



Indian and Northern Affairs Canada Affaires Indiennes
et du Nord Canada

Saskatchewan Region

Information

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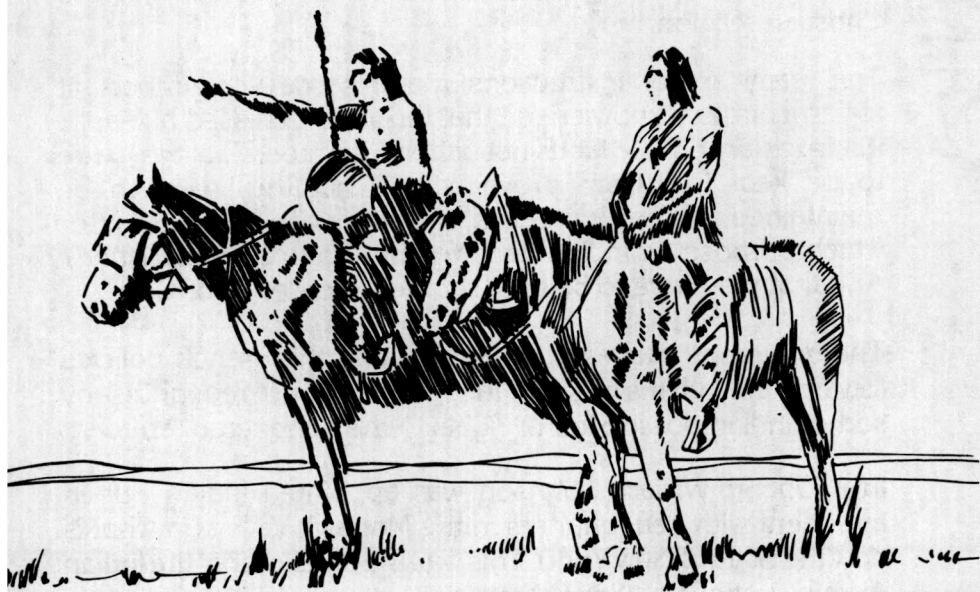
Indian and Northern
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1.

The Indian as Ally



Canada

Canada's dealings with its Indians were pre-dated by the dealings undertaken by the French and the British with the various Indian groups in the continent. With the ongoing development of the Americas, the aggressive imperialism of many of Europe's nations, and the threat of war between any of the elements, it is easy to see why the situation in the mid-1600s was very volatile. The Indians were thus valued and nursed as allies should any fighting break out.

In 1670 King Charles II instructed the Governor of the North American colonies to maintain peace and not give any just provocation to any Indians at peace with Britain. The Crown's representatives were also to protect Indians from adversaries. They were to instruct the Indians in, and invite them to the Christian religion.

This early set of instructions made some very important statements. It acknowledged that Indians possessed at least a usufructuary right to lands not hitherto granted. That they were to be kept free from provocation. That they were to be maintained as allies by means of presents and promises (for which purpose an Indian department was to be established). And that they were to be brought the "knowledge of God".

The difference between the English and the French policies towards the Indians was that the French did not recognize any sort of Indian possession or rights to the conquered territory.

In 1755 Sir William Johnson was appointed Indian Superintendent with headquarters in the Mohawk Valley (in what is now the State of New York). This was the precursor of the Indian Administrations of North America.

The Royal Proclamation of 1763 contained special provisions concerning Indians in the new colonies of Quebec, East Florida, West Florida and Granada. It received royal assent on October 7, 1763 and stated that

... Indians should not be molested or disturbed in the possession of such parts of our Dominion and Territories as not having been ceded to or purchased by Us are reserved to them or any of them, as hunting grounds.

It actually set aside the entire area from the Appalachians to the Mississippi (beyond which lay Louisiana, then under Spanish dominion) as "Indian hunting grounds".

This statement was the first on aboriginal rights. It contained three essential elements of Indian policy:

(1) certain lands were to be reserved to Indians (traditional hunting grounds); (2) Indians were not to be disturbed in their possession of lands reserved to them; (3) only the Crown could acquire the interests of the Indians in the lands reserved to them. Ultimate title was, in accordance with English law or real property, considered as vested in the Crown.

