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Inching Towards Harmonization: Immigration Controls Along the Canada-United States Border, 1882-1910

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Abstract

After Congress banned most Chinese immigrants and certain classes of other immigrants in the 1880s and 1890s, immigrants who would have been turned away at American seaports began landing in Canada and crossing the land border. Immigrants proved adept at evading American immigration officials assigned to Canadian seaports and certain points along the border, leading the United States to monitor the entire international border by 1908. Between 1905 and 1910, Canada stationed immigration officers at both American seaports and along the border and passed immigration laws that were essentially identical to those in effect in the United States, making it more difficult to use one country as a "back door" to the other. Using Canadian archival sources, this paper shows that even before Frank Oliver overhauled Canada's immigration law and enforcement regime the Canadian government made several key concessions designed to mollify the Americans and protect Canada's transportation industry.

During the 1880s and 1890s, United States-bound immigrants who would have been excluded at American seaports landed in Canada, passed Canada's limited inspection, then entered the United States along the largely unmonitored international border. Congress failed to negotiate a treaty calling on Canada to intercept Chinese immigrants attempting to enter the United States as a prelude to an American-style exclusion policy. The Americans were more successful in their efforts to get Canada to allow the United States to inspect American-bound immigrants at Canadian seaports, but soon found that immigrants could easily bypass their inspectors by claiming to be bound for Canada. In 1903, Canada increased its Chinese head tax to $500 and the transportation company that carried most of the Chinese passenger traffic to Canada agreed to inspect immigrants before they left China, but both measures proved ineffective, leading the United States to close its land border to Chinese immigrants in 1910. Canada made limited but important concessions concerning non-Chinese immigrants, including passing legislation explicitly designed to help the United States deport non-quarantinable diseased immigrants, but as of 1903 Canada's list of excludable immigrants still did not match the American list from the 1880s, much less the expanded list included in the Immigration Act of 1903. American policymakers concluded that direct border enforcement was needed to supplement their inspections at Canada's seaports around the same time as Canada began to accept the need for a more selective immigration policy. By 1910, Canada and the United States used similar methods to enforce essentially identical immigration policies at their ports of entry, making it considerably more difficult to avoid one country's immigration inspectors by entering through the other.

From its colonial beginnings to the 1870s, the United States placed few restrictions on immigration. A perennial shortage of workers in the United States made the free movement of labour essential to American economic development, resulting in immigration laws aimed at increasing, rather than restricting, foreign immigration. After the Union-Pacific Railroad was completed in 1869, the demand for one group of labourers, the Chinese, declined drastically, leading to racial tension when 10,000 Chinese railroad workers joined the California labour force. The following year, a Massachusetts employer hired Chinese labourers as strikebreakers, leading the broader labour movement in the United States to abandon its pro-immigrant stance. The combination of economic competition, the belief that the Chinese were racially inferior and could never be assimilated, and the fear that a large Chinese “army” would overrun the United States if given the chance led to mass social and legal discrimination and, at times, violent racial attacks against Chinese-Americans. [1]

While politicians in the United States were prepared to restrict Chinese immigration in the 1870s, the Burlingame Treaty of 1868 between the United States and China affirmed the “inherent and inalienable right of man to change his home and

allegiance." [2] As a result, the only classes of Chinese immigrants affected by the Page Act of 1875 were prostitutes and individuals convicted of non-political crimes. Once the Burlingame Treaty was revised in 1881, however, Congress had the unilateral right to restrict or even suspend the immigration of Chinese labourers. The Chinese Exclusion Act of 1882 prohibited the entry of Chinese labourers of all skill levels for a 10-year period. For the first time in American history, an immigrant group was legally barred on the basis of race and class, making Chinese labourers who entered the United States by evading American customs officials America's first illegal immigrants. [3]

