained in Wisconsin after 1838.

This claim was presented in a Memorial which is printed as Senate Document 185, 57th Congress, 2nd. Session. It was based on the memorialists' "right as members of the tribe to share according to their numbers in the tribal estate in whatever form it has existed for the years covered by the said claims". The Memorial asserted that this right had been specifically preserved to the Indians by the Act of Congress of 1864. On receipt of this Memorial Congress by an Act of 1906 ordered an investigation to be made of the number of Pottawatomies who had remained in Wisconsin after 1838, of their due proportion of the funds in which they had not shared, and of other matters connected with the tribe.

- The consequent report of the Secretary of the Interior of 1908 (H.R. Document 830, 60th Congress, First Session) goes fully into the matter, and is relevant to the present claim



on behalf of the Indians who had fled to Canada. The Report estimates that there was an average number of 1925 Wisconsin Pottawatomies in the United States and in Canada between 1838 and 1907. It finds on the basis of this figure that their share of the tribal funds in which they had not participated was \$1,964,565.87. An enrollment of the Wisconsin Pottawatomies revealed that there were living in 1907, 457 in the United States and 1550 in Canada - a total of 2007. Following this report, and without the claim being adjudicated by an court, Congress appropriated at various times the sum of \$447,339.00 as being due to "the Wisconsin Pottawatomie Indians of Wisconsin and Michigan under the Treaty of September 27th, 1833 and the Act of June 25th, 1864." The final appropriation was voted at the present Session of Congress (Acts Public No 85, 70th Congress). It should be emphasized that none of the Indians who shared in these appropriations had ever removed to the west; this is clearly stated in the Secretary of the Interior's Report of 1908.

This sum of \$447,339.00 is evidently  $\frac{457}{2007}$  of \$1,964,565.87 that is Congress has paid to the Wisconsin Pottawatomies now in the United States a sum which has been arrived at first by discovering the average number of Wisconsin Pottawatomies in the United States and in Canada between 1838 and 1907 (1925), then by estimating their total share in the tribal funds in which they had not participated because of their refusal to move west (\$1,964,565.87) and finally by deducting from this total the proportionate share of the 1550 Wisconsin Pottawatomies who were resident in Canada in 1907 (\$1,517,226.87). The Wisconsin Pottawatomies in Canada have received nothing and their present claim is for \$1,517,226.87.

The Canadian Government maintains that the Pottawatomie Indians who moved to Canada and their descendants are entitled to share in the tribal funds equally with the Pottawatomie Indians who remained in Wisconsin and Michigan whose claim has now been recognized and paid in full.

While one does not wish to be dogmatic in attributing motives to Congress in appropriating those monies without context, it appears to be more than a coincidence that this claim of Wisconsin Pottawatomies in the United States was admitted shortly after a decision had been rendered by the Supreme Court and Court of Claims in a claim of the New York Indians. The basis of the New York Indian claim was the Treaty of Buffalo Creek of 1838, under which the United States agreed to set aside lands in the west for the Indians, on condition that those who had not moved within five years should forfeit their interest in the lands set apart. A small number only went west, and after 1860 the lands there reserved were sold by the United States. The Indians claimed for the value of the lands sold; and the Supreme Court held (on appeal from the Court of Claims) that they were entitled to judgment for this amount, and that their failure to move had not constituted a forfeiture of their title to the lands in the west.

The same case came again before the Court of Claims in 1905, in order to determine what Indians were entitled to share in the judgment of the Supreme Court (40 Court of Claims Reports 448). In 1842 some of the New York Indians, like the Wisconsin Pottawatomies, had moved to Canada. The decision of the Court of Claims most clearly and explicitly upheld the right of those Indians in Canada to share in the award. Their removal to Canada was held not to constitute a forfeiture of their title to the lands or to the proceeds of their

of their sale. The Court pointed out that the Indians who had moved to Canada had done more to carry out the policy of the United States than those who had remained in their old location. In consequence, the New York Indians in Canada have received their share of the monies found to be due by this judgment. It is contended on the basis of this decision that if the Wisconsin Pottawatomies in the United States were entitled to payment as Congress has recognized, so also are the Wisconsin Pottawatomies in Canada.

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Nearly five years ago the Canadian Government approached the Department of State with the request that legislation should be passed to enable the claim of the Wisconsin Pottawatomies in Canada to be submitted to the United States Court of Claims. This request, which, after informal discussions, was officially made in a note dated October 20th, 1923, has not yet been answered. Certain specific objections to this course have been raised by the United States from time to time in diplomatic correspondence and in interviews with officers of the Department of State; but these objections would now appear in each case to have been removed. Thus in a note of December 1923, the Secretary of State cited Section 155 of the Judicial Code of the United States whereby admission to the Court of Claims can only be granted to aliens whose governments afford reciprocal rights to United States citizens; and brought forward as a bar to the submission of the Pottawatomie claim the withdrawal of a fiat to one Isenberg, a United States Citizen, which had been issued to enable him to sue the Canadian Government. Canada answered with a statement of Canadian law showing that there was in fact no discrimination against aliens in granting permission to sue the Crown; and in any case the point no longer arises since a new fiat was granted to Isenberg some

-6-

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"Those Indians were permanently established on British soil and under British jurisdiction. They were and are dependent upon Great Britain, or later upon Canada, as the New York Cayugas were dependent on and wards of New York. If, therefore, the Canadian Cayugas have a just claim, according to the principles of international law and of equity, Great Britain is entitled to maintain it."

In April 1925 the Canadian Government repeated its request for the reference of the claim to the Court of Claims; and the request was renewed in October of the same year, and again in January 1926. In May 1926 the Secretary of State informed the British Ambassador with reference to this and to other British claims which required Congressional action, that in view of the sentiment which then appeared to exist in certain quarters in Congress,

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

**PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA**

he was of the opinion that no good purpose would be served by recommending legislation at that time for the relief of the claimants. The arrangement concluded in May 1927 between Great Britain and the United States providing for the disposal of certain pecuniary claims arising out of the Great War is now presumed to have removed this obstacle to legislative action.

In June 1927 the Canadian Minister once more drew the attention of the Secretary of State to the Pottawatomie claim, and again repeated a request for its submission to the Court of Claims. Reminders were sent in September and in December 1927, but no reply has as yet been received.

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The Government of Canada feels that the claim is of sufficient merit, and is based on legal grounds of sufficient strength to warrant at any rate the recommendation of legislation to Congress so as to permit the Court of Claims to adjudicate upon it. If there are grave legal defects in the claimants' case, these have not as yet been pointed out to the Canadian government. The payment without contest of a substantial sum to the Pottawatomie Indians of Wisconsin who had remained in the United States without removing to the West, the manner in which the amount of this payment was determined, the judgment of the Supreme Court affirming the right of the New York Indians to the proceeds of the sale of Western lands to which they had not moved, and the subsequent decision of the Court of Claims in the same case that the Indians who had moved to Canada were entitled to share in the judgment, these facts and precedents *inter alia* appear to constitute a *prima facie* case of sufficient strength to justify its decision by a court of law rather than by a departmental ruling.

April 23, 1928.

May 17th, 1932.

No 622.

Sir:

With reference to recent informal correspondence and discussions concerning the claim of the Pottawatomie Indians against the Government of the United States, I have the honour to inform you that the Department of State has refused to accept the suggestion advanced in December last that legislation should be recommended to Congress admitting the case to the Court of Claims, in return for an undertaking that Canada would withdraw it from the Second Schedule of Pecuniary Claims.

2. Mr. Wrong has today discussed the claim with Mr. Hackworth, Legal Adviser of the Department of State, and Mr. Matre, who had just completed a thorough re-examination of the claim. Mr. Hackworth said that he was convinced, first, that Congress would refuse to pass legislation admitting the case to the Court of Claims, and secondly, that, even if legislation should pass, it would be improper to impose on the Department of Justice the burden of defending a claim which was felt to be without any valid grounds. In response to enquiries concerning the nature of the legal objections to the claim, he covered much the same ground as that taken by Mr. Kellogg in 1928, and reported in Mr. Massey's Despatch No 942 of June 14th of that year. He was, however, more resolute than Mr. Kellogg had been in resisting the suggestion that the claim should be adjudicated by a domestic court.

The Right Honourable  
The Secretary of State for External Affairs,  
Ottawa, Can.

Referred to - The Superintendent General of Indian Affairs.  
" Minister of Justice.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

**PUBLIC ARCHIVES**  
**ARCHIVES PUBLIQUES**  
**CANADA**

3. Mr. Hackworth stated flatly that the successful claim of the New York Indians was in no way analogous to the Pottawatomie claim, since the New York Indians had been granted by treaty title in fee simple to Western lands, and since the provisions permitting forfeiture of title if they failed to move West had never been put into effect by the Government of the United States. They therefore had retained their right to share in the proceeds of the sale of these Western lands. The transactions concerning the Pottawatomie tribe embodied in the Treaty of Chicago of 1833 were of a different character, and only those members of the tribe who had moved westwards to the new reservation could legally share in the tribal funds and annuities. The Government of the United States could in no way be held legally responsible for remunerating those Pottawatomies who had failed to move with the tribe. The funds presented in 1907 and later years to the Pottawatomies who had remained on their old locations in the United States had been furnished entirely as an act of grace, following a policy initiated in 1864 in order to prevent the stray Indians from harassing settlers. Those who had fled to Canada had no title to share in this generosity.

4. In the course of the discussion Mr. Matre remarked that in fifteen years' experience he had never dealt with a claim with a less solid foundation. He attributed the original of the claim to a mistaken policy of the Bureau of Indian Affairs in making an enumeration of the Pottawatomies in Canada in 1906,

when submitting to Congress an estimate of the share in the tribal funds to which the Wisconsin Pottawatomies would have been entitled had they moved West; this estimate was the basis for the award of \$447,339 to the Wisconsin Pottawatomies. Their enumeration lent plausibility to the belief of the Pottawatomies in Canada that moneys were legally due them from the Government of the United States and made them responsive to the persuasion of attorneys who specialized in claims of this nature. He admitted that the Government of Canada had been justified in adopting the claim in order to prevent the Indians from possible exploitation.

5. Mr. Wrong pointed out that the legal grounds on which the United States opposed the claim had never been formally communicated to the Government of Canada. Mr. Kellogg in 1928 had stated his intention of expressing his objections in a note, which had never been received. Mr. Wrong suggested that such a statement should now be furnished for examination by the legal advisers of the Government of Canada. Mr. Hackworth acceded to this suggestion, and instructed Mr. Matre to prepare a memorandum. He proposed that this should be in the nature of a reply to an informal memorandum left by Mr. Massey with Mr. Kellogg on April 24th, 1928. A copy of this document is attached.

6. There appears to be little reason to believe that the Department of State can be persuaded to change the attitude which it has now adopted towards admitting the claim to the Court of Claims.

I have the honour to be,  
With the highest respect,  
Sir,  
Your most obedient,  
humble servant,

Signed...H. H. Wrong.  
For the Minister.



18

CANADIAN BANK OF COMMERCE CHAMBERS  
CORNER DUNDAS AND RICHMOND STS.

A. G. CHISHOLM, K. C.  
Barrister, &c.

London, Canada, ...JULY...27...1932...

R

A. S. Williams, Esq.,

Acting Deputy Superintendent General Indian Affairs,

Ottawa, Ont.

Dear Mr. Williams:-

re Pottawatomies.

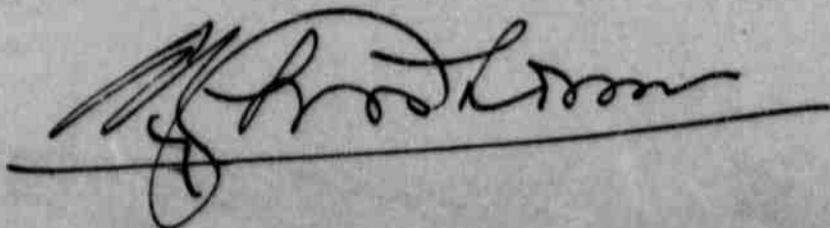
Regarding a recent letter from you in which you intimated Mr. Edwards would likely be writing me regarding this matter, I have not heard from him yet, possibly because as I think Mr. Sinclair mentioned in one of his letters, Mr. Edwards was on a holiday.

It is just possible you may have occasion to discuss the matter with the Deputy Minister of Justice before he writes and, it occurred to me it might be convenient for you to mention to him my feeling we should confer as to methods to be taken in connection with the prosecution of the claim. Of course for some time there has been a divergence between my views and the lines on which negotiations have proceeded.

I have certain ideas of my own on this subject which, if accepted, I would have a good deal of confidence would enable us to get what we want from the United States and, which I would like to offer for consideration could we meet as I propose. It is true these might be put in writing but, a full and free discussion in a difficult matter like this, is much more likely to clarify the situation. Frankly, I am greatly concerned about this claim and what is to be done about it and, to further which I would spare no effort.