In 1775, in Instructions to Governor Carleton, further assistance was given to establishing an Indian "buffer zone" between the British and the French, and between the British colonies of the Atlantic seaboard and Louisiana. These instructions also outlined an administrative structure for the purposes of Indian Affairs which included a hierarchy of Superintendents, Deputy Superintendents, Commissaries, Interpreters, Smith and Missionaries. This comprehensive set of instructions provided the basis for British policy regarding the Indians for almost 60 years. The Indian Department was under military control, and its activities were directed almost exclusively towards the maintenance of the Indians as allies.

For a discussion of later developments in the history of the administration of Indian Affairs, see other pamphlets in this series.

The following is a list of titles published in this series by
Indian and Northern Affairs Canada.

- The Indian as Ally
- The Indian and Civil Government
- The Indian in Confederation
- Indian Treaties in Saskatchewan
- The Indians of Saskatchewan

**Produced under the authority of Dr. Owen A. Anderson, Director-General,
Saskatchewan Region, Indian & Inuit Affairs. Produced by Information Services,
Saskatchewan Region.**

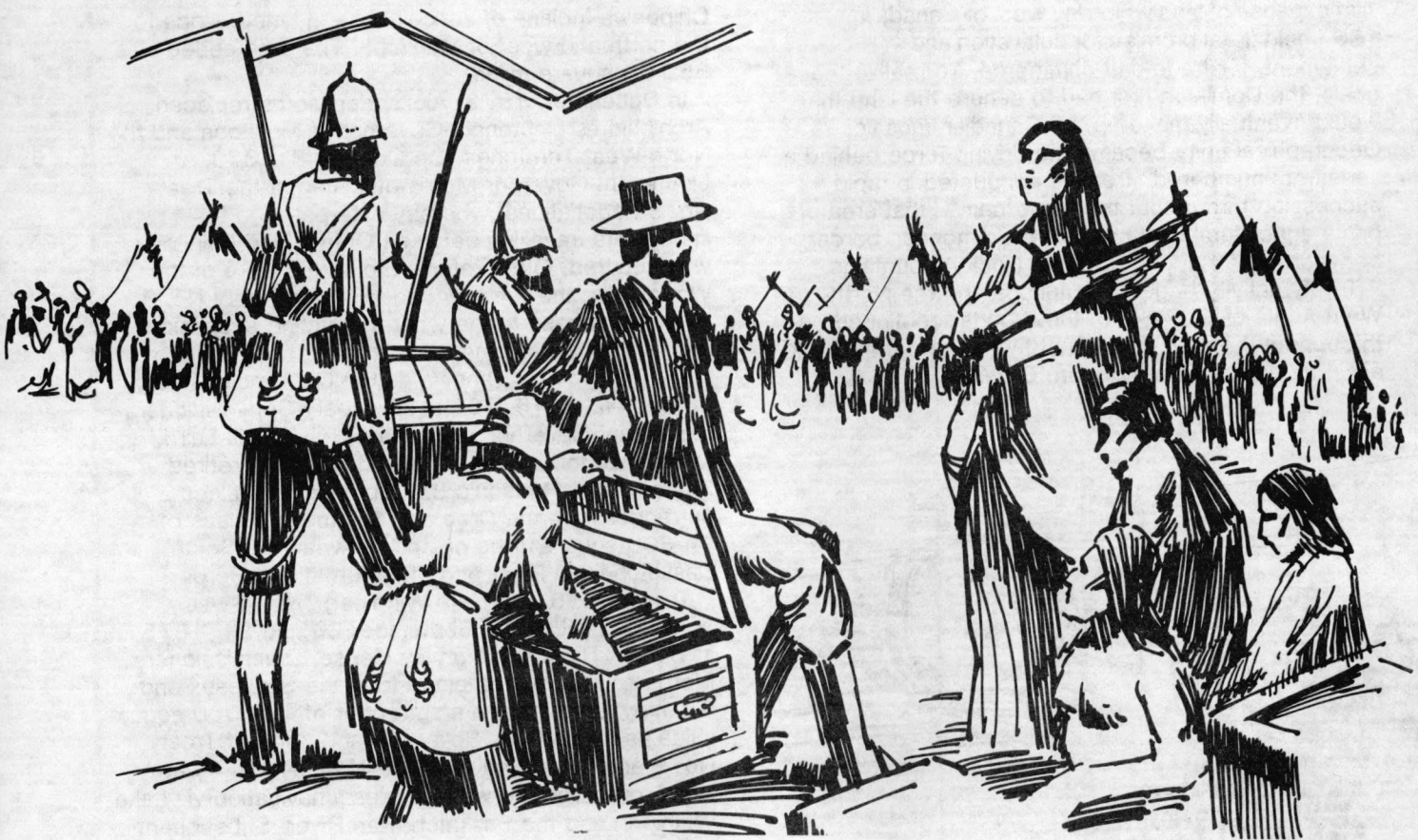


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THE TREATY ERA



Canada

Early during the settlement of North America, the British sovereign recognized as a matter of policy, an Indian interest in the lands occupied by the various native tribes. Such an interest could only be extinguished by mutual agreement between the Indian people and the Crown. This policy gave rise to the practice of making agreements or treaties, as they were later called, with the Indians. Treaty-making began in British colonial times in what is now the United States and was afterwards introduced into Canada.

As settlement burgeoned in Upper Canada after the American War of Independence (1775–1783), land cession treaties were made with the Indian people for the surrender of their interest in the land. At first, the returns were once-for-all cash payments only. In later surrenders, however, the Crown undertook to set aside reserves, annuities and other considerations for the benefit of the people.

About 1850, there was a growing awareness of the potential for development and expansion of the Canadian North-West. An increasing trend in American settlement westward resulting from the completion of the Union Pacific Railway in 1864 evoked concern over the uncertain future of the fertile prairies.