The restrictions in place at American seaports led a number of Chinese immigrants to enter the United States via Canada after 1882, legally at first, then illegally. Canada's need for labourers to complete the Canadian Pacific Railway (CPR) led the federal government to place few restrictions on the immigration of Chinese labourers. In addition, rulings by American federal courts stated that the exclusion laws only applied to Chinese who came directly to the United States from China, not those who came through another country. When combined with the good transportation links between Asia and British Columbia with further links to the United States, these factors made entering the United States via Canada not only an attractive option but a legal one for Chinese immigrants in the early 1880s. [4] An 1884 amendment to the Chinese Exclusion Act made it clear that the reference to Chinese labourers applied to all Chinese, including those who arrived from other countries or were subjects of countries other than China. [5] Once legal entry through Canada was no longer possible, Chinese labourers took advantage of Canada's long and largely unmonitored land and water borders and further court decisions in their favour to aid their illegal entry into the United States. Once they joined existing Chinese communities in Seattle or in rural mining camps, they became virtually invisible to customs authorities who admitted they found it difficult to distinguish between individuals of Chinese descent. [6] If an immigrant did happen to get caught while trying to enter the United States illegally, he could easily try again. Most federal courts had ruled that the laws in force in the 1880s only allowed inspectors to deport immigrants arriving from Canada to Canada, allowing a determined immigrant to be arrested and deported repeatedly until he eventually succeeded.

In the early 1890s, Congress considered a number of solutions to curb illegal Chinese immigration. Senator Herman Stump believed that a small cavalry force and some revenue cutters would be enough to deter and detect any Chinese immigrants attempting to cross the border. In addition to increased manpower and better equipment, customs officials suggested that excludable Chinese entrants should be sent directly back to China whether they arrived at a land or an ocean port. Most officials believed that the best solution to the problem would be to encourage Canada to ban Chinese labour outright. To that end, a concurrent resolution of the House and Senate called on President Grover Cleveland to negotiate a treaty with Great Britain in which Canada would agree to prevent the illegal entry of Chinese immigrants across its border with the United States. [7]

The British government responded to America's request by stating that neither the Canadian nor the British government felt it was in their best interests to impose further restrictions on Chinese migration. The Canadian government noted that there were only around 6,000 Chinese-Canadians in 1891, so even if it were possible to effectively monitor the land and water borders between the two countries there were simply too few people involved to make the effort worthwhile. A Chinese immigrant who paid the $50 head tax Canada had implemented in 1885 was allowed, without exception, to apply for a certificate of re-entry if he wanted to leave Canada and not have to pay the tax upon his return. In his dispatch to the Secretary of the British Legation in Washington, Britain's Secretary of State for Foreign Affairs noted Canada's objections and added that the British government was not willing to suggest that Canada impose further restrictions on Chinese immigration as China's government had strongly criticized the existing restrictions. Sir Julian Pauncefote, Britain's Minister to Washington, informed Secretary of State John W. Foster that, while the British government encouraged further discussions, the combination of British interests and Canadian geography were difficult obstacles to overcome. [8]

Even before the British (and, indirectly, the Canadians) informed the Americans that they were unwilling to impose further restrictions on Chinese immigration, Congress had shifted its focus from excluding Chinese immigrants at the border to identifying and deporting illegal Chinese immigrants already in the United States. In addition to extending the exclusion of Chinese labourers for another 10 years, the Geary Act of 1892 changed the normal presumption of innocence by stating that any "Chinese person or person of Chinese descent" was assumed to be in the United States illegally until he or she could demonstrate otherwise. By May 1893, all Chinese labourers who legally resided in the United States had to acquire a certificate of residence, which in turn required at least one non-Chinese witness who could attest to prior residence, or face deportation. Immigrant inspectors were given broad powers, including the right to search Chinese businesses and residences without a warrant and to stop and detain any Chinese who, in their opinion, looked as if they had just crossed the border. American officials believed that the enforcement measures in the Geary Act would curb Chinese fraud and deter potential border crossers. [9]

Despite the fact that Chinese labourers were not the only immigrants to evade American immigration inspectors, during the 1880s Chinese immigrants received far more political attention in the United States than their European counterparts. American officials believed that a European immigrant was a future American citizen, making even a diseased or impoverished European immigrant more desirable than any Chinese immigrant. Those Europeans who arrived across the land border in violation of the law were believed to be misguided victims of unscrupulous transportation agents in Europe and not a reflection on the overall quality of European immigrants. Although only a minority of Chinese immigrants entered the United States illegally, many Americans believed all Chinese immigrants were liars and cheats, a view reflected in federal immigration legislation. [10]

By the late 1880s, a growing number of Americans believed that more needed to be done to inspect non-Chinese immigrants at America's seaports. While the federal government had authority over all aspects of immigration, the Immigration Act of 1882 left the actual administration of immigration inspection to state immigration authorities. Understaffing at the major ports of New York and Boston led to lax and hurried inspections of individual immigrants, which in turn led to a small number of immigrants being denied entry. The Foran Act of 1885, which called for the deportation of any immigrant to the United States who intended to fulfill a labour contract, proved even less enforceable. The few inspectors who tried to enforce the contract labour law had to depend on the statements of the immigrants themselves, leading employers and labour agencies to coach immigrants to ensure they were not screened out. [11]