I would be grateful if you would give this your best consideration and when you come to a decision, favour me with your views.

faithfully yours,



Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
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DEPT. OF INDIAN AFFAIRS  
AUG 5 1932  
RECORDS

House of Commons  
Canada

*[Handwritten scribble]*

PENET ANGUISHENE, ONTARIO.

AUGUST 3, 1932.

The Acting Deputy Supt. General of Indian Affairs,  
OTTAWA, ONTARIO.

Dear Mr. Williams: -

re-Potawattome Claim

One of the non treaty Indians belonging to this band has asked me to see if I could get from you a copy of the contract signed by the Indians when Mr. Chissam was first engaged on the claim. Also a copy of the resolution passed on or about the 20-th of June 1922, confirming the original Agreement.

I have been asked to get this as soon as possible so kindly see what you can do *oblige*

Yours very truly

*[Handwritten signature]*

M.P. EAST SIMCOE.

ABT/S

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
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CANADA

EXD.  
c

August 12th. 1932.

Dear Mr. Thompson,

Re Pottawatomic claim.

I have before me your letter of the 3rd. instant asking on behalf of one of the claimants for a copy of the contract signed by the Indians when Mr. Chisholm was first engaged on the claim, and also a copy of the resolution passed on or about the 20th. June 1922, confirming the original agreement.

In reply I beg to say that the files containing all material in connection with this claim, except some recent correspondence, are in the hands of Mr. Robinson, K.C., of Toronto, who is associated with Mr. Chisholm in the prosecution of this claim, and I am, accordingly, unable to furnish the copies requested.

I may say that Mr. Chisholm undertook the prosecution of the claim about twenty-five years ago securing powers of attorney from the individual claimants. Some time after this, on representations being made, the Department, in order to protect both the Indians and the solicitors in respect of the amount which might be recovered in the claim, entered into an agreement with Mr. Chisholm for the prosecution of the claim, under the terms of which, speaking from memory, Mr. Chisholm was to be allowed for the prosecution of the claim such amount as might be taxed by the Department of Justice or allowed by the Court before which the claim should be recovered.

*ASW.*  
This information may serve your purpose, but if not, I shall be glad to hear from you again.

Yours very truly,

A. B. Thompson, Esq., M.P.,  
Penetanguishene, Ont.

*A. S. Williams*  
Acting Deputy Superintendent General.



DEPARTMENT OF INDIAN AFFAIRS  
CANADA

DUNCAN C. SCOTT  
DEPUTY SUPERINTENDENT GENERAL  
OTTAWA

August 19th. 1932.

*Mem ✓ 2/3 \**  
Accountant -

Will you kindly prepare a statement for the Minister showing what sums have been paid Mr. Chisholm, London, Ont., during the last two years, in respect of the Pottawatomie claim.

*A. S. Williams*

Acting D.S.G.I.A.

Payments to A. G. Chisholm (re Pottawatomie claim)

Yr. 1930-31 - - \$119.38

Yr. 1931-32 - - \$125.54

*N. C. Allen*

.....  
N. C. Allen,  
Representative of the Treasury.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

EX'D.

August 20th. 1932.

MEMORANDUM

Mr. Buskard -

The Minister has asked to be advised as to what payments have been made to Mr. Chisholm, Barrister, London, Ont., during the last two years in respect of his services in connection with the Pottawatomie claim.

In reply I have to say that for the year 1930-31 Mr. Chisholm was paid \$119.38 and for 1931-32 he was paid \$125.54.

*W.W.*

*A.S. Williams*

Acting D.S.G.I.A.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

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ARCHIVES PUBLIQUES  
CANADA

Christian Island, Ontario.  
August, 8<sup>th</sup>, 1932.

Hon. G. Murphy, Esq., M.P.,  
Superintendent General of Indian Affairs,  
Ottawa, Canada.

Honorable Sir:

At a meeting of the Pottawatamie Indians residing on Christian Island Ontario, it was the humble wishes of the Indians interested in the Pottawatamie Indian claim of Wisconsin U.S.A., to further call your attention to the fact, that our deputation waited on you in the month of June with a joint petition from all the groups consisting of about two thirds of the claimants asking your Government to abandon the claim, also to dispense with the services of A.G. Chisholm who is connected with this claim as no progress has been made for over a quarter of a century.

The petition referred to covers the grievances of the claimants. We understood that the Department promised immediate action, yet it is over three months since our deputation visited you accompanied by Mr A.B. Thompson, M.P., and so far nothing has been done or accomplished that is of any constructive value. No progress has been made at Washington, nor is there anything on the files of any of the Departments in Ottawa to show progress, neither has there been any explanation other than that Mr Herridge has put it before the the U.S. State Department. This has been the story for twenty-eight years. Why prolong the claim further.

We further call attention to the fact that most of the old Indians that signed the contract with Chisholm have died and the rising living generations are not bound by that agreement and are demanding to have their rights recognized as claimants and to have a voice in the matter. That is, we want a change to be made without further delay.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

(2)

We may also point out that a large percentage of the claimants are not Treaty Indians and are tax payers of the County and vote at the Provincial and federal elections and are not living on any Indian Reserve. Their Position is beyond the jurisdiction of the Indian Department and are not connected with any of its wards, and hence are independent to prosecute the claims on their own account if they so desire. Above all we respect our Government and its Laws, but there is a limit to all things.

We want unity in action, and we still feel your sense of justice will right the wrong and allow the claimants to proceed and hold their meeting, appointing whom they will choose to represent us and to prosecute the claim, and at <sup>all</sup> times the claimants will welcome the co-operation of your Government and our minister at Washington. But on a different line of action than the channel followed this last quarter of a century.

signed

(L. Larnue)

James Smith

Josiah Monague

Wm. J. Assance

Minister's Office

156610-4

MEMORANDUM

*[Handwritten initials]*

c. *[Handwritten initials]*

DEPT. OF INDIAN AFFAIRS  
AUG 29 1932  
RECORDS

August 26th, 1932.

Mr. Williams.

Re:

I am enclosing, herewith,  
for Departmental reply, a letter addressed  
to the Minister by the Pottawatamie Indians,  
located at Christian Island, Ontario.

*[Handwritten signature]*

Private Secretary.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

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CANADA



156610-4

EX 11.

September 2, 1932.

Dear Sir,-

The Department has received a communication from James Smith, Josiah Monague and William P. Assance, asking the Government to abandon the Pottawatamie Claim and to dispense with the services of Mr. A. G. Chisholm. The petitioners refer to a deputation which visited the Department in company with Mr. A. B. Thompson, M.P., some three months ago. The Department communicated with Mr. Thompson on the subject recently.

Please advise the Indians concerned that, after due consideration, the Department is not satisfied that any advantage would result from making a change in the existing arrangement at the present time.

Yours truly,

*H. J. Eade*

*T. R. L. MacInnes*

T.R.L. MacInnes.  
Acting Secretary.

H. J. Eade, Esq.,  
Indian Agent,  
Christian Island,  
Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

meeting held.

Mt DUNDAS, Ont. Sept. 15

moved by John Hawk  
seconded by Matthew King.

That we adopt the following resolution

WHEREAS the Pottawattamie Indians, residing on Christian Island and other parts of Ontario, have on numerous occasions made representations to the Federal Government at Ottawa respecting the Pottawattamie Indian Claim of Wisconsin, U.S.A.

AND WHEREAS for over a quarter of a century one A. G. Chisholm of London, Ontario, has conducted negotiations without success

AND WHEREAS most of the old Indians who were parties to the contract entered into with the said A. G. Chisholm are now deceased

AND WHEREAS a large percentage of the Pottawattamie Claimants are not treaty Indians but taxpayers and vote at Provincial and Federal elections, and are not living on any Indian Reserve

AND WHEREAS the said Pottawattamie Claimants desire to conduct negotiations direct with a view of an early settlement of the claim

BE IT RESOLVED that this meeting representing 75 per cent of the Pottawattamie Claimants, respectfully request the Federal Government to withdraw from the prosecution of the claim and allow the Indians to themselves carry on negotiations either direct or through some channel which they will select.

IT BEING FURTHER RESOLVED AND AGREED that if and when required the Claimants will welcome the co-operation of the Federal Government and appreciate the Government's desire to safe-guard the interests of the Treaty Indians.

Signed

W. H. Taly

Chairman of Meeting.

Certified Correct

A. B. Shoups

M.P. East Simcoe

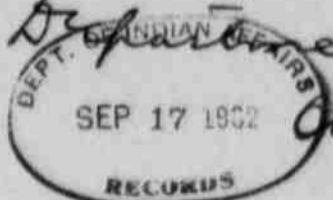
Henry Jackson  
Secretary of Meeting.

156610-4  
Midland Ont. Sept 15/32

W. S. Williams Esq  
Asst. Deputy Superintendent G.

Department of Indian Affairs

Manawa Can.



Sir.

I am instructed by the formal meeting of the Pottawatamie Indians held in the town of Midland on the above date.

To forward you a copy of resolution adopted by the claimants. The original forwarded direct to the Hon. H. H. Murphy Supt General. of Indian Affairs.

Yours truly

Henry Jackson

Acting Secretary

156610-4

October 7th. 1932.

Dear Sir,

I beg to acknowledge the receipt of your letter of the 15th. ultimo enclosing copy of resolution passed by the Pettawatomics at Midland on the 15th. ultimo. In reply I beg to say that this resolution is receiving attention.

Yours very truly,

*A. S. Williams*

Acting Deputy Superintendent General.

*A.S.W.*  
Mr. Henry Jackson,  
Midland,  
Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

October 25th, 1932.

No. 202.

Sir:

I have the honour to refer to the Department of State's note of June 8th, 1932 and previous correspondence concerning the claim of the Pottawatomie Indians residing in Canada. His Majesty's Government in Canada recognize the careful consideration which has been given to this matter. While they appreciate the contentions put forward in the Department of State's latest note, they are not satisfied that these afford a complete answer to the claim as presented in the previous correspondence.

It is believed that you will agree that it would be unprofitable to continue discussion of the merits of this claim by correspondence. The nature of the reply, in which the position of the Government of the United States is clearly set forth, appears to strengthen the view that this is a claim the merits of which should not be determined by either of the interested Governments, but only by a judicial tribunal. The Government of Canada understand the reasons for the Department's reluctance to have the case referred to the Court of Claims for adjudication, and pending the exploration of the possibility of settlement by other means, will not further press for the submission

of/

The Hon. Henry L. Stimson,  
Secretary of State of the United States,  
Washington, D. C.

of the claim to that Court.

I am desired to inform you that in these circumstances His Majesty's Government in Canada consider that the only practical course to be followed is to leave the claim as one listed for inclusion in the proposed second schedule of claims to be heard by the Pecuniary Claims Commission established by the Convention of August 18th, 1910, on the next occasion on which this tribunal may be reconvened.

I have the honour to be,

with the highest consideration,

Sir,

Your most obedient,

humble servant,

W. D. HERRIDGE

Meeting of Pottawatimic Claimants residing at *Parry Island*  
held the *17th* day of September, 1932.

Moved by *Jonas Namibook*

Seconded by *Adam King*

That we appoint and elect Mr. *Matthew King*

Mr. \_\_\_\_\_ to represent Our Groups at the Joint-meeting to be held at Midland, Ont. on the 15th day of September with full power to act on our behalf, and to make or enter into any agreement which may be unanimously agreed upon at the said Joint-meeting any resolution or agreement supported by our respective Delegate, shall be binding.

*Matthew King*  
-----  
Chairman of the Meeting

Certified by

*Rufus J. Lusk*  
-----  
Secretary of the Meeting.

*representing 1,400 claimants residing on Parry Island*



Meeting of Pottawatimic Claimants residing at Christian Island

held the 15<sup>th</sup> day of September, 1932.

Moved by Archie Lefroy

Seconded by Alex Assance

That we appoint and elect Mrs. <sup>Jas Smith John Hawk</sup> ~~Wm Passance & Henry Jackson~~

~~Mrs~~ \_\_\_\_\_ to represent Our Group at the Joint-meeting to be held at Midland, Ont. on the 15th day of September with full power to act on our behalf, and to make or enter into any agreement which may be unanimously agreed upon at the said Joint-meeting any resolution or agreement supported by our respective Delegates, shall be binding.

*Jas Smith*  
-----  
Chairman of Meeting

Certified by *J. C. Cadot, S.J.* *Wm J. Passance*  
-----  
Secretary of Meeting.

*Representing 185 Claimants  
residing on Christian Island*



Meeting of the Pottawatimie Claimants residing at *Nikwenikong*  
held the *10<sup>th</sup>* , day of September 1932.

Moved by *George Tuganigigig* <sup>my name</sup> X

Seconded by *John B. Gawaibiquan*  
That we appoint and elect Mr. *William Toby*

Mr. \_\_\_\_\_ to represent Our Group at the  
Joint-Meeting to be held at Midland, Ont. on the 15th day  
of September with full power to act on our behalf, and to make  
or enter into any agreement which may be unanimously agreed  
upon at the said Joint-meeting any resolution or agreement sup-  
ported by our respective Delegate, shall be binding.