Rupert's Land, the North-Western Territory and the vast expanse of land which lay west of Canada in 1867 held great promise for cultivation and settlement, for trade and commerce. To realize these goals, the Dominion first had to secure the land that would eventually make up the Canadian mosaic. Geographical unity became the driving force behind a series of "numbered" treaties conducted in rapid succession throughout the fertile belt — that area of prime agricultural land north of the American border between Lake Superior and the Rocky Mountains.

Treaty activity began in Manitoba and the North-West Angle of the Lake of the Woods, continued on throughout the prairies and northwest, and then back again to include all of northern Ontario.

The majority of post-Confederation treaties, notably those in Manitoba, Saskatchewan and Alberta, were concluded before the final provincial boundaries were established. In 1871, Treaties Nos. 1 and 2 took in all of the fledgling province of Manitoba, including additional land north and west of its initial boundaries. Not until 1882 did Manitoba's boundaries expand and overlap the treaty lines. Finally, in 1912, Manitoba attained its present limits at the 60th parallel. Adhesions to Treaty No. 5, first negotiated in 1875, had already extinguished the Indian title in these northern regions in 1908, 1909 and 1910. Further treaty activity in the prairies predated the establishment of Alberta's and Saskatchewan's provincial boundaries. Only in 1905 were the present boundaries of these two provinces established.

For Treaty No. 1, dated August 3, 1871, the Crown was represented by Indian Commissioner Wemyss Simpson, Lieutenant-Governor Adams G. Archibald and an assistant, the Hon. James McKay. McKay's rapport with the Indian people proved to be invaluable during the negotiations with the various tribes. The Chippewa and Swampy Cree Indians surrendered a tract of land covering some 16 700 square miles.

By Treaty No. 2, dated August 21, 1871, the same representatives secured a surrender from the Chippewa Indians of agricultural and timber lands to the north and west of Manitoba. The area ceded was 35 700 square miles.

In December, 1872, Alexander Morris replaced Archibald as Lieutenant-Governor of Manitoba and the North-West Territories. On October 3, 1873, Lieutenant-Governor Morris officiated at the Treaty No. 3 negotiations, whereby safe passage for immigrants travelling between Ontario and Manitoba was secured. Often referred to as the Lake of the Woods link, the territory ceded under Treaty No. 3 provided access to the west, facilitating expansion and further development.

By Treaty No. 4, known as the Qu'Appelle Treaty, on September 15, 1874, the Treaty Commissioners, Lieutenant-Governor Morris, the Hon. David Laird, Minister of the Interior, and W.J. Christie, retired Factor of the Hudson's Bay Company, obtained a surrender from the Cree and Saulteaux Indians of 74 600 square miles of land between the South Saskatchewan River and the International Border.