Congress believed that the provisions of the Immigration Act of 1891 would solve the various immigration enforcement problems at America's seaports. The newly-created Bureau of Immigration was made responsible for operating the

immigrant receiving stations at New York and at other American ocean ports, ending the collaboration between the federal government and the state boards and commissions. Immigration inspectors were called upon to deny entry to the following: persons likely to become a public charge, those suffering from “loathsome” or dangerous contagious diseases, polygamists, and those who received some sort of financial assistance to pay for their passage. Any immigrant who became a public charge or was found to have entered the United States in violation of the contract labour laws within one year of arrival was deemed to have entered the United States illegally and could be deported. [12]

Once the Immigration Act was passed, Congress confronted the problem of European immigration to the United States via Canada. The 1891 report of the Select Committee on Immigration and Naturalization included testimony and statistics showing that an alarming number of passengers landing at Canada's major seaports were United States-bound immigrants who intended to evade American immigration inspectors. While the committee did not see any solution to the problem, they did succeed in making European immigration to the United States via Canada a national issue. Congress also had to consider the financial implications. In addition to the loss of business that American transportation companies would have faced if a substantial number of passengers avoided American ports, Congress would have lost head tax revenue, funds intended to cover the expenses of the Bureau of Immigration. [13]

By 1893, a combination of diplomatic silence on the part of the Canadian government and provocative advertising by Canada's transportation companies caused America's politicians to become even more concerned about the Canadian border. On 6 January 1892 the United States government formally asked for permission to station its own immigration inspectors at Canadian ports. While the Privy Council forwarded Consul-General Lay's letter to the Minister of Agriculture in early 1892, he did not prepare a response before the Department of the Interior was made responsible for immigration later that year. The Privy Council did not refer Lay's letter to the Department of the Interior until May 1893. In the meantime, some Canadian transportation companies had begun to advertise the Canadian route as a way to completely avoid United States immigration inspection. [14]

In the fall of 1893, the Secretary of the Treasury decided to force the Canadian inspection issue. At the request of Herman Stump, at that time Superintendent of Immigration for the United States, the vice-president of the CPR invited Deputy Minister of the Interior Alexander M. Burgess to accompany them while they inspected Montreal's immigration facilities. When they met on 31 August, Stump informed Burgess that the primary goal of his visit to Montreal was to reach an agreement that would allow the United States to inspect American-bound immigrants as they left their ships in Canadian ports. Other “objectionable features of the current arrangement” that the Secretary of the Treasury wanted to see corrected included Canadian companies advertising the St. Lawrence route as a way for otherwise excludable European immigrants to enter the United States. If no agreement could be reached with the transportation companies, the United States was prepared to introduce regulations requiring all Canadian railways to introduce immigrant passengers to the United States at only four or five points along the border or, if necessary, to require American inspectors to inspect all passenger trains arriving from Canada. [15]

Even before he consulted the transportation companies, Burgess realised that the proposed inspection regime would cause serious problems for passengers travelling between Canada and the United States, which would in turn lead to “friction and irritation” between the two nations. When he learned of the American proposal, Thomas Shaughnessy of the CPR bleakly concluded that enforcement of the new regulations would “simply paralyze the carrying trade between Canada and the United States.” On 1 September, Burgess met with representatives of four steamship companies based in Montreal and the Grand Trunk and Canadian Pacific Railways. All of the transportation companies agreed that it would be in their best interests to allow the Americans to place inspectors at Canadian ports. [16]

Stump and the transportation companies signed an agreement, later known to the United States as the Canadian Agreement, on 7 September 1893. The steamship companies agreed that immigrants bound for the United States would only be allowed to land at certain ports (Halifax, Montreal, Quebec City, and Vancouver initially) where they would be subject to inspection by United States immigrant inspectors before being allowed to board trains. The railway companies agreed to not sell tickets to points in the United States to immigrants who did not produce a certificate of inspection. An immigrant who presented his or her inspection certificate to a United States inspector at the border was not subject to any further examination. All of the transportation companies agreed to be bound by the provisions of the Immigration Act, meaning they were responsible for the cost of transporting any rejected immigrant back to their home country and for collecting and forwarding the head tax for any immigrant who purchased a ticked to the United States. [17]