*J. P. M. of ...*  
-----  
Chairman of the Meeting

Certified by  
*O. H. Labelle S.J.*

*Patrick Nadjuwan* ...  
Secretary of the Meeting

*representing approximately  
500 claimants residing on  
mainland*

At a meeting held at Sheshegwaning Sept. 10th of the members of the Pottawatomie Indians of Canada resident on that reserve, Mr Paul Cada and Mr Gabriel <sup>Wick Cow. Sa.</sup> Wacawasa were appointed as delegates to represent the following at a meeting called at Midland for Sept. 15th next.

Name.	No. of Children.	Witness.
Mrs Madeline <sup>her</sup> Cada <sub>mark</sub>		Dan Sampson
Paul Cada	6	
Jos Sampson		
Steven Sampson		
Mrs John Shinos		
Mrs Agnes <sup>her</sup> Dominick <sub>mark</sub>	2	Dan Sampson
Rose Turkey		
Mrs Esther <sup>her</sup> Neoss <sub>mark</sub>	1	Dan Sampson
Noel Dominic <sup>her</sup>		
Mrs Mary Elizabeth <sup>her</sup> Gabrignett <sub>mark</sub>	1	Dan Sampson
Mr Raphael Niganuina	4	
Mrs Mary Niganuina		
Mrs Mary Ann Simon	11	
Dan Sampson		
Mrs Margaret Jagan		
Mrs Moses Cada	4	
Mr William Cook	9	
Joe Neoss		

Name	No. of Children	Witness
Alex Neoss		
Basil <sup>his</sup> <del>f</del> Gawanashi <sub>mark</sub>		Alex Neoss
Gabriel <sup>his</sup> <del>X</del> Walkhouse <sub>mark</sub>		Paul Cada
Mary Walkhouse.	2	

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

Blind River, P. O. Ont.,  
Sept 7, 1932. III

Mr Paul Cada  
Sheshigwaning. P. O.  
Ontario  
Dear Sir:

I am writing to you today to  
let you know I am sending a list of  
names for Pottawadamic claimant.  
List of names:

Mrs Sophie Macarwasa

Mr Joe "

Mrs Angline "

Irene "

Stella "

Mary "

Dominic "

Mr Joseph "

Mr Adam Macarwasa

Mrs " "

Mr Daniel "

" Thomas "

Mr Joe Wacawasa.  
 Mrs " "  
 Miss Agnes "  
 " Eva "  
 " Rita "  
 Mr Jimmy "  
 Miss Cathrine "  
 " Lena "  
 Mr Morris "  
 Mrs Liéca "  
 \_\_\_\_\_

~~Miss J~~  
 So this is how much I can get the names around here. So be sure and put these names with the others. These names here above are my sister son and family. I will let you know all if I find any later. You know Florence Vincent doesn't belong on Pottawadamic claimant, so you better watch very closely. Be sure to take only Pottawadamic. If anyone wants to keep Mr Chisolm you let him go don't ask them to leave him. It will be better for you to get all the names in one village all the Pottawadamic and I am sorry we

14  
A meeting held at Shiguindah on Sept 9<sup>th</sup> 1932  
of the members of the Pottawatamie Indians  
to appoint Paul Cada as delegate to go to  
the meeting at Midland on Sept 13<sup>th</sup> 1932.

Joseph <sup>his</sup> X Nahwegeshik  
Mary <sup>mark</sup> X Nahwegeshik received 3 pays  
in U.S.A.  
Sam Nahwegeshik (5 <sup>children</sup> in a family)  
Simon Nahwegeshik 4 " " "  
Alex Nahwegeshik 3 " " "  
Chaile Nahwegeshik (5 children)  
Dan Wandanesh  
Mrs John Nahwegeshik  
X Ross <sup>his</sup> X Bedanon Wikamikong  
Mrs Harriet <sup>her</sup> <sup>mark</sup> X Wenduhbens  
Christine Bearfoot. <sup>English</sup> mah-er-sith Wikemikong  
John Wabansau Bearfoot.  
Miss Susan Nahwaiseshik.

Witness to above signatures  
Dan Sampson.

A meeting held at West Bay on Sept 9<sup>th</sup> 1932  
of the members of the Pottawatamie Indians  
to appoint Paul Cada as delegate to  
go to the meeting at Midland Sept. 15<sup>th</sup> /32

Mrs Catherine <sup>her</sup> Abatosang <sup>mark</sup> children  
Mrs Theresa Delassige 6  
Mrs Esther Janwagonebi 2  
Isabel Abidosang  
Lucy Janwagonebi  
Sara Janwagonebi  
Jean Janwagonebi  
Mrs Mary Medline <sup>her</sup> <sup>mark</sup> Delassige  
~~Mrs Emma Medline~~ Mrs Jane <sup>her</sup> <sup>mark</sup> Kurt Hall 1  
Mrs Susan <sup>her</sup> <sup>mark</sup> Delassige 2 children  
Joe. H. Delassige  
Abel Bebonang  
Mrs Veronica <sup>her</sup> <sup>mark</sup> Corbitt no children  
James Bebonang <sup>her</sup> 3 children  
Mrs Therese <sup>her</sup> <sup>mark</sup> Mades 2  
Mrs Agnes <sup>her</sup> <sup>mark</sup> Wabigizik 2  
Louis <sup>her</sup> <sup>mark</sup> Abidosang

Witness to above Signatures

— — — — — Dan Sampson.

names                      no. of children                      ✓/

Frank Debosgo	2
Mrs Charlotte X Resaw	
Am. Stu. Debosgo	

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA



Powert. P.O. - VII

White Fish<sup>river</sup> Indian Reserve.

To Whom it may concern at the Pottawatane Meeting at Midland.

We the undersigned, Pottawatane Indians, of the above mentioned reserve do hereby accept Mr. Paul Cade and Gabriel Wacowasa to represent the following at a meeting at Midland.

Signed.	No. of Children	Witness
Mrs. Veronica McGregor (X)	1	Paul Cade
Geo. McGregor	7	
Wm. McGregor	7	
David McGregor	5	
Elie McGregor	4	
Don McGregor	0	
Joe McGregor	1	
Mrs. Susan Pitawanakwat	2	
Mrs. Mary Jane Mishnushkodawa		
Mrs. Francis Hamibuck: 5		
Philip Pitawanakwat		

DEPARTMENT OF INDIAN AFFAIRS  
CANADA



OFFICE OF  
INDIAN AGENT

Gore Bay Ontario  
Sept. 10th 1932

To Whom it may Concern:-

I hereby state that the bearer of this document Mr Paul Cada has been appointed by the Pottawatomie Indians of Canada resident at Sheguindah, West Bay and Sheshegwaning ~~Reserves~~ reserves to represent them at a meeting of delegates from the above named Indians to be held at Midland Sept. 15th next.

Dated at Gore Bay Ontario, this 10th day of Sept. 1932.

*E. F. Strickland*  
Indian Agent

*7 Encls  
Received by me*

*U*

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

11

KNOW all men by these presents that we, the  
Group of Wisconsin Pottawatamie Indians, resident in Canada, in  
Meeting assembled do hereby constitute and appoint

of

and our true and lawful Attorney and in our name, place and stead, to  
vote at the Meeting to be held in Midland, Ontario, on Thursday,  
September 15th, 1932, in connection with proceedings to be taken concern-  
ing our claim as Pottawatamie Indians against the United States  
Government and otherwise to act at such Meeting as our Proxy or  
Representative as if we were personally present

We hereby agreeing to ratify and confirm whatsoever and said Attorney  
shall lawfully do or cause to be done at said Meeting on our behalf.

IN WITNESS WHEREOF we have hereunto set our hands and seal.

SIGNED, SEALED AND DELIVERED

In the presence of

*J. D. McLeod*

*Dan Wonnigwan*

*Patrick Redjivan*

Mrs Mary Medline Debassige  
Mrs Margaret Bobb  
~~Mrs Jennie Debassige~~  
Mrs Esther Debassige  
Mrs Lena Corbeire  
Mr Thomas Debassige  
Mr Frank Debassige  
Mr Tommy Bobb  
~~Miss Stella Bebonang~~  
Willie Corbeire  
Philip Corbeire  
Darr Corbeire  
Rose Corbeire

Wikewemikong Coll. Claimants  
 Manotoulin Isl. Ont.

Ancestors

1. Elvira Kennedy Kweshimigo
2. Mrs. Lucy Mendonkang "
3. Jette Mendonkang "
4. Agatha Mendonkang "
5. Mrs. Angeline Desmilon
6. Antoine Desmilon. nakwegifigokw
7. Edward Desmilon "
8. Irene Desmilon "
- Witness J.D.M. Ford
9. Alphonse Desmilon Kwabegane
10. Mrs. Jerry Bonasa "
11. Catherine "
12. Delia. "
13. Angeline Desmilon "
14. Wesley Ashkewat
14. Mrs. Mary Jane <sup>Mrs. A. Shawani</sup> <sub>mark</sub> (Child)
- Joe J. " (Child)
- Witness J.D.M. Ford
16. Joe A. <sup>Mrs. Shawani</sup> <sub>mark</sub> Witness J.D.M. Ford
- Witness J.D.M. Ford
- (15 names)

Pottawatamie Claimants -  
 Manitowish

Sept-1" 1932

Ames

- 1 Mrs. Catherine Flamand Pendarwan  
 & Family Peter Flamand
- 2 Elizabeth Flamand
- 3 Oline Flamand
- 4 Joe Paul Flamand
- 5 Mrs. Eliza <sup>John</sup> Shawanis <sup>mark</sup> Kewee  
 & Children
- 6 Elizabeth " "
- 7 Ida " "
- 8 Allen " Adaphed Amikwan
- 9 John Roy Makoons
- 10 Mabel Ester Roy "
- 11 John Francis Roy "
- 12 Mrs Frank <sup>John</sup> Roy <sup>mark</sup> "
- 13 Anisjime Roy "
- 14 Agnes " "
- 15 Rosie " "
- 16 Vernice " "
- 17 Mary <sup>John</sup> x Ashawamukwat <sup>mark</sup> Kewee
- 18 Philomen <sup>John</sup> <sup>mark</sup> x <sup>mark</sup> Niganigijig <sup>mark</sup> Kewee  
 Debiwense "

Wikwemikong Polt. Claimants -  
Manitowlin Del. Ont.

Ancestors

1. Elsie Kenwick Kweshimigo
  2. Mrs. Lucy Mendonka Kang "
  3. Juliette Mendonka Kang "
  4. Agatha Mendonka Kang "
  5. Mrs. Angeline Desmoulon
  6. Antoine Desmoulon. nakwagegigokan
  7. Edward Desmoulon "
  8. Irene Desmoulon "
- Witness J.D.M. Ford
9. Alphonse Desmoulon Kwabegian
  10. Mrs. Jerry Enosse "
  11. Catherine "
  12. Delia. "
  13. Angeline Desmoulon "
  14. Wesley Desmoulon
  14. Mrs. Mary Jane <sup>Mrs. A. Shawani</sup> <sub>mask</sub> (child)
- Witness J.D.M. Ford
16. Jos. A. <sup>Mrs. Shawani</sup> <sub>mask</sub> Witness J.D.M. Ford
- Witness J.D.M. Ford  
(15 names)

List - Re. Patt. Claimants' <sup>Sept. 1<sup>st</sup> /32</sup>  
 Mawlaulin  
 Wikwemikong Ont 7  
Amesli

1	William Jacks	Kwaligun
2	Mary <sup>nee</sup> Jacks	"
3	Adeline <sup>nee</sup> Jacks	"
4	Andrew Jacks	"
	+ Family	
5	Belix <sup>nee</sup> Do	"
6	David <sup>mark</sup> Jacks	"
7	Alphouse <sup>nee</sup> Jacks	"
8	Julia <sup>mark</sup> Jacks	"
9	Victoria <sup>nee</sup> Jacks	"
10	Jos. <sup>nee</sup> Recollect - witness J.D.M. Lead	Kewahgno
11	Mrs. Poselie <sup>nee</sup> + Her children	Mishimowishoma Ashaganashkumy
12	Mary <sup>nee</sup> + mark	"
13	Sophie " x "	"
14	Angeline " x "	"
15	Gabriel " x "	"
16	Elizabeth " x "	"
17	Norman " x "	"
	Witness J.D.M. Lead	
17 names		(over)



Wakewickong but-manitowabi  
 Polt. claimants

1 Mrs. Theresa <sup>for</sup> Manitowabi <sup>mark</sup> Witness J.D. McLeod } Ahshaganaskum  
 2 J.D. McLeod McLeod Ahshaganaskum