Treaty No. 5, the Lake Winnipeg Treaty, was concluded initially on September 20 and 24, 1875, at Berens River and Norway House. Commissioners Morris and McKay obtained from the Saulteaux and Swampy Cree Indians a surrender of 100 000 square miles as far north as Split Lake and north of Treaty No. 2 and the young province of Manitoba. Treaty No. 5 prepared the way for steam navigation via Lake Winnipeg and the Saskatchewan River. Subsequent territorial adhesions to Treaty No. 5 were made over a three-year period from 1908 to 1910.

By Treaty No. 6, dated August 23 and 28, and September 9, 1876, at Forts Carlton and Pitt, Morris, McKay and Christie obtained a surrender from the Plains and Wood Cree and Assiniboine Indians of 121 000 square miles encompassing most of the North Saskatchewan River district and extending as far as the Rockies.

By Treaty No. 7 (Blackfoot Treaty) on September



22, 1877, at the Blackfoot Crossing, the Treaty Commissioners, the Hon. David Laird and James F. Macleod, Commissioner of the North-West Mounted Police, obtained a surrender from the Blackfoot, Blood, Piegan, Sarcee and Stony of the remainder of the fertile belt (southern Alberta).

For the purposes of administration the treaty area was divided into two Superintendencies, that of Manitoba including Treaties Nos. 1, 2, 3 and 4 and that of the North-West Territories including Treaties Nos. 5, 6 and 7. Edgar Dewdney was appointed Chief Superintendent and was required to reside in his superintendency to maintain closer contact with the Indian people and supervise operations. Under the Superintendents were the resident Indian agents.

There was a considerable mixed-blood population in the North-West during the 1870s, namely the English-speaking "Scotch" or "Hudson's Bay" Indians, and the French-speaking Metis. Many of these people of mixed blood had their own farms and lands. They were confirmed by the Government in their land holdings and continued farming and trading for a livelihood. A large group was entirely identified with the Indians, living with them and speaking their language. They were recognized as Indians at Treaty time and were taken into bands with whom they resided. A third group lived in continual pursuit of the buffalo, following the migrating herds across the plains. This group did not partake in any post-Confederation treaty negotiations.



After the famous Minnesota Massacre in 1862, a number of American Sioux Indians took refuge in the Red River settlement. They refused to return to the United States despite the efforts of both American and British officials and were living peaceably in tents when the province of Manitoba was formed in 1870. The new settlers found the Sioux very useful employees on their farms. The Sioux made repeated requests for reserves where they themselves might take up farming.

Reserves were eventually allotted the Sioux at Oak River and Birdtail Creek in Manitoba; at White Cap, Wahpaton and Standing Buffalo in Saskatchewan. These Indian newcomers numbered about 1 500 in 1874. When hostilities broke out in the Territory of Montana in 1876, the Sioux in Canada refused to join their kinsmen. In 1876 another reserve was granted them at Oak Lake, Manitoba, allowing 80 acres to each family of five. Although land was granted the Sioux in Canada, no treaties were ever negotiated by the Canadian Government with them.

The North-West Territories acquired separate status and administration in 1875 by an Act bearing the same name. The Hon. David Laird became the first Governor.

The Hudson's Bay Company officially ceased trading in alcohol with the Indians in 1834, and the use of intoxicants was strictly forbidden by treaty up to 1876 on all reserves and from thereon by Indian Act legislation. The freetrader, however, was often a bootlegger who traded cheap, adulterated liquor for valuable hides and other furs. Whisky-trading forts such as Fort Whoop-up, Slide Out and Stand Off on the Belly River, and posts in the United States supplied an increasing flow of illicit spirits. Two tin cups of whisky purchased a buffalo robe, and four gallons of the liquor could purchase a fine horse. Exploited and imperiled, many of the Indians drank until they died. Indian leaders were alarmed, and through the missionaries and legitimate traders sought government intervention.

In 1873 the Dominion Parliament passed an Act to establish a military force in the North-West. Known as the North-West Mounted Police, the Force was comprised of 300 men and officers. In September, 1873, three divisions of the Force were organized at the Stone Fort, near Winnipeg, and proceeded to Dufferin, Manitoba, to await reinforcements from Montreal and Toronto. When the other groups arrived, the entire Force began the trek westward under the command of Lieutenant-Colonel French.