In part due to the influence of the transportation companies, the government of Canada agreed to allow American immigration inspectors to operate in Canada without officially acknowledging that the United States had any right to do so. Burgess informed Stump on 11 September 1893 that T. Mayne Daly, Canada's Minister of the Interior, had rejected the agreement “between the transportation companies and yourself.” [18] At a meeting with the transportation companies a few days later, Prime Minister Sir John S. Thompson clarified Canada's position by stating that Daly had, in fact, only rejected a second agreement in which the government of Canada would have allowed the Americans to conduct their inspections on federal property. The Prime Minister allowed the core agreement to stand, which in turn allowed the Americans to send immigration inspectors to Canada with the understanding that their presence would not be officially recognised. [19]

The Canadian Agreement appeared to have much to offer to the governments of both countries. The United States was given the power to extend its immigration policy and law enforcement to Canada's seaports which, in turn, allowed the United States to hire far fewer inspectors than would have been necessary to monitor the land border. If the United States could prove that an immigrant who accepted social assistance, was arrested, or carried a dangerous disease had arrived in Canada on one of the signatory shipping lines, the Canadian company was responsible for the expense of deporting that immigrant. [20] Unlike its earlier request concerning the Chinese, the United States was not asking Canada to change its laws or to spend any money to help the Americans keep out unwanted immigrants. In fact, the Americans and the transportation companies had found a solution to a potentially ugly diplomatic and economic problem that did not require the government of Canada to do anything. When the Opposition requested copies of correspondence between the United States and Canada (with the Imperial government added for good measure) allowing the presence of American inspectors at Quebec, Daly could truthfully state that no such correspondence existed but that he was aware of an agreement between the United States and certain transportation companies that allowed the Americans to inspect immigrants on steamships berthed at Quebec, showing that he was aware of the situation but not directly responsible for it. [21]

Unfortunately for the Americans, the Canadian Agreement did not live up to its initial promise. Because the agreement only applied to immigrants who declared that they were on their way to the United States, the simplest way to evade the American inspectors was to claim Canada as their destination and pass Canada's limited inspection. As agreed, the railroads only sold tickets to United States-bound immigrants who had a certificate of inspection, prompting immigrants to buy tickets to communities near the international border where American inspection was lax (or non-existent) or to have a third party buy tickets for them. [22] To counter this form of evasion, the United States negotiated an amendment to the Canadian Agreement in May 1896 in which the transportation companies agreed to deport any immigrant who arrived at one of the ports covered by the agreement (including Saint John and Victoria, added after 1893), did not obtain a certificate of inspection, and was refused entry to the United States within thirty days of their arrival. [23]

Some immigrants were able to take advantage of a second method of evasion, exchanging their ticket to the United States for a ticket to a point within Canada. In April 1894, Edwin M. Clay, Canada's immigration agent at Halifax, informed his superiors that the railways had allowed three immigrants who had been rejected by the United States for violating the Foran Act to exchange their tickets for points within Canada. Burgess agreed with Clay's proposal to make the railways submit any request to change a ticket for points in Canada for approval by a Canadian immigration agent, but wanted to consult the CPR first. [24] The CPR's passenger agent at Montreal believed no action was needed. A passenger who was refused a ticket because they had no inspection certificate was referred back to the steamship company, which refunded that passenger for the inland portion of their ticket. At that point, “[h]aving money in his possession he can then purchase a ticket to any point in Canada and having this money you cannot very well say that he had no money and would likely become a public charge.” [25] Burgess did not issue new orders to Clay or the other agents, suggesting that he accepted the CPR's justification. In spite of the government's belief that these immigrants would, in fact, settle in Canada, there was little stopping them from making their way to the United States in the same way as other immigrants who declared their intention to settle in Canada but then crossed the international border at the first opportunity.

