

Canada. Subsequently, upon the request of the U.S. consul, Lafond was released by order of the Attorney-General of Canada the charges against him were dropped and he was provided with free transportation back to Illinois.

Another case described by Hackworth is that of a man named Marker who, in September 1909, was apprehended on the United States side of the border by two men in plain clothes, one of whom alleged that he was a constable of the North West Mounted Police. Marker was brought back to Canada. After the matter was taken up with the British Ambassador in Washington, as the official channel of communication with the Canadian Government, he wrote to the Acting Secretary of State of the United States as follows:

"I beg to enclose copy of a report on the circumstances of the case by Commissioner A. Bowen-Perry of the Royal Northwest Mounted Police, Regina, Canada.

"This report was enclosed in a letter from the Deputy Attorney-General of the Province of Saskatchewan to the Canadian Secretary of State for External Affairs.

"The Deputy Attorney-General, in this letter, states that the Attorney-General has come to the conclusion, in view of the advice of the Minister of Justice 'to enter a stay in the case against Marker and release him, giving him an opportunity to leave the country'. He further points out that it required the services of a surveyor to fix the boundary line at the point in question between the United States and Canada, which circumstance he contends may well be considered a sufficient excuse for the action of the Police Officer in recapturing Marker at the point in question."

#### On the St. Clair

More recently, two Canadian Indians, Edward and Howard Kohosed, were removed on June 28, 1960, from a work-boat in the St. Clair River by Michigan State Police and placed under arrest. These two Canadian citizens, who were wanted in Michigan for breaking, entering and theft, had been employed on a joint project between Canada and the United States involving the construction of a new shipping channel in the St. Clair River. The arrest took place shortly after midnight, when darkness made it extremely difficult to establish conclusively whether the arrest took place in Canadian or United States waters. In representations made to the United States by the Canadian Government, it was emphasized that there was evidence to the effect that the arrest was made in Canadian waters and that, even if the two Indians were physically within

the United States at the time of the arrest, they would have been there involuntarily and that this would have been only in the course of their duties. It was also stated that the arrest had been made possible because of collaboration extended to the Michigan State Police by an officer of the United States Army Corps of Engineers who was in Canada on duty pursuant to an international agreement and not in a personal capacity. Subsequently the two Indians pleaded guilty to the charges against them in the Circuit Court of St. Clair County, Michigan. This action was taken without the concurrence of the Canadian Government, which continued to hold the view that, in the light of the circumstances of the arrest, the two men should have been released and immediately returned to Canada. Although the validity of the arrest was apparently not raised in the court, the circumstances of the arrest may have been taken into account by the Court in sentencing them on August 1, 1960, to five years' probation. In addition, Howard Kohosed was ordered to pay restitution in the amount of \$791.78 and court costs in the amount of \$210, with the provision that, if restitution was paid during the probationary period, the costs would be waived. Edward Kohosed was sentenced to 60 days in jail from June 29, 1960, and ordered to pay court costs of \$200. Money to cover the latter was raised among Edward's fellow Indians on Walpole Island and Edward was released as soon as payment had been made on August 10.

#### No sovereignty violation

In replying to the Canadian representations, a U.S. note stated that there would appear to have been no violation of Canadian sovereignty although the United States Government expressed its sincere regret about any misunderstanding that may have occurred and its regret if the manner of the arrest was in any way offensive to the Canadian Government. The note indicated that the State Department had written to the governors of every state bordering on Canada in an effort to ensure that state authorities would pay the most scrupulous regard to any action that could in any way affect Canadian sovereignty in the matter of law enforcement. However, it made no reference to the Canadian Government's request for compensation for the material consequences of the "improper" arrest of the two Canadian citizens. This latter question was not pressed further by the Canadian Government.

A number of other cases came to the

*Circumstances  
of arrest  
not raised  
but probably  
considered*