By mid-September French's men reached the Oldman River near the present site of Macleod. There they built a log fort, naming it Fort Macleod after the officer in charge of the unit. Soon after, Lieutenant-Colonel French was replaced by Colonel Macleod as the Force's chief officer.

Under Macleod's efficient administration law and order were established on the prairies. The North-West Mounted Police maintained a high standard of discipline and fairness throughout the Canadian frontier. The Force curtailed the influx and activity of whisky traders, and ended the state of disorder that had existed in Canada for many years. These scarlet-clad peacemakers came to be trusted by the Indians and were recognized as ambassadors of the Queen's good faith.

It is interesting to note that the prairie Indians were particularly fond of the tunic worn by the Force, and those fortunate enough to be given such a colourful and prestigious jacket no doubt prided themselves in its acquisition.

The North-West Mounted Police prevented outbreaks of violence among the various Indian bands, suppressed horse stealing, and made day-to-day living more secure for all settlers. Yet another role played by the Force was its involvement in the welfare of scattered Indian bands who continued to pursue the near-extinct buffalo. The Mounted Police encouraged nomadic hunters to settle on reserves.

The Indians eventually realized, although somewhat reluctantly, that they would have to find some new means of subsistence and many turned to agriculture. In 1877 the newly-organized North-West Council passed an ordinance for the preservation of the buffalo, but was powerless to stem the destruction south of the border — it is estimated that 50 000 a year were shipped from Fort Benton, Montana.

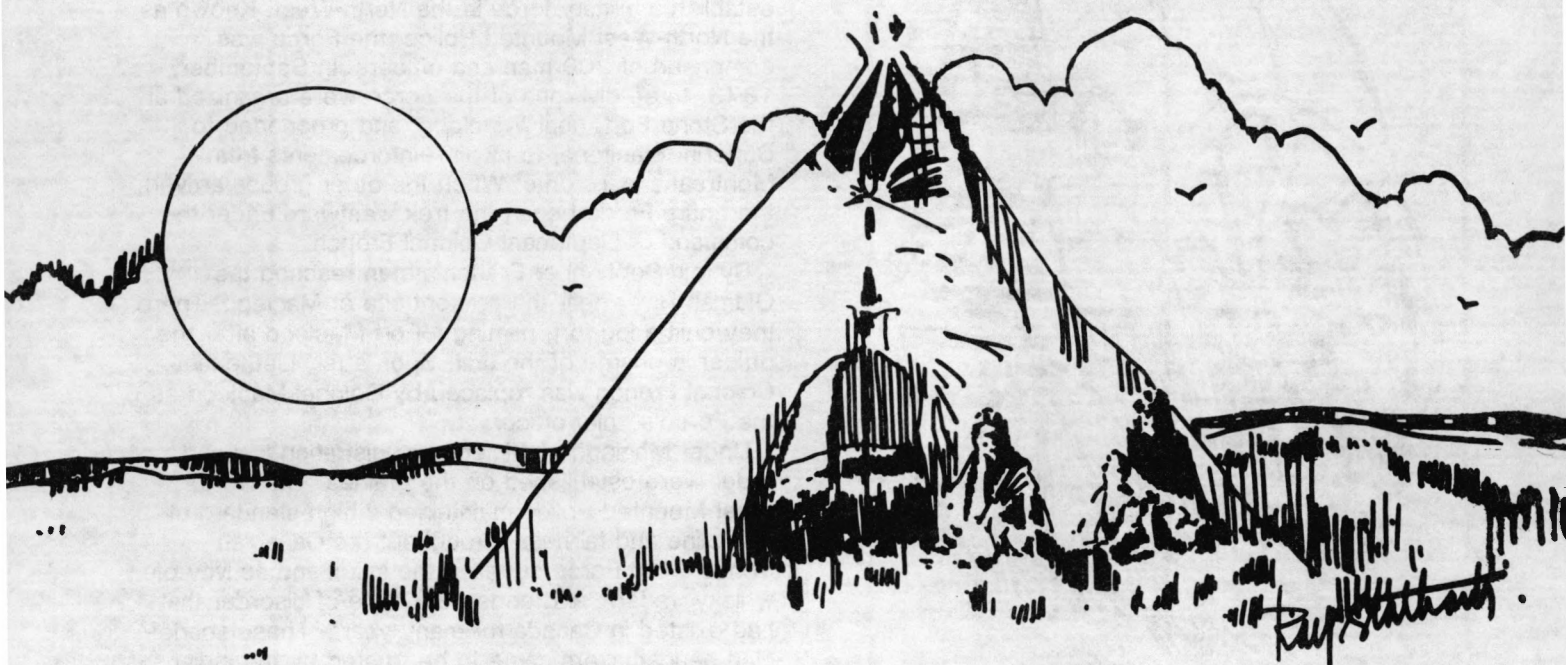
In the winter of 1878–79 there was much suffering on the western prairies from want of food. The Federal Government supplied liberal relief, issuing rations of beef, flour, tea and tobacco, and attempted to settle the destitute Indians on reserves with the utmost speed.

