LAC LA CROIX: RUMOR, RHETORIC AND REALITY IN INDIAN AFFAIRS

ROBERT H. KELLER,
Canadian-American Studies,
Western Washington University,
Bellingham, Washington,
USA, 98225.

ABSTRACT/RESUME

The author discusses the case of the Lac La Croix Band of Ontario which had developed a tourist industry and then faced severe restrictions on the use of the lake. The restrictions were demanded by environmentalists who lived elsewhere in North America. Both Canadian and American governments exercised moderation in their application of these rules in recognition of the Native economy.

L'auteur étudie le cas de la Bande Lac La Croix de l'Ontario qui avait développé une industrie de tourisme et puis avait fait face aux restrictions sévères à l’emploi du lac. Les restrictions étaient exigées par les environnementalistes qui vivaient ailleurs en Amérique du Nord. Et le gouvernement canadien et le gouvernement américain, en reconnaissance de l’économie autochtone, ont fait preuve de modération dans leur application de ces règlements.
In mid-September of 1987, the Tobique Narrows Band of Maliseet Indians in New Brunswick, just east of the Maine border, held a two-day conference on Native self-determination. One of the featured speakers was an attorney from Boston who had been asked to provide “The International Perspective.” Even before the lawyer approached the podium in the Tobique gymnasium, he had captured everyone’s attention. About 7’3” and hefty, wearing faded jeans and western boots, he had long grey hair that slipped across the shoulders of his black leather jacket. The Boston lawyer delivered a speech as forceful and dramatic as his physical appearance. He advised the Maliseets to assert their sovereignty, to reject external aid, to protect the natural habitat — “Mother Earth” — and to avoid White Civilization’s mad rush to self-destruction. In the United States, he declared, Whites held no clear title to any land except that explicitly sold by Indians, and therefore the tribes in that country threatened the entire society.

Midway through his presentation the attorney gave a specific example of the oppression that Native peoples in Canada and the United States face. Several years previously, the Lac La Croix Ojibwa Band of southern Ontario had outlawed liquor from their village and refused to accept any further relief payments from the government. To sustain itself, the speaker at Tobique said, the Ojibwa Band depended upon a small fleet of outboard motorboats. The boats supported a successful guide service for tourists and sports fishermen on Lac La Croix, a large body of freshwater along the Canadian-U.S. border. Although the Band’s economic base was small and fragile, the people on Lac La Croix had regained their dignity and asserted themselves as a sovereign nation. Then, according to the lawyer, both the Ontario and American governments banned outboard motors on the lake. That meant, as the Indian guide service could no longer operate, the Band now faced either starvation or a return to the welfare system. Ontario had given the Band several years to adjust to the new regulations; the U.S. had banned powerboats outright and arrested Indians who entered American waters. The stated reason for the ban, the lawyer claimed, was to halt the water pollution caused by motors. He scorned governments that acted against a small Indian Band for minor pollution while ignoring a large coal-fired plant that dumped waste into the lake twenty-four hours a day, 365 days a year. The Maliseets listened with dismay.

In relating this outrage, the attorney from Boston pointed out the high price that Indian Bands must pay for their sovereignty, a price exacted by hypocritical, irrational governments in Washington and Ottawa, in the states and the provinces. The White man’s government feared and would attack any expression of Indian independence. By denouncing government, the speaker placed himself on the side of justice and righteousness; by appealing to the audience’s resentment against the state, he established his sympathy for their plight. Another effect of the attorney’s tale was to reinforce the image of Indians as victims and, even as he urged them to action, to identify
those present as a group akin to the Indians at Lac La Croix, long-suffering members of an oppressed minority. It was an effective ploy delivered by a powerful orator, but was it true? Not very.