The Americans were naturally unhappy that Canada allowed immigrants who had been rejected by the United States to enter Canada and, potentially, proceed to the United States, accusing the government of turning the Canadian Agreement into a farce. To forestall further trouble with the Americans, in June 1901 Deputy Minister of the Interior James A. Smart informed Canada's immigration inspector at Quebec and the transportation companies that, from that point forward, the steamship companies would have to deport any passenger who was rejected by the United States inspectors. Smart concluded, “I think we will have to go on the principle that any settlers who are not good enough for the United States are not good for Canada.” [26]

Soon after Smart announced his decision, the differences between American and Canadian law concerning the treatment of certain diseased immigrants forced Canada to amend its laws in order to honour American deportation orders. The United States considered trachoma (an eye disease) and favus (a skin disease) as “loathsome and dangerous,” meaning an immigrant afflicted with either disease had to be deported. While the Department of the Interior ordered the steamship companies to take greater care to exclude immigrants with trachoma or favus in 1900, Canada's medical authorities did not believe that either disease was enough of a threat to justify quarantine or deportation. Because there was no provision in Canada's laws or regulations in effect in 1901 that allowed Canada to detain or deport immigrants who had diseases that did not require quarantine, the Department of the Interior required new legislation. [27]

A 1902 amendment to the Immigration Act allowed Cabinet to prohibit any diseased immigrant from landing in Canada whether he or she intended to settle in Canada or “to pass through Canada to settle in some other country.” At the request of the transportation companies, Cabinet was also authorized to allow diseased immigrants to land for short-term medical treatment. Canada's immigration officers were granted the authority to apprehend any immigrant who either landed or left hospital without the permission of the government. While Minister of the Interior Clifford Sifton did not believe any penalty provision was necessary, he accepted a Senate amendment that allowed the master or owner of a vessel to be fined up to $1,000 for each diseased immigrant he either helped to evade medical inspection or refused to deport when ordered to do so. [28]

Although the United States welcomed the 1902 amendment as a long-overdue measure to strengthen immigration enforcement at Canada's seaports, it had already begun to reinforce its inspection force along the international land border to intercept immigrants who had, one way or another, evaded American immigration inspectors at their port of arrival. The annual reports of the Bureau of Immigration from 1898 to 1900 suggested that the United States needed more inspectors along its border with Canada if it hoped to intercept immigrants who evaded America's inspectors at Canada's seaports. [29] By 1901, Congress was also aware that customs collectors who were also called upon to enforce immigration laws frequently neglected their immigration enforcement duties. The combination of inadequate enforcement at the international border and widespread evasion of America's inspectors at Canadian seaports led the United States to appoint Robert Watchorn as Special Immigration Inspector for Canada, in charge of the immigration inspectors at Canada's seaports and along the land border from Sault Ste. Marie, Michigan, to Eastport, Maine.

Between September 1901 and June 1902, Watchorn implemented several changes that resulted in a more effective system of control along the portion of the international border under his jurisdiction. He appointed inspectors to monitor ports of entry that had no immigration inspection, then ensured that all inspectors who reported to him enforced the law consistently. In addition to their inspection work, Watchorn ordered the inspectors to patrol suspected smuggling points along the border. A year into his appointment, Watchorn reported that 2,028 immigrants who had evaded seaport inspection had been turned away at the land border and that nine smugglers had been arrested and prosecuted. [30]

Even before he wrote his first official report, Watchorn quoted a series of alarming statistics to certain Montreal newspapers and interested politicians in an effort to convince Canada to harmonize its immigration laws with those of the United States. On 22 March 1902, three weeks before Sifton introduced the amendment to the Immigration Act, the *Montreal Star* quoted Watchorn when it concluded that Canada had become a “dumping ground” for diseased immigrants. [31] When Sifton insisted that the allegations of the *Star* and other newspapers were false, Conservative Member of Parliament Uriah Wilson read out a letter in the House of Commons in which Watchorn insisted that the United States had, in fact, rejected a substantial number of diseased immigrants at the international border. Watchorn went on to conclude that, by extrapolating from the number of immigrants who claimed Canada as their destination at a seaport but were subsequently sent to Montreal for a certificate of inspection when they attempted to enter the United States, over half of

the immigrants who Canada claimed as its own were, in fact, immigrants who intended to enter the United States. Watchorn claimed that he did not intend to criticize the Canadian government yet concluded that the various restrictions the United States had placed on immigration had led to a better a better class of American immigrant, making it in Canada's best interests to implement a similar set of restrictions. [32] While Watchorn's protestations of political neutrality were as dubious as his extrapolated statistics, several participants in the parliamentary debates believed the amendment did not go far enough and stated that the time had come to completely revamp Canada's immigration laws to match the restrictions in place in the United States. [33] Senator James Lougheed went even further when he suggested that Canada should not only duplicate the immigration restrictions in effect in the United States but that "they should be mutually and reciprocally enforced between the two countries," [34] a precise summary of Watchorn's (and, to a large extent, America's) primary policy objective.