3 Mr. George Manitowabi }  
 4 Lawrence Manitowabi }  
 5 Evelyn Manitowabi }  
 & his children

6 Dan Wernigwanas Acaganishcom  
 7 Mrs .. ..  
 8 Margarte ..  
 9 John B. ..  
 10 Dennis ..  
 11 Felix ..  
 12 Augustine ..  
 13 Catharine <sup>for</sup> ~~Wagawewidang~~ <sup>mark</sup> (Wabigik Tawissikwe)

13 names Witness J.D. McLeod

Wipwemikong tnt: (8)  
 Post. claimants - Kamutulin

Witness Mrs. Agathi Osawamimiki ancestor  
 2 Annie F. Do (child (Querdiani  
 3 (Eshkakogum) 901)

4 Theresa Trudina Agwabigane  
 5 Lilia <sup>now</sup> ~~not~~ " "  
 6 Rebecca " "  
 7 Willie's " Gwabigan

*J. Donahoe*  
 8 Michel Kagige Munakwat  
 9 John " "  
 10 Joe " "  
 11 Frank " "

12 Mrs. Isabel Kagige Gwabigan  
 13 Sarah <sup>nee</sup> ~~ph~~ Babonse <sub>mark</sub> (Kwabigan)

14 Mrs. Jrs. J. B. Enosse Jr. "  
 15 Mary Lillian ~~25~~ children  
 16 Henry Clifford "  
 17 Margaret "  
 17 names witness J. D. M. ~~of~~ " *one*

Wepwemkong, Ont. nameless  
Part. Claimants

Ancestor askyanashkewing

- 1 Samuel Pitawanakwat.
  - 2 Tommy Pitawanakwat
  - 2 Bellintine Pitawanakwat
  - 4 Alfred Pitawanakwat
  - 5 Georgina Pitawanakwat
  - 4 Isaac <sup>his</sup> Beaudry <sup>mother</sup> ancestor  
& children Bendonwan
  - 7 Has five children
  - 8 Mrs. Isaac Beaudry - Gogama
- 8 names

Witness J. P. M. Lee

(Isaac Beaudry's children's names are  
1 Boy Jos. Patrick  
1 girl. Mary Catherine } 4 names to be added to  
1 Boy Francis } the above list  
making altogether 12 names

Witness J. P. M. Lee

Wekwemeping and Mamekukun  
Post Claimants

4. 1 ~~Thomas~~ Odyj. Nakchewon.  
2 Daptus Odyj.  
3 Stanley Odyj.  
4 Winifred Odyj.  
5 Donald Odyj.

4 Basil Mishikinijima absaganishum

7 Isaac Roy Makon

8 Joseph Bwanishing Gwabaigan

9 J. J. Orowalins Gwabaigan

9 names

5 " included from reverse side

14 names J. D. M. and Witness

- 1 Elie <sup>Nis</sup> <sub>x</sub> Bondi
- 2 + children <sub>in ash</sub>
- 3 William Ho
- 4 Angus Ho
- 5 Henry Ho

Ancest

Eskena

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

Wekwewepung tal - Manetwelen.  
Poet. claimants -

(10)

- 1 Mr. George Blaise King Ancestors  
Chigawo.
- 2 Mrs John B. Zelter Waboose
- 3 Ralph Ganawbe
- 4 Chaulotte -
- 5 Mary Louise - (Nakwewijigo - Waboose)  
Wakwewijigo
- 6 Ignatius Ganawbe "
- 7 Claire "
- 8 Willred "
- 9 Juan Nakwewijigo
- 10 Lena Menitowok - asagunashkung
- 11 Mary Menitowok (Waboose)
- 12 Vincent Menitowok "
- 13 Grace Menitowok "
- 14 Mrs Sophie J. Waboose
- 15 Thaisa " "
- 16 Bessie " "
- 17 Mrs Adlin A. Cooper Nadjiwan
- 18 Marcella "
- 19 Sakara "
- 20 Violet "
- 21 Alfred "
- 22 Patrick Nadjiwan Nakchuwon
- 23 Ernestine
- 23 names Witness J.D.M. Ford

Witawemikong tal -  
 Pott. claimants

(11)

Witness	Address	Ancestors
J. D. McLeod	Jos. S. x Petawomkwat-aseganashkemy	"
	his mark his family	"
2 Mrs	do	"
3 Daniel	do	"
4 Raymond	do	"
5 Friedrich	do	"
6 Sarah	do	"
7 Johnny	do	"
8 Jennie	do	"
9 Melia	do	"
10 Beatrice	do.	"
11 Sam Beauchage	Menigwan.	"
12 Annie	"	"
13 Evelyn	"	"
14 Berdik	"	"
10 Mrs. Chelmon	his x Beaudry	Pendowaman
	his mark	or Pendowoman
14 Agnes	his x Beaudry	Pendowoman
17 Pauline	his mark x Beaudry	"

17 names Witness J D McLeod

- Wikevesnipung 501
- 1 Mr. Paul Wemigwans. Wemitiik
  - 2x Mrs Paul Wemigwans. Wabanisi Ancestors
  - 3- 21 Sam Manitowabi asaganashbung
  - 4- 22 Nancy " "
  - 5- 23 Dominic " "
  - 6 John Manitowabi asaganashbung
  - 7 Albert " "
  - 8 Margaret " "
  - 9 Alice " "
  - 10 Victor " "
  - 11 Minnie " "
  - 12 Adolphus Wemigwans " "
  - 13 Stephen Wemigwans " "
  - 14 John S Wemigwans " "
  - 15 Stephen S Wemigwans " "
  - 16 Mary S Wemigwans " "
  - 17 Is Lore Wemigwans " "

17 names Witness J. M. Leed

Taken over these names



1 hadjiwan ) Wikwemikong Ont. (17)  
 Ancestors Post-claimants

Witness ● John Fox Jr. Margarette Paul. Tom (Shamus)

2 George Pitawannahwat asaganashkung

3 Mary " "

4 Mabel " "

5 Louis His x Minakwal - " "

6 Thomas His mark x Minakwal - " "

7 John B. His mark Begone asaganashkung

8 Basil mark Do " "

J.D. MacLeod Wm. Do " "

9 Stephens Do " "

Family 10 Lillian Frank His x Mishemumashung b. Kevabiquin

11 Lillian mark Do " "

Witness 12 Raymond Do " "

J.D. MacLeod 13 Raphael Do " "

14 Patrick Nadjiwan hadjiwan

15 Ernestine " "

16 names

2 " included from first name on list)

● 17 Witness J.D. MacLeod

List.

Wekwamekong Ont. Manitoulin  
Post. claimants

13

Ancestor

- 1 Edward Pitwanawat. Ashaganashkung
- 2 Dominis Pitwanawat } Kung
- 3 Mary Levena Pitwanawat. "
- 4 Philomen McKenzie "
- 5- Mrs. McKenzie "
- 6 Mrs. Mary M. G. Wassijig Agwabigun  
Witness Mark
- 7 Dan. X. Neshekwe Ashaganashkung  
Witness Mark
- 8 Steven Nashkawa or asaganashkung
- 9 Willie Nashkawa "
- 10 Norman " "
- 11 Wesley " "
- 12 Dora " "
- 13 John B. Guabaigan or Kwebigun
- 14 Annie Do " Do
- 15 Louis August Quakobegun (Same)
- 16 Matthew Pitwanawat Ashaganashkung
- 17 Francis Roy } Makout  
o. Kitchikwe

17 names  
Witness of D. M. Ford

Turn over 1 name included

Witness Jos. Atchitawensen <sup>this</sup> - Makade Shigun, <sup>Chilton</sup>  
mark

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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ARCHIVES PUBLIQUES  
CANADA**

Wekwamekong Ind. Manitowabi  
Post-claimants

- 1 Mrs. Mary Ann <sup>Her P</sup> <sup>mark</sup> Hawanik <sup>Arcesteri</sup>  
& children <sup>Wabinoos</sup>
- 2 Maggie Sam, Ambrose Ammitt  
not included on the List -
- Louis <sup>His</sup> <sup>mark</sup> Minakwal - Minakwal -
- Thomas <sup>His</sup> <sup>mark</sup> Minakwal - "
- 1 Mr. Sam <sup>His</sup> <sup>mark</sup> Manitowabi <sup>Asaganashkong</sup>
- 2 Mrs. Elizabeth <sup>Her</sup> <sup>mark</sup> Manitowabi <sup>Keewee</sup>  
& Her children Nancy & Dominic
- Mrs Stephen <sup>His</sup> <sup>mark</sup> Ahsinabi <sup>Wahbosoh</sup>
- Louis <sup>His</sup> <sup>mark</sup> Oshketoose "
- Francis Ahsinabi "

11 names Witnesses J.D.M. Ford

Total number of names as Post  
Claimants 250

Wikwemikong Ont -

Ancestors

- 1 Sam. <sup>his</sup> Manulowabi <sup>mark</sup> and his children asaganashkung  
 2 Nancy ..  
 3 Dominic <sup>his</sup> ..  
 4 Mrs. Elizabeth <sup>mark</sup> Sam. Manulowabi Akweewe ..

Witness J. D. McLeod

- 5 Adam Roy Kitchi-Akwe  
 6 Phuloman Roy daughter of  
 7 Jeremiah Roy Giam-Hodimkwe  
 8 Mary Roy Kitchi-Akwe  
 9 Violet ..  
 Fred ..  
 Clara ..  
 Francis ..  
 9 Edward Roy

9 names

Witness J. D. McLeod

Henette x Jacko. - - - - <sup>Kitwewidam</sup> - Wabwanissi

Mrs Madaline x J. Medweciash-Assahkanishcom

William Wernigwan " "

Agatha med wash Wabwanissi

Joe med four medwash Wabwanissi

Joseph Moses Medawash Wabwanissi

Philip King Ichigano

Charlie King " "

Raymond King " "

Flora Beatrice King " "

Miss Olive a Trudeau - - - - - Newahgon

Isore a Trudeau " "

Alphonse a Trudeau " "

Mrs Liza x Wasakonegijig - - Wabwanissi

Ben x Lavallie - - Wabwanissi

Witness Daniel Wernigwan

15 names

Total number of names on  
South Bay list - 32

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

**PUBLIC ARCHIVES**  
**ARCHIVES PUBLIQUES**  
**CANADA**

Pottawa Tamié claimants  
of South Bay.

Edmond Takawaghuwan - *Maguon*  
Mrs. Edmond Takawaghuwan (Assaganishcom)

Mrs Mary Washkongijik Assaganishcom

Basil Wemigwanas ..

Stella Paul — Ogima Wabissi

Francis Paul — ..

Francis S Pheasant. Wabanissi

Mary S Pheasant ..

17 names

Edward Kitchikeg Neawago

Nora Kitchikeg Neawago

Delia Kitchikeg ..

Georgina Kitchikeg ..

Rita Kitchikeg ..

Leonard Kitchikeg ..

Lilian Kitchikeg ..

Mrs Annie Kitchikeg Assaganishcom

Mrs. Liza S. Naganigwane Wabanissi

Witness Daniel Wemigwanas



meeting held  
moved by John Hawk  
seconded by Matthew King  
resolution

MIDLAND Ont.  
Sept 15/32

WHEREAS the Pottawattamie Indians, residing on Christian Island and other parts of Ontario, have on numerous occasions made representations to the Federal Government at Ottawa respecting the Pottawattamie Indian Claim of Wisconsin, U.S.A.

AND WHEREAS for over a quarter of a century one A. G. Chisholm of London, Ontario, has conducted negotiations without success

AND WHEREAS most of the old Indians who were parties to the contract entered into with the said A. G. Chisholm are now deceased

AND WHEREAS a large percentage of the Pottawattamie Claimants are not treaty Indians but taxpayers and vote at Provincial and Federal elections, and are not living on any Indian Reserve

AND WHEREAS the said Pottawattamie Claimants desire to conduct negotiations direct with a view of an early settlement of the claim

BE IT RESOLVED that this meeting representing 75 per cent of the Pottawattamie Claimants, respectfully request the Federal Government to withdraw from the prosecution of the claim and allow the Indians to themselves carry on negotiations either direct or through some channel which they will select.

IT BEING FURTHER RESOLVED AND AGREED that if and when required the Claimants will welcome the co-operation of the Federal Government and appreciate the Government's desire to safe-guard the interests of the Treaty Indians.

Signed

Will Jobey  
Chairman of Meeting.

Certified Correct  
A. B. Shaw  
W.P. East Sincere

Henry Jackson  
Secretary of Meeting.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

156610-4

Minister's Office

MEMORANDUM

C.



B

Nov. 4th, 1932.

*file*

Dr. McGill.

Attached you will find some papers, which might be placed on your Departmental files, dealing with the claims of the Pottawatomie Indians. They were either left with the Minister by Mr. A.B. Thompson, M.P. for East Simcoe, or forwarded by Mr. Henry Jackson.

Encls.

Private Secretary.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

COPY

CANADIAN LEGATION AT WASHINGTON

October 25th, 1932.

No. 202.