Lac la Croix lies ninety kilometers southeast of Fort Frances in southern Ontario and about 200 kilometers northwest of Thunder Bay. The Minnesota-Ontario line jogs and jogs through the lake following every direction of the compass and splitting a maze of islands, wild rice marshes, peninsulas and portages into two political jurisdictions, Canadian and American. The lake, indigo blue on sunny days, stretches thirty-five kilometers east to west, with two arms fourteen kilometers long extending to the south, yet nowhere on the open water is a boat more than several kilometers from land. Loons and osprey, great blue heron and bald eagles, inhabit the bays and forests. The woods produce a rich mixture that includes white pine, white birch, cedar, basswood, red pine, aspen and black spruce. Place names give some sense of the region's history: Black Robe Portage, Warrior Hill, Fish Stake Narrows, Indian Narrows, Indian Island, Rice Bay, Moose-hide Island, Never Fail Bay. Lying beyond the Laurentian Divide, the lake drains northwest toward Rainy Lake and eventually into Hudson's Bay. La Croix is one link in the chain of lakes between Lake Superior and Lake Winnipeg, the old canoe route of Indians and voyageurs, the water highway to the Far West in the 18th and 19th centuries, the route of the Dawson Trail.

A look at the political subdivisions surrounding Lac La Croix begins to indicate the potential problems. Extending along the northern or Canadian shore for approximately fifteen kilometers is Neguaguon Lake Reserve 25D, occupied by the 240 members of the Lac La Croix Band of Ojibwa. The village, located at the lake's Namakan River outlet, has electric power but no roads from the outside. The Reserve is virtually surrounded by Ontario's Quetico Provincial Park. The Band claims Reserve waters from headland to headland in the lake, a matter of dispute and a claim that cuts across the America border.

On the American side, Voyageur National Park runs east and west between International Falls and the Boundary Water Canoe Area, the latter a part of Superior National Forest. The Boundary Water Canoe Area (BWCA) stands directly opposite the Neguaguon Reserve. Game departments in Ontario and Minnesota regulate fishing and hunting, their citizens free to cross the water border so long as they do not land. Chippewa Indians to the southwest at the Nett Lake Reservation in Minnesota also claim special fishing rights in the national forest, including BWCA.

The heart of the dispute at Lac La Croix concerns not water pollution, but noise. The issue is not one of government bureaucrats enforcing regulations in order to suppress Indian tribes, but rather demands for wilderness tranquility in the Quetico-Superior forests versus an Indian Band's right to economic existence in the same area. The Lac La Croix guides know that without motors they will
Environmentalists believe that motorized travel in the Boundary Waters will destroy the type of canoeing experience which for sixty years they have struggled to protect.

The United States designated Superior National Forest in 1909 and Ontario created Quetico Provincial Park four years later. After the Boundary Waters was declared a wilderness in 1926, plans for resorts, motor boats, float planes, copper and nickel mines, dams and logging continued to threaten the 1,000,000 acre roadless preserve and its thousand lakes. Conservationists from the east, from Chicago and the Twin Cities worked for legislation and federal protection to keep the lakes as pristine as possible.1 Similar pressures to halt clearcut logging in Quetico Park arose in Canada. In view of this, some Americans also sought joint management agreements with Ontario, linking Quetico and Superior. Those efforts failed, but in 1960 the creation of an International Advisory Committee of three Canadians and three Americans was seen as a victory for coordination and conservation.

The zeal of preservationist groups such as the Izaak Walton League, the Sierra Club, and the North American Game and Fish Protection Association, seems less narrow and selfish if one places the northern lakes in context. In the 19th century, mining and timber companies had ravished the land, destroying forever old-growth white pine forests in Wisconsin, Minnesota, Michigan and Ontario. What escaped miners and loggers gained in value as recreation sites. But during the period following World War II, fishermen, canoeists, campers, limnologists and admirers of freshwater came to realize that the recreational popularity of North American lakes that had begun early in the 20th century now threatened to destroy the very qualities that had created such appeal in the first place. New public roads promoted access and use, allowing summer cabins to become year-round homes. In places houses totally encircled a lake, their docks and concrete bulkheads decimating shoreline habitat and turning natural bodies of fresh water into large eutrophic pools filled with hatchery-bred fish instead of native walleye, bass and trout. The sub-urbanized lakes reproduced the city’s speed, noise and frenzy, only with powerboats and water skiers replacing the trucks and cars of rush hour. In 1946 a Johnson or Evinrude five horsepower outboard was a large motor. By the mid-50’s a high school student could afford a twenty-five horse Mercury. Today, 1,000 horse inboards launch from marinas and public access ramps to churn lakes whether large or small. Canoes and isolated campfires cannot co-exist with such sport. neither can eagles, otters and loons.2