Many Indians were apprehensive about the inevitable change in their lifestyle. Though farming appeared to be the only solution, they were hunters

by nature and proud of their tradition. Crowfoot, head chief of the Blackfoot, was a man of unusual sagacity and influence. He saw the need for adopting a new mode of life and guided his people through the painful period of transition.

Treaty activity in the Canadian North-West did not resume until 1889, 12 years after the signing of Treaty No. 7 when the Wood Cree of the Montreal Lake region signed an Adhesion to Treaty No. 6. Less than a decade later gold was discovered in the Klondike and fortune-seeking miners flocked from Edmonton to the Yukon gold-fields. Consequently, safe passage for the newcomers had to be secured. In 1899 Treaty No. 8 was concluded for this purpose. Under this Treaty, 324 900 square miles were ceded covering the northern half of Alberta, the southeast portion of the Mackenzie District in the North-West Territories, the northwest corner of Saskatchewan and the northeast quarter of British Columbia. Because of their peculiar geographic position and close relationship with neighbouring Alberta Indians, the Indian bands of northeastern British Columbia were brought under this Treaty.

Under Treaty No. 10, dated August 28, 1906, and the last of the post-Confederation treaties on the prairies, a large tract of land in northern Saskatchewan and a small area at the 55th parallel in Alberta were surrendered to the Crown by Chipewyan and Cree.



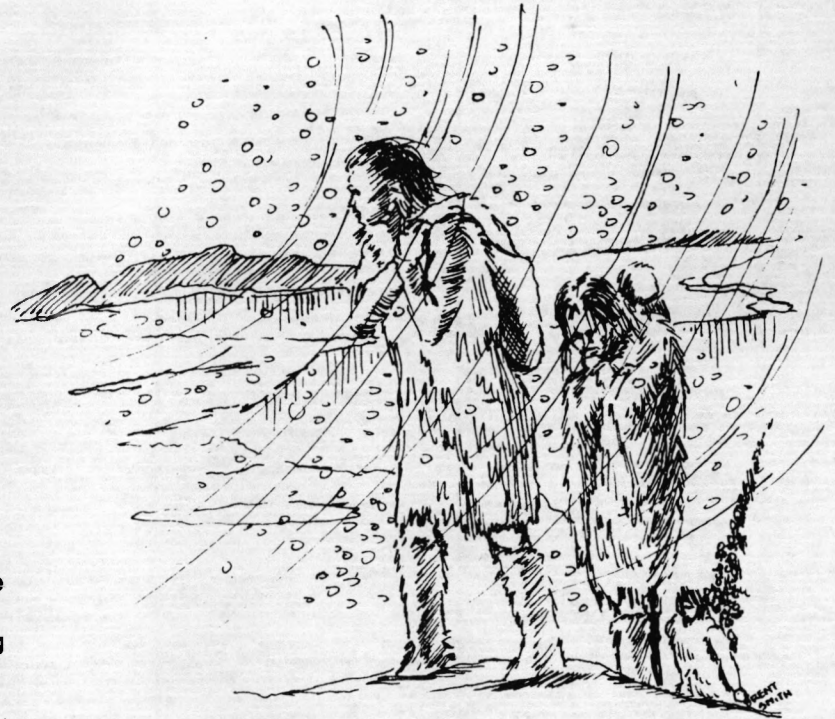


AN OUTLINE

Archaeologists and geologists generally agree that man came into the prairie region during the last Ice Age when much of Canada was buried under two giant glaciers — the Cordilleran and the Laurentian. An ice-free corridor separated these ice sheets and people entered America from the continent of Asia over a 1 200 mile stretch of land. Today, the area which once formed this land bridge is known as the Bering Strait.