Sir:

I have the honour to refer to the Department of State's note of June 8th, 1932 and previous correspondence concerning the claim of the Pettawatonic Indians residing in Canada. His Majesty's Government in Canada recognize the careful consideration which has been given to this matter. While they appreciate the contentions put forward in the Department of State's latest note, they are not satisfied that these afford a complete answer to the claim as presented in the previous correspondence.

It is believed that you will agree that it would be unprofitable to continue discussion of the merits of this claim by correspondence. The nature of the reply, in which the position of the Government of the United States is clearly set forth, appears to strengthen the view that this is a claim the merits of which should not be determined by either of the interested Governments, but only by a judicial tribunal. The Government of Canada understand the reasons for the Department's reluctance to have the case referred to the Court of Claims for adjudication, and pending the exploration of the possibility of settlement by other means, will not further press for the submission of the claim to that Court.

The Hon. Henry L. Stimson,  
Secretary of State of the United States,  
Washington, D.C.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

I am desired to inform you that in these circumstances His Majesty's Government in Canada consider that the only practical course to be followed is to leave the claim as one listed for inclusion in the proposed second schedule of claims to be heard by the Pecuniary Claims Commission established by the Convention of August 18th, 1910, on the next occasion on which this tribunal may be reconvened.

I have the honour to be,  
with the highest consideration,  
Sir,

Your most obedient,  
humble servant,

(Sgd.) W. D. HERRIDGE.

#156610-4

20th December, 1932.

Dear Sir,

Re Pottawatomies.

Sometime ago a meeting was held in the Minister's Office with respect to this claim. There were present at this meeting the Honourable W.D.Herridge, Dr. O.D.Skelton and Mr. John E.Read of External Affairs, and Mr. Stuart Edwards, Deputy Minister of Justice, and Mr. A.S.Williams of this Department, besides the Superintendent General.

Various requests had been made by Indians suggesting that the Department abandon the prosecution of the claim and allow the Indians to engage counsel on their own behalf in an endeavour to get this claim before the Court of Claims of the United States. At this meeting the question was considered as to what course should be pursued in connection with the matter. From the information given at this meeting it was concluded that there was no prospect of getting this claim before the Court of Claims of the United States either by the Department or by the Indians on their own behalf, and further that the Department would not be justified in abandoning the claim and leaving it to the Indians to prosecute. It was felt that there was a reasonable prospect of having this claim heard by the Pecuniary Claims Tribunal on the next occasion on which this Tribunal may be reconvened.

*A.S.W.*  
I am enclosing a copy of a letter from the Honourable W.D.Herridge to the Honourable Henry L.Stimson following the

A.G.Chisholm, Esq., K.C.,  
Bank of Nova Scotia Chambers,  
London, Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

meeting held in the Minister's office. This letter of course is to be treated as confidential.

I may say that in view of the situation it is the Minister's direction that you incur no further costs in connection with this claim for the time being. I have to suggest that you have your account to date forwarded in triplicate for taxation and payment.

Yours truly,

*Howe*

Deputy Superintendent General.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

156610-4

BANK OF NOVA SCOTIA CHAMBERS  
RICHMOND STREET

A. G. CHISHOLM, K. C.  
Barrister, &c.

London, Canada, December 30, 1932.

R

Harold W. McGill, Esq.,  
Deputy Superintendent General Indian Affairs,  
Ottawa, Ont.



Dear Sir:-

re Pottawatomies.

I have your letter of the 20th instant in the above matter enclosing copy of letter of October 25, 1932, addressed by the Canadian Minister at Washington to the American Secretary of State on this subject.

The Agreement of August 8, 1918, formed the basis of the arrangement between your Department and myself for the prosecution of this claim and you may excuse me for expressing surprise at your intimation of the very important step taken when Mr. Herridge addressed his letter on the subject to the American authorities, without my being consulted in any way as to how I might view this very important decision.

On several occasions the British Ambassador at Washington, and after the establishment of the Canadian Legation there ~~XXXXXX~~ I understand, it also, informed the State Department of the United States I was the only recognized legal agent and solicitor for claimants and, I have since received assurances from your Department there had been no change in its view as to my status in the case. In view however of what now appears to be the position and the fact I was not consulted in any way or asked to attend the meeting your letter refers to, I would be grateful for an explicit statement from you now, as to what status exactly, the Department does accord me under the circumstances.

I note that Mr. Herridge's letter refers to "the Department of State's latest note", "the nature of the reply in which the position of the Government of the United States is clearly set forth" &c., &c., and I would ask to be ~~furnished~~ furnished with a copy of this reply. I think I have copies of the most of the very confidential despatches between the two Governments on this subject and these have always been treated by me as confidential, so I expect there is no reason why copy of this should not be sent me. I will on its receipt and after receiving your views on the above, address you further on the subject.

Faithfully yours,

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

Ottawa, January 4th, 1933.

Dear Mr. Edwards:-

I am enclosing a copy of my letter to Mr. Chishelm with respect to the Pettawatic matter dated the 20th ultime and also a copy of Mr. Chishelm's reply dated the 30th ultime in which he asks for an explicit statement as to his status and also for a copy of the reply from the United States Government referred to in Mr. Herriage's letter.

It occurred to me that possibly you would undertake to reply to Mr. Chishelm or that you would be good enough to advise me as to what reply should properly be given. I shall be glad to hear from you in this matter.

Encs.

Yours very truly,

*Stewart*

Deputy Superintendent General.

W. Stuart Edwards, Esq., K.C.,  
Deputy Minister,  
Department of Justice,  
O t t a w a.



WSE/ELJ.

156610-4  
OTTAWA, February 13, 1933.



A. 864-3.

*Mr. W. McGill*  
Dear Dr. McGill,

I regret that a reply to your letter of the 4th ultimo re Pottawatomies has been delayed.

With regard to the first paragraph of your letter, I suggest that you communicate with the Department of External Affairs, and with regard to the second paragraph, I think it is a matter for your Department to determine whether any change should be made in Mr. Chisholm's status. As I understand it, his status as counsel has not yet been disturbed, but in view of the decision to allow the case to stand until an opportunity arises to get it before the Pecuniary Claims Tribunal, there is really nothing for Mr. Chisholm to do in the meantime.

Yours very truly,

*W. Stewart Edwards*

D. M. J.

Major Harold W. McGill, M.D.,  
Deputy Superintendent General  
of Indian Affairs,  
O t t a w a.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

27th February, 1933.

Dear Sir,

Re Pottawatomie Claim.

From time to time we are receiving correspondence from Mr. A.G. Chisholm, K.C., of London, Ontario, with whom the Department entered into an agreement some years ago with respect to the prosecution of this claim. In December last we wrote Mr. Chisholm with reference to the decision that had been arrived at with respect to the prosecution of this claim following the meeting which had been held in the office of the Superintendent General. At the same time at the request of Mr. Chisholm we forwarded to him a copy of the Honourable Mr. Herridge's letter to the Honourable Henry L. Stimson, Washington, dated the 25th day of October, 1932, which communication we asked Mr. Chisholm to treat as confidential. Mr. Chisholm in a recent communication states that Mr. Herridge's letter refers to "the Department of State's latest note", "the nature of the reply in which the position of the Government of the United States is clearly set forth", and asked that he be furnished with a copy of this reply. Mr. Chisholm states that he has copies of most of the despatches between the two Governments on this subject.

*asw.*  
I should be glad to have your views as to whether there appears to be any objection to Mr. Chisholm having the copy of the reply to which he refers and if not I should be glad to be furnished with a copy to be forwarded to Mr. Chisholm,

Yours truly,

*Success*

O.D. Skelton, Esq., M.A., Ph.D.,  
Under-Secretary of State Deputy Superintendent General.  
for External Affairs,  
Ottawa.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

*Summit*

CANADIAN LEGATION

WASHINGTON

June 9th, 1932.

No. 688.

Sir:

With reference to Mr. Wrong's despatch No. 622 of May 17th, 1932, concerning the claim of the Pottawatomie Indians, I have the honour to transmit herewith a copy of a note dated June 8th which I have received from the Department of State.

2. This note is the statement which Mr. Hackworth offered to prepare at the suggestion of Mr. Wrong, setting forth the legal objections of the Government of the United States to the validity of the claim. It ends any possibility that the Department of State will support the adjudication of the case by the Court of Claims.

I have the honour to be,  
with the highest respect,  
Sir,  
Your most obedient,  
humble servant,

"W. D. Herridge"

The Right Honourable,  
Secretary of State for External Affairs,  
Ottawa, Canada.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

June 8 1932.

Sir:

I have the honor to refer to previous correspondence regarding the claim of the descendants of the Pottawatomic Indians of Wisconsin residing in Canada, particularly to the British Embassy's note of October 8, 1924, and the extensive memoranda filed in support of the claim. These documents and the oral representations made by the representatives of your Government on behalf of the claimants have served to enable the Department to perceive the exact character of the claim.

The essential facts do not seem to be controverted. The unidentified fugitive ancestors in whom the claim is alleged to have arisen were admittedly American nationals. Their unproved descendants are admittedly British subjects. The salient facts in chronological order are as follows: The Act of May 28, 1830, authorized the President to exchange Indian lands east of the Mississippi River for new lands west of that River. (4 Stat. 411) The citizens of Illinois petitioned on July 10, 1832, requesting the removal of the Pottawatomic Indians to the west. In the Treaty of Chicago

The Honorable William Duncan Herridge,

K.C., D.S.O., M.C.,

Minister of the Dominion of Canada.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

concluded on September 26, 1833, the Pottawatomies ceded their lands east of the Mississippi River for an equivalent acreage west of that River; and the Government agreed to pay the expenses of their removal and subsistence for one year after their removal. Article IV of the Treaty reads as follows:

"A just proportion of the annuity money, secured as well by former treaties as the present, shall be paid west of the Mississippi to such portion of the nation as shall have removed thither during the ensuing three years. - After which time the whole amount of the annuity shall be paid at their location west of the Mississippi." (7 Stat. 431);

The Treaty of Chicago contained a separate article permitting a part of the band then residing in Michigan to remove to the northern part of Michigan and to receive a just proportion of the annuities payable under former treaties and arising from the sale of the reservation (7 Stat. 443). In the Treaty of Council Bluffs concluded on January 5, 1846, the Pottawatomies ceded to the United States all lands previously granted to them by the Treaty of Chicago for the sum of \$750,000 subject to certain deductions for the new lands in Kansas granted to them and for the expense of their removal. Article VI of this Treaty reads as follows:

"The said tribes of Indians agree to remove to their new homes, on the Kansas River, within two years from the ratification of this treaty; and further agree to set apart the sum of twenty thousand dollars to the upper bands, (being ten dollars per head,) and ten thousand dollars to the lower bands, (being five dollars per head,) to pay the actual expenses of removing; and the sum of forty thousand dollars for all the bands, as subsistence money, for the first twelve months after their arrival at their new homes; to be paid to them so soon as their arrival at their new homes is made known to the government, and convenient arrangements can be made to pay the same between the parties to this treaty; the aforesaid sums to be also deducted from the aggregate sum granted by the United States to said tribes of Indians by the 3rd article of this treaty." (9 Stat. 854).

The Kansas River Treaty of November 15, 1861, provided that a census of the tribe be taken and the land surveyed for division among them. (12 Stat. 1191)  
The Act of June 25, 1864, authorized the Secretary of the Interior to take charge of certain "stray bands of Winnebago and Pottawatomic Indians, now in the State of Wisconsin", in order to prevent further depredations and to induce them to return to their tribe. The Act provided further that the annuities to which the stray bands would be entitled if they were settled upon their reservation with their tribe should be retained in the Treasury to

their credit and paid to them when they should unite with their tribe or used by the Secretary in defraying the expenses of their removal or of subsisting them on any other reservation which might be provided for them. (13 Stat. 172). The Treaty of February 27, 1867, provided for the sale of the reservation in Kansas and the removal of the tribe to new lands and also stipulated for an enrollment of the tribe showing the names of those who removed to the new lands and those who remained to become citizens. The Act of April 10, 1867, appropriated the sum of \$233,699.73 of the tribal funds for those who had become citizens. (16 Stat. 559) The Act of July 15, 1870, appropriated funds for the transportation of 700 Pottawatomies and Chippewas to the new reservation in Kansas (16 Stat. 359). The Act of March 3, 1871, appropriated \$132,352.65 of the tribal funds for two hundred and fifty members of the tribe who had become citizens. (16 Stat. 559) The Act of March 19, 1890, authorized the Court of Claims to determine the rights of the Michigan band of Pottawatomies to their proportionate share of the tribal funds under the separate article of the Treaty of Chicago. The Court held that the supplementary article of the Treaty was valid and that the Michigan band was not required to remove as a condition precedent to participation in the tribal funds. (27 C.C. 403) The Act of June 21, 1906, directed "an investigation to be made of the claims of the Pottawatomic Indians of Wisconsin, as set forth in their memorial to Congress, printed in Senate Document number one hundred and eighty-five, Fifty-seventh Congress,

second session", and "an enrollment to be made of said Pottawatomic Indians". (34 Stat. 380) The memorial to the Congress was made on behalf of the "said United Nation of Chippewas, Ottawas and Pottawatomes remaining in the State of Wisconsin" who did not share in the payments made to the other members of the tribe, notwithstanding the fact that their whereabouts was well known to the Department having charge of Indian affairs.