Given these developments, threats to Quetico-Superior seemed serious indeed. In 1976 Minnesota’s Friends of the Boundary Waters Wilderness arose out of a coalition of two dozen environmental protection groups. Inspired by the Wilderness Act of 1964, within two years the Friends had helped to pass Public Law 95-295, the Boundary Waters Canoe Area Act of 1978. In this legislation Con-
gress outlawed, phased out, or limited motorboats and snowmobiles (section 5). In parts of Lake Superior National Forest the law also provided for purchase of resorts affected by the new restrictions (section 4-d). Included under the BWCA mandate was Lac La Croix, with an exception made for certain waters south of Snow Bay and east of Wilkins Bay (section 4-d). Except for providing that all existing treaty rights related to the BWCA would remain in effect (section 17), Indians were not mentioned by Congress. The State of Minnesota retained jurisdiction over game.3

This 1978 prohibition of motor boats on the American side followed similar action in Canada five years earlier when the Province of Ontario had made Quetico Provincial Park a primitive area and banned the use of motors within it. An exception to this 1973 ruling was the Lac la Croix guide service of fifty-five members from the Indian village. Ten of the guides owned their own boats, with the rest working for nearby resorts.4 Then in 1985 the provincial government in Toronto, under pressure from Canadian wilderness preservation groups in eastern and urban Ontario, announced that it planned to phase out all motors in Quetico during the next few years. The ban did not include Lac la Croix which is outside the park, but, like the American restriction, the Ontario plan greatly endangered the Indian guide service.

Ontario had placed itself in an awkward position for the decade that it had allowed Indian motors inside its park. Provincial Officials no doubt realized that the U.S. Forest Service had had difficulty enforcing American laws against Canadian Indian violators who, when approached by officers, either cruised out of reach back across the international boundary or, when apprehended, refused to pay the fines. In hope of irritating guided fishermen, the Forest Service then adopted a program of harassing illegal boats through pursuit. This achieved partial success, yet when the Neguaguon Indian community persisted in violating the motor ban, forest rangers began to confiscate motors from Canadian Natives caught in U.S. waters.

In 1984, in order to avoid “jeopardizing existing relations with Canada,” the Superior National Forest officials developed new management guidelines that involved seizing boats and outboards, taking bail money, and making the arrest of individuals a “last resort.” Hot pursuit of fleeing lawbreakers would be replaced by written reports and photographs whenever rangers recognized Indians who refused to halt. These complaints then would be filed in U.S. District Court, Duluth, and be out of the hands of the Forest Service.5

The forest officers found themselves in a bind. They disliked enforcing a law against Indians who earned a livelihood on the lake. Some rangers considered the BWCA legislation to be inappropriate at Lac La Croix and as working an unfair hardship on a struggling community, a people who had not been consulted about laws that affected not just recreation but their lives. Strict enforcement would, in the words of one ranger, “put the Indians right out of business.” Provincial park officials in Quetico voiced similar opinions. Yet envi-
ronmental groups such as the Friends of the Boundary Waters took a hard line, insisting that the law on the books said no motors, which meant no motors. Like it or not, the Forest Service was charged with upholding the law.\textsuperscript{6}

At the same time, Ontario's new intention of eliminating motors in Quetico provoked strong opposition from Indians and their allies in Canada. A Toronto-based Lac la Croix support group formed. The Band Chief, Steve Jourdain, was sympathetically interviewed several times on the CBC Radio News. The Chiefs of Ontario Association protested the new rule, arguing that it was racist, would abrogate Ojibwa aboriginal rights and treaty provisions protected by the Canadian Constitution, and would therefore promote genocide. Ontario Indians knew from prior experience involving the Missinaibi Lake Ojibwa that the province's Ministry of Natural Resources could be ruthless when wildlife conservation and recreation policy came in conflict with Native rights. Despite treaty protections, the Brunswick House Ojibwa of Missinaibi Lake had been forced to move from their land after the creation of Chapleau Game Reserve in 1925.\textsuperscript{7} The Lac La Croix Band claimed it had suffered similar treatment during the creation of Quetico Park in 1931, being driven out "at gunpoint."\textsuperscript{8}