From archaeological finds, it is possible to trace the migration routes of the diverse nomadic people who travelled across what is now Canada. Athapascan-speaking bands moved onto the plains from the northwest some 2 000 years ago. A "mound-building" people relocated from the south and remained in their new habitat for about 1 000 years, leaving traces of earthen burial mounds in southern Manitoba and Saskatchewan. Still other people travelled across the plains, leaving fragments of their clay pottery along the way. Algonkian-speaking people from the eastern woodlands began to advance westward, clashing with the Athapascans and vying for land. Alliances were made and broken, until strong tribal units emerged.

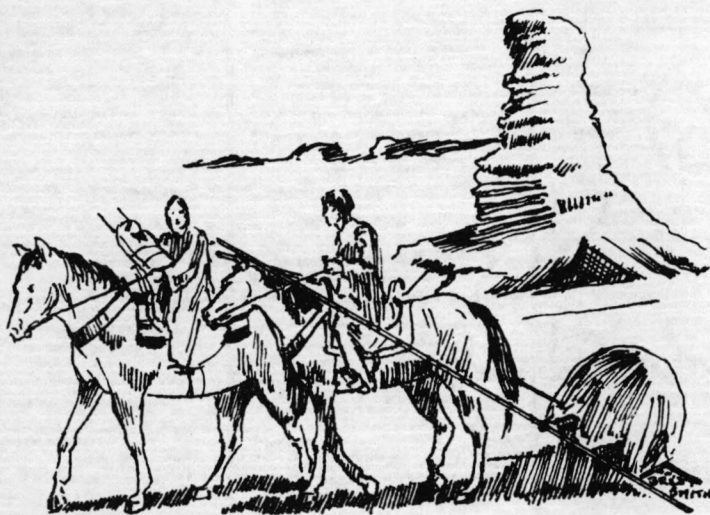
Early in the 18th century the horse was used as the principal means of transportation on the plains and western Indian tribes became more mobile. This gave rise to many changes in the political structures of these tribes. The Siksika, or Blackfoot, had joined with the Kainah, or Blood, and the Pikuni, or Piegan, to form what would be referred to as the Blackfoot Confederacy. These three tribes spoke a mutually intelligible dialect of the Algonkian language. The



Blackfoot, Kainah and Piegan were joined later by the Sarcee, an Athapascan tribe from the north, and the Gros Ventre from the south. The Assiniboine broke away from the Dakota Sioux and allied themselves with the Cree. The Ojibway, or Saulteaux, pushed west from the Great Lakes during the 1730s. They were traditional enemies of the Dakota and soon joined with the Plains Cree, who were also newcomers to the prairies. The Woods and Swampy Cree continued to expand north and west, displacing the Athapascan-speaking tribes. Warfare for control of the buffalo grazing grounds was constant between the various tribes, and combat became even more widespread and violent with the introduction of firearms.

The Kootenay, a small tribe now living in British Columbia and northern Montana, was driven from the grasslands in the foothills of Alberta by the Blackfoot. The Kootenay adapted to a new way of life and, until the buffalo disappeared in the late 19th century, made annual journeys to the plains.

The Gros Ventre played a minor role in the history of Canada's Indian people. About 1820 they broke away from the Arrapho, a United States tribe, and joined the Blackfoot Confederacy for protection against the Crow Indians. The Gros Ventre occupied parts of southern Alberta and, until their Assiniboine enemies displaced them, they occupied Saskatchewan as well. In 1867 they quarreled with their Blackfoot benefactors, relations became poor, and a battle with the Piegan diminished their numbers and brought about their demise.



"THE HORSE WAS USED AS THE PRINCIPLE MEANS OF TRANSPORTATION"



THE TIME OF THE BUFFALO

Before the arrival of Europeans the buffalo provided the prairie Indians with virtually all the raw material they required to exist. Food, shelter, garments, weapons and fuel were derived from the buffalo.

The buffalo was the focal point in the day-to-day life of the plains Indians. The largest mammal in North America, the male, or bull buffalo, could weigh as much as 2 500 pounds and stand more than 6 feet at the shoulder. The imposing size, coupled with its keen sense of smell and hearing made this animal a challenge for even the most agile of hunters.