The Act of March 1, 1907, authorized the Secretary of the Treasury to place to the credit of the Pottawatomic tribe in Kansas \$230,064.20, the unappropriated balance due the tribe under the Treaty of 1846, and authorized the Secretary of the Interior to make a per capita allotment to the members of the tribe in Kansas. The Acts of June 9, 1913, (38 Stat. 102) May 18, 1916 (39 Stat. 156), March 2, 1917 (39 Stat. 991), and May 25, 1918 (40 Stat. 589), made appropriations for the support and civilization of the Wisconsin band of Pottawatomic Indians residing in the State of Wisconsin.

It is clear from the above that the Government of the United States has fully discharged its obligations under the various treaties with the Pottawatomic tribe and the laws relating thereto and that the tribal funds have been distributed among the members of the tribe entitled to receive them.

It is contended on behalf of your Government that the descendants of the Pottawatomic Indians of Wisconsin residing in Canada are entitled to their proportionate share of the tribal funds as calculated



in the report of the Secretary of the Interior of April 1, 1908, made in response to the Act approved June 21, 1906 (House Documents 830, 60th Congress, First Session), chiefly on the ground that their voluntary removal northward to Canada constituted a fulfilment of the Treaty obligation to remove westward with the tribe and on the further ground that the payment made to the stray bands residing in Wisconsin and Michigan constituted an admission of liability on the part of the Government of the United States.

It is stated in the Note of October 8, 1924, that "the Dominion Government are unable to distinguish in principle the rights of the Pettawatomie Indians and their descendants who resided in Canada from those of the Oneida Indians and their descendants who also resided in Canada at the time claim was made, and feel that they are at least entitled to be afforded upon legal and benevolent grounds the like legislative and judicial remedies."

The question presented, therefore, is whether there rests upon the United States any just or equitable obligation to do more than it has done in the premises and to pay the alleged descendants of the Pettawatomie Indians of Wisconsin residing in Canada out of the Treasury of the United States a sum equivalent to the proportionate amount the ancestors of those descendants would have received had they removed west to the new reservation and participated in the subsequent allotments of the tribal funds. Prompted by a desire to respect the rights of American Indians in tribal properties I have approached the question presented with careful effort to determine whether any obligation imposed by any laws of the United States or by any

recognized principles of law or equity has been left unfulfilled by this Government.

The claim of the Pottawatomie Indians residing in Wisconsin was based upon the Act of June 25, 1864, which authorized the Secretary of the Interior to take charge of certain stray bands of Pottawatomies "now in the State of Wisconsin" and to retain in the Treasury to their credit the amount of the annuities to which they would be entitled were they settled upon their reservation with the tribe, to be used to defray the expenses of their removal and subsistence upon another reservation. The money directed to be retained by the Treasury pursuant to the Act of June 25, 1864, was not retained as directed, and the Indians were not removed from the State of Wisconsin. The Federal Government therefore omitted to discharge its declared duty. The Acts of June 9, 1913, May 18, 1916, and March 2, 1917, were passed in order that the Federal Government might discharge its obligation to the State of Wisconsin for its failure to remove the Indians from that State. The above Acts of Congress, it will be observed, related to the stray band of Pottawatomies residing in the State of Wisconsin. The Acts of Congress obviously could not relate to Pottawatomies in Canada for the reason that the Federal Government did not have the right to remove them to a reservation in the United States. It was for the purpose of escaping the reservation policy of the United States that the fugitive ancestors sought immunity in Canada.

In the case of the New York Indians it appears that 1,824,000 acres situated west of the Mississippi were granted to the tribe for their lands in New York;

that only 32 members of the tribe remained on the lands west of the Mississippi; that 320 acres were allotted to each of them; that the Government sold the remaining 1,813,500 acres and retained the proceeds. The Court held that while the Treaty of Buffalo Creek contained a stipulation for forfeiture, no forfeiture proceedings had been brought by the Government and that title to the lands was vested in the Indians. The Court also held that there was no evidence of an abandonment of the new lands, that the government had recognized the rights of the Indians to the land, that the Indians were diligent in the prosecution of their claims, and that a judgment for the net amount actually received by the Government for the lands, less deductions should be entered for the Indians. (170 U. S. 1.) All of these considerations are lacking in the claim of the Canadian Pottawatomies.

In the case of the Pottawatomic Indians the tribe removed to the new lands, with the exception of a few stray bands, and the members of the tribe subsequently received the proportionate allotment of the tribal properties. None of the tribal properties or the proceeds derived from their sale was retained by the Government. The cases are therefore not opposite. a ?

Your Government's contentions would impose upon the United States as a trustee of the tribal funds of the Pottawatomic tribe the duty to look behind the tribe and deal with unproved descendants of fugitive members of the various tribes dispersed throughout North America. The fugitive members of the tribe and their recognized descendants were free to return to the tribe and to obtain the benefits available from the tribal funds

during the existence of such funds, payable at the tribal reservation. It seems clear that, in leaving the United States and going to Canada, the Indians were prompted by the desire to abandon the United States and to evade its jurisdiction as well as that tribal obligation which alone constituted the consideration for the payments to be made by this Government. The failure of the fugitive members or their descendants to return to their tribes constituted a voluntary abandonment of their inchoate tribal property rights. The property rights thus abandoned by the fugitive members of any tribe merely enhanced pro tanto the inchoate property rights of the remaining members of the tribe. The Government of the United States was not enriched by such individual abandonment. The United States as guardian of its Indians, deals with the tribe and not with individuals (*Blackfeather v. U. S.* 190 U.S. 368), (*Sac and Fox Indians* 230 U.S. 481).

In the circumstances, I am satisfied that no principle of law or equity imposes upon the Government of the United States an obligation to pay out of the Treasury of the United States to the alleged descendants of the fugitive members of the Pottawatomic tribe residing in Canada the proportionate share their American ancestors would have received had they removed west with the tribe and participated in the distribution of the tribal funds. As previously stated, the tribal funds have all been distributed to the members of the tribe who removed west and performed the conditions precedent, required to be performed by the pertinent treaty provisions and acts of Congress.

In the case of the Michigan band of Pottawatomies (27 Court of Claims 403) the Court held that the separate article to the Treaty of 1833 did not require the

Michigan Band to remove west to the new lands as a condition precedent to entitle them to their share of the tribal funds. The corollary from this decision is that in the absence of a special treaty stipulation removal to the new lands was a condition precedent.

I feel constrained, therefore, to state in conclusion that I am unable to perceive any grounds for holding that the alleged descendants of the fugitive Pettawatonic Indians of Wisconsin residing in Canada are entitled to any compensation from the Government of the United States. Nor can I perceive any good reason why the Congress should be requested to enact special legislation authorizing the reference of this matter to the Court of Claims for adjudication. The fact that the claim is alleged to have arisen in 1833, added to the fact that neither the Indians nor the British Government brought the claim to the attention of the Department during the existence of the tribal funds which continued until 1907, would seem to indicate that neither the Indians nor the British Government considered that the facts afforded foundation for a valid claim.

Accept, Sir, the renewed assurances of my highest consideration.

For the Secretary of State:

"W. R. Castle, jr."



OTTAWA, March 2, 1933.

Dear Sir,

With reference to your letter, dated the 27th February, 1933, concerning the Pottawatomie claim, 2 I am transmitting two copies of Mr. Herridge's despatch. I am sending one copy for your own files, and the other to be transmitted to Mr. Chisholm. Mr. Chisholm should be specially instructed that this is to be regarded as a confidential document, and that its contents should not be quoted or communicated to any other person, without the authority of this Department.

Yours sincerely,

*H. H. Walker*

Acting Under-Secretary of State  
for External Affairs.

Harold W. McGill, Esq., M.D.,  
Deputy Superintendent General of Indian Affairs,  
OTTAWA, Canada.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

6th March, 1933.

Dear Sir,

Re: Pottawatomie Claim.

I beg to refer to your letter of the 30th December last in which you made a request for a copy of the note from the United States Government to the Honourable W.B. Herridge, Minister of the Dominion of Canada, and for a statement as to what status the Department accords to you under the circumstances as set forth in my letter of the 20th December.

enc. In reply I beg to enclose a copy of the document from the office of the Under-Secretary of State for External Affairs and also a copy of the letter accompanying the same from the Acting Under-Secretary of State.

With respect to your status in the case I have to say that while the Minister has directed that you incur no further costs in the case for the time being your status as counsel has not been disturbed.

Yours truly,

*A.G. Chisholm*  
Deputy Superintendent General.

*A.G.*  
A.G. Chisholm, Esq., K.C.,  
Bank of Nova Scotia Chambers,  
London, Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

156610-4

**Minister's Office**

A

**MEMORANDUM**

March 2, 1933

*W. M. McGill*  
*W. M. McGill*

DR. MCGILL



*RS*

I am sending you, herewith, a file of correspondence from Sir William Mulock, Chief Justice of the Supreme Court of Ontario, with regard to the Pottawatonic Claim.

The Minister requests you to return the same together with a suitable reply for his signature.

*[Handwritten Signature]*

Private Secretary.

Encls. (3)

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

**PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA**



Ottawa, 6th March, 1933.

Dear Sir William Mulock,

I have to acknowledge the receipt of your letter of the 25th ultimo, enclosing a letter from John King, Jr., of Christian Island, and a statement with respect to what is known as the Pottawatomic Claim.

In reply I say briefly that this is a claim arising out of several treaties made between the Indians and the United States Government including in particular one made on the 26th September, 1823, under which the Pottawatomic Nation sold its lands to the Government and agreed to remove to a tract of land west of the Mississippi River. About 2000 removed to the State of Kansas and about an equal number went to northern Michigan and Wisconsin and to Canada. *Start 2nd Par*

*asw.*  
In 1906 it appears that the Secretary of the Interior at Washington caused an investigation to be made of the claims of the Wisconsin band of Pottawatomies and submitted to Congress a census roll of the members of this band residing in the United States and those residing in the Dominion of Canada. Following this Mr. A.G. Chisholm, K.C., of London, Ontario, interested himself in this claim on behalf of the Canadian Pottawatomies and secured powers of attorney from the greater number of these Indians with respect to the prosecution of their claim. Some years after this Mr. Chisholm invoked the assistance of the Department of Indian Affairs in the prosecution of this claim, and the Department entered into an agreement

The Right Honourable Sir William Mulock,  
Chief Justice of Ontario,  
Osgoode Hall,  
Toronto,  
Ont.

with Mr. Chisholm retaining his services and providing for the manner in which he was to be compensated.

The petition of the claimants was filed with His Majesty's Ambassador at Washington in October 1919 with a formal request that the claim as now put forward might be presented to the Government of the United States for determination under the Pecuniary Claims Agreement, or, if that course be not feasible, that the petition be referred to the Court of Claims of the United States or to some other appropriate tribunal for adjudication. (I may say) that on the appointment of the Honourable Vincent Massey as Minister to Washington he personally took up this claim with the United States Government, and these negotiations have been continued by the Honourable W.D.Herridge.

The claimants are naturally disappointed that no substantial progress appears to have been made and some of them have suggested that the Government abandon the claim and allow them to prosecute it on their own behalf. This suggestion, in conjunction with other phases of this claim, was recently considered by myself in conference with the Honourable W.D.Herridge, Dr. O.D.Skelton, Under-Secretary of State for External Affairs, Mr. John E.Read, Legal Adviser of External Affairs, Mr. W.Stuart Edwards, K.C., Deputy Minister of Justice, and Mr. A.S.Williams, Departmental Solicitor of Indian Affairs. The consensus of opinion was that there was little or no prospect of this claim being referred by the United States Government to its Court of Claims, and further that the Indians on their own behalf could not meet with any better success than the Government had done and that the Government would not be justified in abandoning the claim as requested by some of the Indians.

I am not prepared to express an opinion as to what merit there is to this claim but whatever it may be the claim is being prosecuted under the direction of the Minister to Washington, Under-Secretary of State for External Affairs and the Deputy Minister of Justice in conjunction with Mr. Chisholm, and I feel that everything that can be done is being done and we have so advised the claimants who have made enquiry from time to time.

Yours very truly,

*[Signature]*  
(Minister's signature)

156610-4

BANK OF NOVA SCOTIA CHAMBERS  
RICHMOND STREET

DEPT. OF INDIAN AFFAIRS  
MAR 18 1933

A. G. CHISHOLM, K. C.  
Barrister, &c.

London, Canada..... March 16, 1933.....

Harold W. McGill, Esq., M.D.,  
Deputy Superintendent General Indian Affairs,  
Ottawa, Ont.

Dear Sir:-

re Pottawatomie Claim.