The Indian legal claim in Quetico seemed just as strong (or precarious) as at Missinaibi Lake. Neguagon Reserve comes under the 1873 Northwest Angle Treaty which, in exchange for land cessions in western Ontario, had created "convenient and advantageous" Reserves "for the benefit of said Indians." Several sections of the treaty clearly establish that Native signers intended to retain fishing rights to the lakes and rivers. The language of the text, however, both established and limited such a right in a way that undercut Ojibwa claims in Quetico:

\begin{quote}
Her Majesty further agrees with her said Indians that they, the said Indians, shall have right to pursue their avocations of hunting and fishing throughout the tract surrendered as hereinbefore described, subject to such regulations as many from time to time be made by her Government of Her Dominion of Canada and saving and excepting such tracts as may, from time to time, be required or taken up for settlement, mining, lumbering or other purposes by Her Said Government of the Dominion of Canada, or by any of the subjects thereof duly authorized therefor by the said Government.\textsuperscript{9}
\end{quote}

Treaty language that considers Native fishing an "avocation," and allows the government to limit the activity for almost any purpose it chooses, hardly provides ironclad protection. Nevertheless, Ontario responded to Indian protests by reversing its 1985 position and reopened the closed lakes, granting an indefinite exemption to the Lac La Croix Guides Association. The new policy of October, 1987,
permitted motors ten horsepower or less to operate on seven lakes, including Beaverhouse and Quetico, as well as the Maligne River. 10

Ontario's policy reversal reestablished limited use of motors on the Canadian side of the border but not in the United States. There the Forest Service continued to find itself caught between the law, Indians, and environmentalists at a time when the agency's budget had been drastically cut and the number of motorboats was increasing.11 In addition, Natives had begun running snowmobiles into the BWCA during winter months. Even with an adequate force, the size of the lake and the remoteness of such prime fishing grounds as Lady Boot Bay would make surveillance difficult. Low key law enforcement brought complaints from canoeists, some of whom reported hostile confrontations with Indians who threatened to ram the canoes.12

Even though the Band had won a victory in Canada, the Lac La Croix leaders remained upset and disappointed over conditions around the lake. Their chief, Steve Jourdain, had depended upon Minnesota Chippewas to help negotiate a new settlement with the Forest Service, but by March 1, 1988, it had become clear that the Chippewa tribal council, which did not support even their own members who used motors and chainsaws in the BWCA, would not help Canadian Indians. International Indian unity had been an illusion and Jourdain saw no hope of resolving the dispute with the United States.13

The issues at Lac La Croix, upon investigation, become much more complex than public rhetoric indicates. A recent documentary film by Judith Doyle, Neguaguon — Lac La Croix: What We're Asking, provides only the Indian side of the controversy, neglecting to inform viewers of the rationale for outlawing motorboats or to give the canoeists' side of the dispute. A hydro generating plant forty miles north of the lake at Atikokan is shown and denounced, but with no details or context. An emotional voice-over expresses a vague fear of mercury poisoning, again with no facts.14

Long on emotion, short on information, What We're Asking resembles the Boston attorney's villains-and-victims speech at Tobique Narrows. The radical lawyer, who gave the impression of being directly involved, could provide no sources of information and admitted that he had heard the story only second or third hand. He was correct about the Lac La Croix band refusing welfare and prohibiting liquor, but no power plant exists on th lake and water pollution has not been an issue with anyone. Instead of forest rangers enforcing a nasty ordinance against impoverished Indians, instead of industry polluting a lake where Indians cannot use outboards, we actually have rangers, sympathetic to Indian claims, stuck with a law which the Forest Service itself feels is unjust. We have a Canadian province that reversed its policy in response to Indian demands because, as one Ontario official put it, “the Indians were there before the park.”15 And we have the ambiguity of Indians in motorboats confronting white campers in canoes, coupled with the ambiguity of sport fishing
motorboats threatening to damage Ojibway rice marshes elsewhere in the region. Further, what happens to the image of the Indian-as-Environmentalist when one finds Native commercial guides armed with special rights possessed by no other citizens? For more irony, one can recall that Ernest Oberholtzer, an early defender of the Boundary Waters, explored Quetico-Superior with an Ojibwa guide, Billy Magee, and was motivated in part by a desire to preserve Native culture.