Clifford Sifton was dismissive towards both Watchorn's figures and the idea that Canada needed to ban any immigrants who were not destitute, carrying a disease, or guilty of a crime. According to Sifton, Watchorn needed to show his government that he was a busy man in order to ensure that his position was preserved, adding "we may therefore look constantly for indications in the press that [Watchorn and his staff] are extremely busy." [35] To adopt the immigration policy of the United States would have been entirely impractical since, in Sifton's assessment, the fundamental objective of American immigration policy was to prevent overpopulation by keeping immigrants out, while Canada needed as many immigrants as possible to populate the Prairies. Any further restrictions would have put Canada at a competitive disadvantage relative to other nations, which would have, in turn, reduced the number of immigrants to Canada. [36] Sifton's approach was therefore similar to that of American policymakers roughly three decades earlier.

While there was little prospect of Canada passing any further restrictive legislation directed at European immigrants once the amendment of 1902 became law, two developments in 1903 led to a substantial reduction in the number of Chinese immigrants entering the United States along its border with Canada. An agreement between the United States and the CPR required the railway to confirm, to the best of its ability, that Chinese passengers who claimed to be eligible to enter the United States were, in fact, entitled to do so and to deliver all United States-bound passengers under guard to one of four designated ports along the Canadian border. While the CPR was anxious to protect its lucrative Pacific steamship business, the American threat to close the entire border unless the agreement was signed convinced the CPR to agree to the government's terms. Years of American lobbying and public pressure from within Canada combined to convince the Canadian government to provide the second major development, an increase in Canada's Chinese head tax from $100 to $500. While still not the near-total exclusion the Americans wanted, the cost of the new head tax was prohibitive, leading not only to fewer illicit entries into the United States but to fewer Chinese immigrants to Canada in the first place. [37]

The goodwill Canada believed it had earned by allowing the CPR agreement of 1903 and, in particular, the Canadian Agreement of 1893 to stand turned out to be of little use in the face of inflexible American laws. In early 1905, Canada's Superintendent of Immigration learned that the Hamburg America steamship line was ending its direct service between Hamburg and Halifax and, in addition, the government of Hungary was forcing all Hungarians who wished to emigrate to North America to leave from Fiume on a steamship line that only connected to New York. Faced with a substantial diversion of immigrants from Halifax to the United States, officials in the Department of the Interior decided Canada needed to station an immigration officer in New York. [38] In addition to requesting permission to send an officer to New York, the Minister of the Interior asked the Commissioner-General of Immigration to allow Canadian-bound immigrants who were diagnosed with a disease to seek supervised hospital treatment in the same way Canada allowed American-bound immigrants to do so at Canadian ports and to allow immigrants who were excludable for reasons other than disease but who had a through ticket to Canada to continue to Canada under the supervision of Canadian officials. The Commissioner-General was willing to allow Canada to establish a presence at New York and to treat a ticket to Canada as a sign of financial means but, despite persistent requests from the Department of the Interior over several months, insisted that American law did not allow any exceptions to the rule that diseased immigrants who were not American citizens had to be deported. In his view, only diplomatic negotiations would result in a change to American law. [39]

George Elliott, Canada's first inspector at New York, could do little after he arrived in New York in January 1906 except create lists of Canadian-bound immigrants and perform (another) medical inspection for immigrants who stated they intended to travel to Canada. Because all immigrants were subject to an American medical inspection and interview before they were allowed to proceed to Elliott's office, immigrants to Canada who arrived in New York could be deported before they even spoke to Elliott or the officers who joined him later. Despite their very limited jurisdiction, the passenger manifests Elliott and the Canadian officers stationed at Boston, Portland, Baltimore and Philadelphia forwarded to Ottawa were considered valuable tools for information purposes, particularly when a large group of immigrants was on its way to the border, and for solid numbers to show Washington during future discussions. [40]