I have yours of the 6th March enclosing me copy of note from the State Department of June 8th last in the above matter addressed to the Canadian Minister at Washington, copy of covering letter from him to the Secretary of State for External Affairs at Ottawa and, copy of communication dated 2nd March from the Acting Under-Secretary of State for External Affairs to yourself. I note that the latter stipulates Mr. Herridge's despatch is to be treated as confidential and this will be observed by me.

I note also the statement in your letter that my status as Counsel in this matter has not been disturbed and as such I venture to make some observations on the position in which the claim now rests on the statements in the notes from the State Department of June 8th and Honourable Mr. Herridge's reply of October 25th, 1932, of the latter of which you furnished me copy in yours of 20th December last. I hope my remarks will be considered as constructive and not merely critical. That is the whole purpose of this communication.

The note of the State Department of June 8, 1932, after denying for reasons alleged, that claimants are entitled to any compensation from the United States Government, declares,-

" Nor can I perceive any good reason why the Congress should be requested to enact special legislation authorizing the reference of this matter to the Court of Claims for adjudication".

The reply of the Canadian Minister ( October 25, 1932 ) states,-

" The Government of Canada understand the reasons for the Department's reluctance to have the case referred to the Court of Claims for adjudication, and pending the explora -

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

"tion of the possibility of settlement by other means, will not further press for the submission of the claim to that Court" - - - - - " In these circumstances His Majesty's Government in Canada consider that the only practical course to be followed is to leave the claim as one listed for inclusion in the proposed Second Schedule of claims to be heard by the Pecuniary Claims Commission established by the Convention of August 15, 1910, on the next occasion on which this tribunal may be re-convened".

It would seem unusual in such a matter for the Canadian Government to acquiesce in the Departmental decision indicated in the note of the United States without some undertaking by the U. S. Government or compensating advantage. I understand the door of the Exchequer Court of Canada is freely open to the claims of American citizens and no reciprocal treatment is claimed by Canada on behalf of her nationals, notwithstanding the tentative offer of the United States contained in the note of the Secretary of State addressed to the Charge d'affaires, British Embassy, in relation to this claim, on December 3, 1923.

It would seem to me as I am advised, that the proposal of the Canadian Minister that this claim be listed for inclusion in the proposed Second Schedule of claims to be heard by the Pecuniary Claims Commission established by the Convention of August 15, 1910, on the next occasion on which this tribunal may be re-convened, offers no practical means for the solution of the Pottawatomie claim. I would point out the Convention referred to, was not negotiated with Canada but with Great Britain and, some twenty-five years or more ago, this Pottawatomie claim was notified for listing on a second schedule of claims to be disposed of by the Tribunal. Owing to the attitude of Great Britain with respect to American claims against her, it would appear there is no present likelihood of a Second Schedule of claims for hearing being negotiated between Great Britain and the United States. Mr. C. C. Robinson, K.C., who had special instructions from the Canadian Government to see Sir Cecil Hurst ( British Agent ) on the subject, reported to the Deputy Minister of Justice on October 21, 1929, as follows,-

" He ( Sir Cecil Hurst ) tells me that there is no present prospect of the British Government taking any steps to negotiate a Second Schedule. The present position of deadlock suits them, and they do not intend to do anything to disturb it. We therefore cannot look for any help from them in negotiating a second schedule. This being so, Hurst suggests that, if we want to have the outstanding Canadian claims arbitrated, we should try to arrange, independently of the British Government, for a second schedule to include only claims by and against Canada. I said that I did not see how the language of the Convention admitted of such separate action by Canada, if the United States raised the question. He agreed that it did not, but he thought that there had been so great a change in Canada's status since the signature of the Convention that a request of the Canadian Minister for a separate Canadian schedule might

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

" succeed. At any rate, he had no other suggestion to offer. I do not know what you will think of this proposal. No doubt it would mean further protracted negotiation with the United States, and you will have in mind that the schedule, if arranged, would have to be confirmed by the Senate".

In view of these facts there would seem slight prospect of the suggestion of the Canadian Minister before referred to, ever being implemented.

I suggest therefore that unless the Canadian Government is to abandon the claim, which in my view nothing could be more unfortunate, some active steps should immediately be taken to negotiate with the United States, some means whereby this claim may be finally disposed of. It should not be allowed to become derelict. At the present time United States lawyers are importuning claimants who are in very humble life and straightened circumstances, for contracts to press the matter, and I could furnish the names of half a dozen of such who have communicated with me on the subject seeking collaboration, and who I have no doubt, are pressing their claims for recognition by the State Department, as legal representatives for claimants. Copies of all such correspondence have been furnished by me to the Department of Indian Affairs.

It would not seem within the scope of this communication that I make any comment on the reasons given by the State Department for denying the validity of this claim against the United States or, for refusing to open the door of the Court of Claims for its proper trial.

I would therefore respectfully suggest,-

1. The initiation by Canada of such steps looking to the settlement of this claim particularly, or more generally, of all purely ~~Canadian~~ Canadian and American claims, of the one country against the other, somewhat on the lines of the Convention of 1910. In this connection I would point out the beneficial and generally satisfactory results of the Treaty of January 11, 1909 ( Waterways &c. ) and February 24, 1925 ( Lake of the Woods &c. ).
2. Till some reciprocal arrangement for the disposal of, claims of nationals of either the United States or Canada against the other country, the United States be notified United States citizens are to be denied access to the Exchequer Court of Canada.
3. That as it has been represented to the Canadian Government efforts are being made by attorneys resident in the United States to secure recognition for themselves by the State Department as legal representatives of the Indians known as the Pottawatomes of Wisconsin resident in Canada, the Canadian Government wishes to state such attorneys are not recognized by it as having any such legal status.

I hope these views, very respectfully submitted, will receive

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

ceive your due consideration.

Faithfully yours,

*John L. ...*

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

#156610-4

3rd April, 1933.

Dear Sir,

Re Pottawatomie Claim.

enc. Sometime ago on the Minister's instructions we advised Mr. Chisholm to incur no further expense in connection with the Pottawatomie claim for the time being. Notwithstanding this Mr. Chisholm persists in corresponding with us in the matter, and I am enclosing a copy of his letter of the 16th ultimo for your information and consideration.

Yours truly,

*C.S.W.*

*W. W. W.*

Deputy Superintendent General.

The Deputy Minister of Justice,  
Ottawa.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

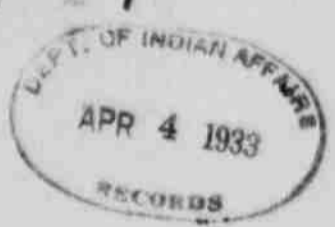
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ARCHIVES PUBLIQUES  
CANADA

*Mr. Chisholm*

156610-4



R



OTTAWA, April 4, 1933.

Dear Dr. McGill,

I have received your letter dated the 3rd April, 1933, concerning the Pottawatomie claim, in which you transmit a copy of Mr. Chisholm's letter of the 16th March.

It does not seem to be necessary to discuss the various observations contained in Mr. Chisholm's letter, but the specific suggestions contained in the last page require to be answered.

With regard to the first suggestion, it does not seem now to be an opportune time to negotiate a general claims convention with the United States.

With regard to the second suggestion, I might point out that the matter was considered by the former Government and rejected. I do not think that there is any probability of the present Government giving serious consideration to the reversal of a policy that has been followed throughout, I think, the entire history of this Country, and which is based essentially upon Magna Charta.

With regard to the third question, I take it that it is a matter in which your Department alone is concerned. If you desire that such representation should be made to the United States Government, steps will be taken to bring the matter to the attention of the proper authorities in Washington.

Yours sincerely,

*J. H. Walker*  
Acting Under-Secretary of State  
for External Affairs.

The Deputy Superintendent-General  
of Indian Affairs,  
OTTAWA, Canada.

*I feel sure that this has already been done A.S.W.*

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA



WSE/ELJ.

PLEASE ADDRESS  
THE DEPUTY MINISTER OF JUSTICE  
OTTAWA

OTTAWA April 5, 1933.

*W. Stewart Edwards*

A. 864-3.

Re: Pottawatomie Claim.

Dear Sir,

Referring to your letter of the 3rd instant, I suggest that you draw Mr. Chisholm's attention to the instructions given by the Minister and previously communicated to him, and inform him that in view of these instructions no remuneration can be allowed for writing the letter copy of which you enclosed, or for any other action which he may take in the matter.

Yours truly,

*W. Stewart Edwards*

Deputy Minister of Justice.

The Deputy Superintendent General,  
Department of Indian Affairs,  
O t t a w a.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

#156610-4A

EX'D.

6th April, 1933.

Dear Sir,

re Pottawatonic Claim.

I have your letter of the 16th ultimo in this matter which has been placed on file. You will of course keep in mind the direction of the Minister as to further costs as contained in letter to you of the 20th December last.

Yours truly,

*Almond*

Deputy Superintendent General.

*V.F.W.*  
A.G. Chisholm, Esq., K.C.,  
Bank of Nova Scotia Chambers,  
London, Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

156610-4

Minister's Office

MEMORANDUM

*[Handwritten signature]*

G.

DEPT. OF INDIAN AFFAIRS  
APR 11 1933  
RECORDS

April 10th, 1933.

Dr. McGill.

The Minister has instructed me to send you the accompanying letter from Mr. William Tobey, of P.O. Box No. 1205, Midland, Ontario, informing him that the non-treaty members of the Pottawatamie Band are instituting proceedings against the United States Government.

The Minister would like you to return this letter and let him have a memorandum on which he may base a reply.

Enc.

*[Handwritten signature]*

Private Secretary.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

#156610-4A

12th April, 1933.

Memorandum:

Mr. Buskard,

The Pottawatomic Indians who came into this country from Wisconsin and Michigan many years ago found their way to various reserves in Ontario where they were allowed by the Indians to remain. From time to time these Indians or their descendants were admitted to membership of the bands with which they resided. There are apparently some descendants who have not been admitted into membership and I presume that it is such persons that William Toby claims to represent. We have no record of just how many such persons there are. Mr. Toby appears to think that this class is not under the jurisdiction of the Department. The Indian Act, however, applies to all Indians in Canada. The interest of the Indians who Mr. Toby represents, in the Pottawatomic Claim, in no way differs from the interest of the other Pottawatomies in Canada. I do not see how the interests of the section Mr. Toby represents can be advanced by the action he proposes especially in view of the fact that the Pottawatomic Claim has already been taken up by the Canadian Government with the United States Government through its Minister at Washington. My suggestion would be that Mr. Toby's letter be merely acknowledged without any observations as to the status of the said Indians.

*Secures*

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

( C o p y )

Midland, Ontario,  
April 1st, 1933.

A. G. Chisholm, Esq.,  
Barrister,  
Canadian Bank of Commerce Chambers,  
Cor. Dundas & Richmond Sts.,  
London, Ontario.

Dear Sir:-

re Non-treaty portion of Pottawatomie Indian  
Land Claim.

Please be advised that you are no longer representing  
the non-treaty portion of the Pottawatomie Indian Land Claim  
against the United States Government.

This is definite and final.

Yours truly,

sd. William Tobey

Chairman Non-treaty Claimants.

Address,  
William Tobey,  
Box 1205,  
Midland, Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

**PUBLIC ARCHIVES**  
**ARCHIVES PUBLIQUES**  
**CANADA**

156610-4

BANK OF NOVA SCOTIA CHAMBERS  
RICHMOND STREET

A. G. CHISHOLM, K. C.  
Barrister, &c.

London, Canada April 10, 1933.

*Mr. McGill*

Harold W. McGill, Esq., M.D.,  
Deputy Superintendent General Indian Affairs,  
Ottawa, Ont.

BR

DEPT. OF INDIAN AFFAIRS  
APR 11 1933  
RECORDS

Dear Sir:-

re Pottawatomies.

I enclose you copy of letter received by me today in the above matter.

The Department is aware of the position of the case, that I have and am doing all any one can do to forward it and, as I believe, that it is quite useless under present circumstances for claimants to endeavour to secure assistance other than that extended to them under the auspices of your Department.

Nevertheless, however correct the above may be, it is extremely annoying for me to receive such communications and, I would ask the Department to protect me from such inflictions and disabuse the minds of these people in the most emphatic way, of the idea they can control my conduct or retainer in the elucidation of the claim. They should be made to understand this rests with your Department.

Till I hear from you I will not acknowledge Tobey's communication.

Faithfully yours,

*Arthur Lorne*

P.S. Yours of 6th instant in above is acknowledged.

Since the above was written I have noticed the words "definite and final" in Tobey's letter, which might imply there had been other communications between us on this subject. There have not been. This is the first I have heard of Tobey or his alleged Chairmanship.

*A.C.*

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

EX 10.

15th April, 1933.

Dear Sir,

re Pottawatomies.

I have to acknowledge the receipt of your letter of the 10th instant, enclosing a copy of a communication from Wm. Tobey, of Midland.