From a Neguaguon Reserve vantage point, one might ask why canoeists and the Forest Service are so concerned over a few small motorboats near Native land when outboards are allowed by law below Sno Bay and east of Wilkins Bay, areas that constitute about 25% of Lac La Croix south of the border. The U.S. also exempts a half dozen other lakes in the Boundary Waters. In addition, the 1978 legislation permits limited use of snowmobiles, mechanized portages, and the possibility of mining. Chief Jourdain will also argue that the border is a meaningless, artificial contrivance that his people should be allowed to pass across without harassment. He quickly cites the Jay Treaty as evidence that the international line does not apply to any Ojibwa. That treaty, signed by Great Britain and the United States in 1794, concerned commerce and relations along the Canadian border:

**ARTICLE III:** It is agreed that it shall at all times be free to His Majesty’s subjects, and to the citizens of the United States, and also to the Indians dwelling on either side of the said boundary line, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two parties…and to navigate all the lakes, rivers and waters thereof, and freely to carry on trade and commerce with each other…nor shall any Indians passing or repassing with their own proper goods and effects of whatever nature, pay for the same any impost or duty whatever.

Even though courts in Canada have ruled that the Jay Treaty has never been implemented by legislation and thus is not enforceable, from Steve Jourdain's perspective the treaty recognizes historical and cultural reality, and it makes a promise that European lines drawn on maps will not apply to indigenous people. He thinks promises would be honored.

Nevertheless, the border exists, with rangers and wardens on both sides charged with enforcing laws. They have done so with moderation, the Canadians in Quetico following a policy of Indian exemption and the Americans in the BWCA issuing only a few citations a year since 1978. Forest Service regulations prohibiting hot pursuit offer a good example of caution, good judgment and toleration by wary officers caught in the middle between canoeists searching for Quetico-Superior solitude, and Ojibwas seeking a
...the Forest Officer will exercise extreme caution in attempting violator contact...

Indian guides in violation of motor regulations generally flee from Forest Officers to avoid apprehension. The danger involved in watercraft operations simply does not warrant a full-blown pursuit over a minor offense. The Officer's knowledge of the lake may tell him that great danger exists because of existing reefs, etc., in the area and physical injury is possible to both parties. In such cases, the Forest Officer will terminate all efforts to intercept a fleeing craft.21

The friends of the Boundary Water Wilderness take a more dogmatic posture than does the Forest Service. The organization, representing 2,000 members, recognizes that the Lac La Croix Indians depend upon guiding and trapping for survival, but it does not believe that motors are essential for those enterprises. “We heard the identical argument,” asserts the Friends' director Kevin Proescholdt, “from resorters in 1978 — that they needed motorboat access to the BWCA to survive economically, which hasn't been the case since then...the La Croix Band could easily market guided fishing trips or guided wilderness trips using canoes...”22 Events in 1986-87 helped create a larger perspective for environmentalists like Proescholdt. Instead of filing-suit against the Forest Service over Indian guides, the Friends used their legal and political muscle to attack a Military Operations Area that in 1986 resulted in 1400 Phantom jet flights across Minnesota's northern lakes. The Friends also halted a U.S. Air Force Strategic Air Command plan for low-level bomber runs over the Boundary Waters and Lake Superior Forest.23

Bill Rom, Sr., an early protector of the Boundary Waters, once claimed that “there is no compromise in preservation of wilderness. If we give one inch the wilderness is destroyed.” Perhaps. Yet the amount of disruption caused by ten horsepower outboards compared to a SAC bomber flying overhead at 300 feet is minimal. Most individuals, Canadian and American, involved in the Lac La Croix controversy had the good sense to recognize the difference and be willing to give an inch or two. Such understanding seems especially important when a small community of people, like the Ojibwa settlement on the Neguaquon Reserve, after a century of dispossession comes to reject being victims and assert their independence.
NOTES

1. Ernest C. Oberholtzer, Charles S. Kelly, Frank B. Hubacheck, Karl Compton, and Sigurd Olson were among the early U.S. leaders. For naturalist descriptions and brief histories of Quetico-Superior, see Brooks, 1975 and Stradiotto, 1984.