By summer 1906, Canada had ended years of resistance to a more selective immigration policy and adopted American-inspired legislation designed to restrict immigration at both the Canada-United States border and at Canada's seaports. Frank Oliver, who was named Minister of the Interior in April 1905 following Clifford Sifton's resignation that February, believed Sifton had placed economic interests ahead of the need to assimilate immigrants into Canadian society. Although Oliver believed that Sifton deserved praise for implementing policies that attracted greater numbers of immigrants than his predecessors, he also felt that Canada needed to follow the example of the United States and pay more attention to the quality of its immigrants. [41] According to Oliver, the Immigration Act that became law in July 1906 gave Canada's immigration authorities greater powers to deal with undesirable immigrants. In addition to paupers, criminals, and the diseased, immigration officials at Canadian seaports and along Canada's border with the United States were expected to prohibit epileptics, the insane, deaf-mutes, and the infirm, a very similar list to the list of excludable classes in the American Immigration Act of 1903 (anarchists being the main category missing from Canada's list). As in the United States, an immigrant who received public assistance, was convicted of a crime, or was treated in a hospital within two years of their arrival could be deported. Unlike the United States, Canada's Cabinet could declare any group inadmissible through an order-in-council, allowing the Department of the Interior to react quickly when a group of undesirable immigrants not covered by existing law attempted to enter Canada. [42]

The provisions of Canada's new immigration legislation had the potential to compensate for its weak indirect border

controls with a strengthened inspection regime along Canada's land borders. However, the Immigration Act of 1906 was passed during the peak of a decade-long economic boom, leading Oliver to suspend many of the new selective immigration restrictions until the political and economic environment changed. Although the boom meant a number of industries, particularly resource industries, wanted more unskilled immigrant labourers, the government of Canada was particularly concerned with attracting the estimated 60,000 labourers required to build the National Transcontinental Railway. Under significant pressure, Oliver agreed to allow the railways and other industries to use essentially any labour they wanted. Oliver may have taken some comfort in the fact that, although a number of employers still hired labourers from Asia, during its second railway boom most of Canada's immigrant labourers were from Europe.

As general unemployment grew during the sharp economic recession of 1907, the Opposition blamed the government's lax immigration policy for increasing the number of unemployed immigrants living in Canada's urban slums. The altered political climate allowed Oliver to both fully implement the provisions of the 1906 law and add new restrictions as the need arose. By summer 1908, British immigrants whose passage had been paid for by charities or government agencies were required to submit to an inspection by a Canadian immigration officer before they left Britain. In addition, immigrants who did not have prearranged farm or domestic employment or family to support them had to have $50 cash if arriving during the winter or $25 during the rest of the year. [43]

By 1908, the United States had what it felt was a complete complement of border inspectors after six years of gradual expansion of its direct border controls. Watchorn's success in strengthening the border inspection regime in eastern Canada led immigrants to head west to Winnipeg, leading the United States in turn to place an inspector there in 1903. Within six months, the Bureau of Immigration learned that immigrants were entering the United States through Montana without being subject to inspection. As Marian Smith notes, between 1902 and 1908 the United States would place a new immigration inspector at the land border only to discover that immigrants "simply moved farther west or to some other unguarded point." [44] In areas where there were a number of border communities along a given rail line that did not have their own inspector, the United States arranged to interview rail passengers before they left their station, either at a Canadian seaport (for passengers with tickets to communities between Fort Frances, Ontario, and Baudette, Minnesota, for example) or at the railway station in Winnipeg (for passengers travelling between Winnipeg and Estevan, Saskatchewan). [45]

In addition to the strengthened direct border enforcement that was in place by 1908, the United States had also persuaded every transportation company that carried immigrants across the border to sign the Canadian Agreement. As a result, American immigrant inspectors were able to check every scheduled train and vessel that entered the United States with the knowledge that any immigrant they ordered deported would become the financial responsibility of the transportation companies. When necessary, the Bureau of Immigration only needed to threaten to thoroughly inspect every passenger on a given carrier's line to convince that company to fully comply with the terms of the Canadian Agreement. [46]

Once Canada was prepared to station its own corps of immigration inspectors along the international border, it did so essentially all at once, avoiding the problems of evasion the United States had experienced but creating problems for border communities. In March 1908, Cabinet called upon customs inspectors posted along the border to conduct immigration inspections in addition to their regular duties and increased their salaries accordingly. [47] Two months later, Commissioner-General Frank L. Sargent noted that communities along the border were being forced to care for immigrants who had been denied entry to Canada. The authorities at Ellis Island informed Sargent that Canada's lone immigration office in New York (Elliott) only examined the physical and mental health of immigrants, not other measures of their suitability. Sargent therefore suggested that Canada should supplement its medical examination with another covering the non-medical aspects of Canadian immigration law. Canada sent a second officer to assist Elliott a few months later. [48]