In reply I have to say that such communications are rather annoying but there does not appear to be any way of preventing them. You are as you state acting on instructions from the Department and not from Mr. Tobey or any of his associates. I may say that Mr. Tobey wrote the Minister the other day informing him that he and his associates were starting proceedings against the United States Government on their own behalf. Our suggestion to the Minister was that his letter be acknowledged without any observations. We do not think that anything can be accomplished by these people on their own behalf, especially in view of the fact that this claim has already been taken up by the Canadian Government with the United States Government.

Yours truly,

*H. W. H. H.*

*A.S.W.*  
A.G. Chisholm, Esq., K.C.,  
Bank of Nova Scotia Chambers,  
London, Ont.

Deputy Superintendent General.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

156610-4

BANK OF NOVA SCOTIA CHAMBERS  
RICHMOND STREET

APR 18 1933

A. G. CHISHOLM, K. C.  
Barrister, &c.

London, Canada April 17, 1933.

*Mr. McGill*

BR

Harold W. McGill, Esq., M.D.,

Deputy Superintendent General Indian Affairs,

Ottawa, Ont.

Dear Sir:-

re Pottawatomes.

I have yours of the 15th instant in reply to my letter of 10th instant in the above matter.

I agree with you that perhaps it might be difficult to prevent such letters as that from Tobey of which I enclosed you copy, being sent but, on the other hand Tobey and his associates should be prevented from doing harm by their unauthorized proceedings. It may be well contemplated that parties claiming to represent these people will now seek to make use of this correspondence, with the State Department, at Washington.

The situation would seem to emphasize the suggestion made in my letter of the 16th ultimo, that a communication be addressed to the State Department as to who is or is not the authorized legal agent in the matter of the above claim.

Faithfully yours,

*John Loom*

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA



C.A.W.

20th April, 1933.

Dear Mr. Walker,

re Pottawatomies.

I have to acknowledge the receipt of your letter of the 4th instant, in which you considered three suggestions contained in Mr. Chisholm's letter of the 16th March regarding the Pottawatomie claim. With respect to Mr. Chisholm's third suggestion you state that if it is desired by this Department that such representation be made to the United States Government steps will be taken to bring the matter to the attention of the proper authorities at Washington.

In reply I beg to say that Mr. Chisholm considers this suggestion of importance and I should be glad accordingly if you make such representations in that regard as may be deemed proper.

Yours truly,

*H. W. Walker*

Deputy Superintendent General.

W.H. Walker, Esq., C.M.G., I.S.O., B.A.,  
Acting Under-Secretary of State for  
External Affairs,  
Ottawa.

*W.H.W.*

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

No. 139

JRN/S

OTTAWA, April 25, 1933.

Sir,

I have the honour to refer to your note No. 202, dated the 25th October, 1932, addressed to the Secretary of State, concerning the claim of the Pottawatomic Indians.

The Department of Indian Affairs has received information that efforts are being made by attorneys resident in the United States to secure recognition for themselves by the State Department as legal representatives of the Indians known as the Pottawatomies of Wisconsin, now resident in Canada. The Department has requested that this should be brought to your attention, in order that you may communicate the information to the appropriate authorities in the United States and inform them that such attorneys are not recognized by the Canadian Government as being authorized to represent the Indians in this matter.

I have the honour to be,

Sir,

Your obedient servant,

O. D. SKELTON

Under - Secretary of State  
for External Affairs.

The Honourable W. D. Herridge,

Canadian Minister to the United States,

WASHINGTON, D.C.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

No.74.

April 27th,1933.

Sir:

I have the honour to refer to my note No.202 of October 25th,1932, in which I brought to Mr. Stimson's attention certain observations concerning the claim of the Pottawatomic Indians residing in Canada, and to previous correspondence on the same matter.

The competent authorities of His Majesty's Government in Canada have received information that efforts are being made by attorneys resident in the United States to secure recognition for themselves by the Department of State as representatives of the Pottawatomic Indians of Wisconsin residing in Canada. I am desired, in calling this matter to your attention, to inform you that these attorneys are not recognized by the Government of Canada as being authorized to represent the Indians in this matter.

I have the honour to be,  
with the highest consideration,

Sir,

Your most obedient,

humble servant,

H.H.WRONG.

The Hon. Cordell Hull,  
Secretary of State of the United States,  
Washington,D.C.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

*[Handwritten signature]*

156610-4



OTTAWA, April 25, 1933.

Dear Dr. McGill,

I have received your letter dated the 20th April, 1933, with regard to the claim of the Pottawatomie Indians. I am enclosing copy of a despatch which is being sent to the Canadian Minister at Washington, carrying out your request.

Yours sincerely,

*[Handwritten signature: O.S. Nelson]*

The Deputy Superintendent-General  
of Indian Affairs,  
OTTAWA, Canada.

Indian Affairs. (RG 10, Volume 2790, File 156,610, pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

May 8, 1933.

Sir:

Reference is made to your Legation's note of April 27, 1933, in which, regarding the Pottawatomie Indians of Wisconsin residing in Canada, it is stated that the competent authorities of His Majesty's Government in Canada have received information that efforts are being made by attorneys resident in the United States to obtain recognition by the Department of State as their representatives and that these attorneys are not recognized by the Government of Canada as being authorized to represent the Indians.

The Department of State is not aware of the alleged efforts referred to in your note under acknowledgment. A copy of your Legation's note has been sent to the appropriate authority of this Government in charge of Indian Affairs for its information.

Accept, Sir, the renewed assurances of my highest consideration.

For the Secretary of State:

William Phillips.

The Honorable

William Duncan Herridge, K.C., D.S.O., M.C.,

Minister of the Dominion of Canada.

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Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

No. 4

CANADIAN LEGATION

WASHINGTON.

May 9th, 1933.

Sir,

I have the honour to transmit to you, herewith,  
copies of the paper mentioned in the subjoined schedule.

I have the honour to be,  
with the highest respect,

Sir,

Your most obedient,

humble servant,

(Signed) H.H. Wrong.

for the Minister.

The Right Honourable,  
The Secretary of State  
for External Affairs,  
Ottawa.

---

Name and Date

Subject

Note No. 74 to Secretary of State,  
dated April 27th, 1933.

Concerning claim of  
United States Attorneys  
to represent  
Pottawatomie Indians.

Reply of Department of State,  
dated May 8th, 1933.

Reference: -

Your despatch No. 139,  
dated April 25th, 1933.

Referred to - The Superintendent General of Indian Affairs,  
Minister of Justice.

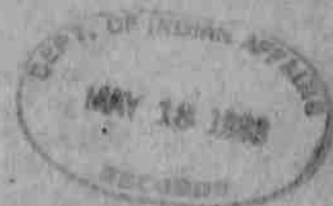
Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

PUBLIC ARCHIVES  
ARCHIVES PUBLIQUES  
CANADA

(COPY)

156610-4  
Midland, Ontario.  
May 12th. 1933.A.G. Chisholm, Esq., K.C.  
Bank of Nova Scotia Chambers,  
Richmond St.,  
London, Ontario.

R

Dear Sir: Re Pottawatmie Claim.

This will acknowledge receipt of yours of April 25th., relative to the above claim.

In order to clarify your mind with reference to the non-treaty portion of our claim, please be advised that the Canadian Indian Department, or yourself have any jurisdiction over said claimants, as we own our own lands, pay taxes, vote in both the Provincial and Federal Elections, therefore are able to voice our opinions as we see fit, or in other words we have just the same responsibilities as the white man on any matter. Hence the silence on the part of the Deputy General of Indian Affairs, as to any comments on his part. This statement has been proved by legal authorities.

I note you say our energies are misdirected. I can hardly see how you can take this stand, inasmuch as you ~~as you~~ have had this claim under consideration for almost a quarter of a century, without one iota of progression to date, and nothing on file in any department to show why we should continue on for ever with you.

Again I cannot see why you should have any anxiety whatsoever for us, as we have not heard from you in years, naturally thinking that you are not making one move to further our interests.

Anything is difficult when one has no faith in oneself and does not spend any energy whatever to go after what one is supposed to do.

You seem to me to have a peculiar superiority complex, in that, the mere thought of your collecting this claim has become an obsession with you. Surely after so many year's of having accomplished nothing, you must now be aware that your methods were entirely wrong, and if you have such a thing as a conscience, instead of crucifying the poor claimants any longer,

--2--

my suggestion is that you relinquish whatever hold you think you have on the treaty portion, and say " gentlemen, I have tried to the best of my ability, and lost. Good-bye, good luck and may God bless you."

As a spokesman for all the claimants, I would not comment, but when one has lost faith in another human being, nothing on this earth can bring that faith back to us, and the only method to pursue would be to change horses at the cross-roads and go down another road to success.

As I was duly elected Chairman of this entire claim at a representative meeting, held at Midland, Ont. Sept. 15th. 1932, I hereby warn you not to be meddling any more in any form, shape or manner, pertaining to the non-treaty portion of the Pottawatamie claim. This is final, and same was voted on at said meeting, for your elimination.

You will, I am sure, understand what I have said.

Awaiting a reply to this letter, from you,  
I am,

Yours truly,

(Signed) Wm. Tobey.

Chairman of Pottawatamie Claimants.

Wm. Tobey,  
Box 1205,  
Midland, Ontario.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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BANK OF NOVA SCOTIA CHAMBERS  
RICHMOND STREET

A. G. CHISHOLM, K. C.  
Barrister, &c.

*London, Canada*..... January 17, 1933.

Mr. M. J. Sandy,  
Christian Island, Ont.


Dear Sir:-

re Pottawatomies.

With further reference to your letter of 9th December, 1932, I have to state that I think it would be more satisfactory if you addressed an inquiry to the Deputy Superintendent General, Indian Affairs, at Ottawa, who is in full possession of the facts concerning the above matter and will doubtless fully advise you concerning these.

Communications that have been made me on the subject are stipulated as confidential and I am not permitted to disclose the same. I am sorry therefore to be unable to write you as fully as I would like.

Faithfully yours,



Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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156610-4

Ottawa, 6th March, 1933.

Dear Sir William Mulock,

I have to acknowledge the receipt of your letter of the 25th ultimo, enclosing a letter from John King, Jr., of Christian Island, and a statement with respect to what is known as the Pottawatomie Claim.

In reply I may say briefly that this is a claim arising out of several treaties made between the Indians and the United States Government including in particular one made on the 26th September, 1833, under which the Pottawatomie Nation sold its lands to the Government and agreed to remove to a tract of land west of the Mississippi River. About 2000 removed to the State of Kansas and about an equal number went to northern Michigan and Wisconsin and to Canada.

In 1906 it appears that the Secretary of the Interior at Washington caused an investigation to be made of the claims of the Wisconsin band of Pottawatomies and submitted to Congress a census roll of the members of this band residing in the United States and those residing in the Dominion of Canada. Following this Mr. A.G. Chisholm, K.C., of London, Ontario, interested himself in this claim on behalf of the Canadian Pottawatomies and secured powers of attorney from the greater number of these Indians with respect to the prosecution of their claim. Some years after this Mr. Chisholm invoked the assistance of the Department of Indian Affairs in the prosecution of this claim, and the Department entered into an agreement

The Right Honourable Sir William Mulock,  
Chief Justice of Ontario,  
Osgoode Hall,  
Toronto,  
Ont.

Indian Affairs. (RG 10, Volume 2790, File 156,610,  
pt. 5)

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with Mr. Chisholm retaining his services and providing for the manner in which he was to be compensated.

The petition of the claimants was filed with His Majesty's Ambassador at Washington in October 1919 with a formal request that the claim as now put forward might be presented to the Government of the United States for determination under the Pecuniary Claims Agreement, or, if that course be not feasible, that the petition be referred to the Court of Claims of the United States or to some other appropriate tribunal for adjudication. I may say that on the appointment of the Honourable Vincent Massey as Minister to Washington he personally took up this claim with the United States Government, and these negotiations have been continued by the Honourable W.D.Herridge.

The claimants are naturally disappointed that no substantial progress appears to have been made and some of them have suggested that the Government abandon the claim and allow them to prosecute it on their own behalf. This suggestion, in conjunction with other phases of this claim, was recently considered by myself in conference with the Honourable W.D.Herridge, Dr. G.D.Skelton, Under-Secretary of State for External Affairs, Mr. John E. Read, Legal Adviser of External Affairs, Mr. W. Stuart Edwards, K.C., Deputy Minister of Justice, and Mr. A.E. Williams, Departmental Solicitor of Indian Affairs. The consensus of opinion was that there was little or no prospect of this claim being referred by the United States Government to its Court of Claims, and further that the Indians on their own behalf could not meet with any better success than the Government had done and that the Government would not be justified in abandoning the claim as requested by some of the Indians.

I am not prepared to express an opinion as to what merit there is to this claim but whatever it may be the claim is being prosecuted under the direction of the Minister to Washington, Under-Secretary of State for External Affairs and the Deputy Minister of Justice in conjunction with Mr. Chisholm, and I feel that everything that can be done is being done and we have so advised the claimants who have made enquiry from time to time.

Yours very truly,