3. *U.S. Senate Report 95-1327*, 95th Cong., 2d Sess. Members of the conference committee included, among others, Henry M. Jackson, James Abourezk, Howard Metzenbaum, Lowell Weicker, Frank Church and Mark Hatfield (Senate); Phillip Burton, Mo Udall, and John Seiberling (House).

4. For general Ojibwa background, see Ritzenthaler, 1978, and Greenberg and Morrison, 1982. The expert on the border region is Harold Hickerson, for which see 1962, 1967, 1970a, 1970b. For current conditions in Minnesota, see Paredes, 1984. To my knowledge, there are no published histories of the Lac La Croix community, government documents include the “Claim of the Lac La Croix Band Indian Reserve 24C” (Indian Commission of Ontario, 1980). Remembering that Indian Reserves differ and that comparisons can be misleading, one may obtain some sense of the political and social forces within and without Native settlements by reading Shkilnyk 1985, including chapter 2 for historical context and Lithman 1984. Also very relevant is Greenberg, 1985. A short summary of Manitoba and Ontario Indian policy is in Vennum, Jr. 1988. For further references, see Helen H. Tanner, 1976.


The Constitution Act of 1982 provides that “the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.” Section 35.

9. Treaty No. 3 Between Her Majesty the Queen and the Saulteaux Tribe of the Ojibbeway Indians at the Northwest Angle on the Lake of the Woods [1873] (Ottawa: Queen's Printer, 1966). Beyond the literal language of the treaty, one certainly can argue that its “intent” obligated government to protect the economic interests of the Ojibwa. For a discussion of the treaty process, see Cumming and Mickenberg, 1972, chapters 13-14.


11. In four years during the mid-80's the Superior Forest Service budget dropped from $18,000,000 to $11,000,000, forcing nearly 100 layoffs. BWCA Wilderness News (Autumn 1987), p. 15.

12. Hoecker interview.

13. Interview with Steve Jourdain, Lac La Croix, March 7, 1988. The Nett Lake Indian Reservation is sixty kilometers southwest of Lac La Croix. In 1988 three Minnesota Indian tribes, the Grand Portage, Fort Bois (Nett Lake) and Fond du Lac, reached a settlement with the state that traded hunting and fishing treaty rights for $5.1 million in annual payments.


15. Toole interview.


17. Stradiotto, 1984:37. On resentment by environmentalists toward Indians, see Schwarz, 1987. Schwarz analyzes motives for the disaffection and offers a solution that involves use of national forest lands (pp.300-301).

In the past, environmentalists have often been oblivious to modern Indian needs and claims. For example, Brooks, 1975, gives no indication that Ojibwa still live nearby and use the area. An introduction to the conflicts between modern recreation and the needs of indigenous populations can be found in Clay, 1985.
The Canadian Constitution (1982) protects the special rights of Indians against non-Indian claims of equality by insuring that rights and freedoms guaranteed by the Charter “shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights that pertain to the aboriginal peoples of Canada...” Section 25.

18. *Senate Report 95-1327*, sections 4-d, 4-e, 11-b.


20. Jourdain interview. The court interpretation of the Jay Treaty is *Francis v. The Queen* S.C.R. 618 (1956). Ideally, everyone sees Quetico-Superior as a unit and would prefer to ignore the border. From the beginning, in 1909, international cooperation has been essential in protecting wilderness on both sides of the 240 kilometer common boundary (Stradiotto, 1984:32) Today American environmentalists attend Canadian hearings and lobby for protection of the park; the U.S. Forest Service and Ontario’s Ministry of Natural cooperate in law enforcement and enjoy congenial working relations. Hoecker and Toole interviews.


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