In addition to codifying the various immigration-related orders-in-council Cabinet had passed since July 1906, one of the explicit goals of the Immigration Act of 1910 was to ensure that immigrants who travelled to Canada via the United States were subject to inspection. During the bill's first reading, Oliver pointed out that, although the 1906 law applied to immigrants who crossed the frontier between Canada and the United States, it focused considerably more attention on immigrants who landed at Canada's seaports than on those who landed in the United States before proceeding to Canada. In Oliver's view, the new act would "clearly and definitely provide for the exclusion of undesirables who arrive in Canada by rail or by road." [49] Specifically, the final version of the new Immigration Act explicitly allowed Cabinet to impose the same regulations on land-based modes of travel as were in effect for marine vessels, including mandatory passenger manifests, medical inspection of immigrant passengers, and the right of immigration officers to stop and, if needed, detain trains and other vehicles entering Canada. The government was also allowed to order the transportation companies to provide buildings for the examination and detention of immigrants. Wherever possible, the new regulations were to be drawn up and enforced in such a way "so as not to unnecessarily delay, impede, or annoy passengers in ordinary travel," demonstrating Canada's continued deference to the interests of the transportation companies. [50]

The list of excludable immigrants under Canada's Immigration Act of 1910 was as extensive as that in place in the United States, but included more flexibility with respect to both adding new restrictions and lifting the restrictions in individual cases. When the bill was being discussed in the House of Commons, Oliver acknowledged that "we have taken advantage of a good deal of the work that has been done in the drafting of the United States Act." [51] In addition to the list of excludable classes already in place, advocating the overthrow of a government or inciting a riot became deportable offences in Canada, matching the prohibition against anarchists in the United States Immigration Act of 1903. As in the 1906 bill, Cabinet could prohibit any individual or class of immigrants through an order-in-council. Oliver also recognised that there were cases where strong laws needed to be set aside, leading him to incorporate a section of Australian law that allowed the minister responsible for immigration to issue a permit to an individual who would otherwise be excluded. [52]

In a direct reversal of the situation in the 1890s, in June 1910 Canada discovered that a number of immigrants who were rejected by Canadian immigration officials in New York were subsequently admitted to the United States. As the United States had done at Canadian ports, by July 1910 Elliott and the officers reporting to him had begun issuing inspection cards to eligible immigrants to save time when they reached the border. [53] Unlike the United States in the 1890s, Canada had a number of inspectors stationed along the border who stood a reasonable chance of intercepting immigrants who evaded inspection at a seaport.

The similarities between excludable classes and border controls in Canada and the United States by 1910 made it difficult for most immigrants to enter one country with the hope of easy entry into the other yet were still not strong enough with respect to the Chinese according to the Americans. The number of Chinese immigrants arriving in Canada dropped for several years after Canada increased its head tax in 1903, but by 1908 Chinese immigrants began to arrive in Canada in increasing numbers, in no small part due to the willingness of employers to pay the tax then deduct it from a labourer's wages. [54] If a Chinese immigrant to Canada subsequently entered the United States, Canada was still not obligated to deport that immigrant if the United States demanded it. To counter this problem, the United States closed its land borders to Chinese immigrants then routed them via Halifax to Boston to ensure that every Chinese immigrant who wanted to enter the United States would be subject to American law at an American seaport. [55]

Concerned as they were with drastically increasing the number of immigrants Canada received, Clifford Sifton and his predecessors were unwilling to implement significantly restrictive policies that might have driven potential immigrants to other countries. Despite American rhetoric to the contrary, Sifton did implement some of the controls the Americans wanted, including the exclusion of criminals and the indigent, a prohibitive Chinese head tax, and the 1902 amendment that allowed Canada to deport United States-bound immigrants. Until Sifton left office, however, the United States achieved more by threatening Canada's transportation companies than it did through government-to-government negotiations. Frank Oliver was convinced that Canada needed American-style immigration controls at both its seaports and along its border with the United States well before he took office and quickly implemented them once Laurier allowed him to do so. The long delay from the time the United States began pressuring Canada to harmonize its immigration laws and enforcement regime until Oliver actually did so was decidedly inconvenient for the Americans. As it turned out, Canada was politically ready for American-style border controls around the same time as the United States had shown what combination of immigration policies and direct and indirect border enforcement were most effective. The long delay allowed Canada to quickly implement a proven system rather than participate in over a decade of trial-and-error.

About the Author

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