Prior to the acquisition of the horse, tribes like the Blackfoot, Assiniboine and Plains Cree devised sophisticated hunting techniques which were quite effective. For example, along traditional migration routes, on either side of buffalo trails, clusters of brush, branches and stone were arranged so that they converged at a chosen location on the plain. These V-shaped alignments served to direct the buffalo into a corral, or pound, at the end of the funnel where the milling animals were slaughtered by eager hunters. A famous Plains Cree chief, renowned for his ability to construct corrals for staking buffalo, was called Poundmaker.

The topography of the prairies was, to a large extent, rolling plains which stretched for hundreds of miles without relief. However, in certain locations, the open terrain gave way to steep cliffs and hunters made use of these during the buffalo hunt when they would stampede entire herds over a precipice. This method enabled a community to secure large quantities of meat during a single hunt.

To maximize the efficiency of the hunt individual communities would often band together. Men, women and children were involved and each person had a specific task. Several days before a hunt, a ritual was held imploring the Sacred Buffalo for success. Scouts were sent out to determine the whereabouts of the migrating buffalo. Chutes similar in design to those used with pounds were employed, and women fortified the alignments leading to the rim of the valley.



POUNDMAKER

When word was received that the grazing buffalo had begun to approach the outskirts of the encampment, silence descended upon the community. Participants in the buffalo drive chose strategic places: women and children carefully concealed themselves amidst the alignments, and men armed with spears, bows and arrows, made their way down the steep cliffs below the narrow point of the chute. Meanwhile, hunters had crept up behind the unsuspecting buffalo herd and gradually guided it closer to camp. When the wind was favourable, fires were made so that the smoke compelled the scattered buffalo to drift in the desired direction.

When the time was right, hunters surrounding the flank of the herd moved quickly towards the animals, uttering loud cries and waving blankets. Stricken with terror, the buffalo would break into a gallop and enter the wide mouth of the chute. In an effort to escape, some might try to break through the barriers bordering the plain, but their movement was checked by women and children who waved blankets and shouted, further confusing the frightened buffalo. In this manner, the momentum of the buffalo drive grew as the herd stampeded down the plain and through the narrow end of the chute. Hundreds of animals plummeted over the rim, falling to their death or being killed by hunters.

A different hunting strategy evolved with the advent of the horse and less emphasis was placed on communal hunts.

The 'surround' was a technique employed by hunters who would band together on their horses and encircle a group of animals. While most hunters remained on the perimeter thrusting spears and carefully aiming their arrows there were those who entered the mainstream of the milling buffalo to make the kill. As the animals were slaughtered, the horsemen reduced the size of the circle until many of the animals had been killed.

Whenever possible, buffalo were driven into areas where they would flounder and be easily killed by hunters. In summer the plains Indians might guide a

The Time of the Buffalo

small herd of buffalo into marshes where they would become stranded and fall prey to hunters; during winter, deep snow or thin ice became ideal entrapments.

Indian buffalo hunters of old devised still other ways to stalk their quarry. The stealthy stalk was a challenge for even the most skillful man. Because the buffalo feared few animals, a hunter seeking a fine bull might wrap himself in a wolf skin and creep to within killing range of the beast.

Communal hunts took place in June, July and August, when the buffalo were fat, their meat prime and their hides easiest to dress. The hunters themselves went about the shared task of butchering and skinning the animals and the buffalo were divided according to the needs of each family. A special allotment was made for the sick and aged of the band.

Before the buffalo hide became a much sought-after trade commodity, the people of the plains wasted very little meat, preparing and preserving it in a variety of ways. Buffalo meat was boiled or roasted, and often dried to retain its nutritional value. In early times clay pots were used for cooking, but were later discarded in favour of strips of buffalo hide sewn together and supported by stakes. These buffalo-hide bags were filled with water and hot stones, and meat was dropped in and boiled.

On occasion, buffalo meat was sliced into thin sheets, some measuring two by three feet, which were hung from a scaffolding of poles and allowed to dry, then stored in waterproof intestine bags. Another way sun-baked meat was preserved was the preparation of pemmican. Dried meat would be pounded into a powder-like substance and then blended with bone marrow and berries. Once pemmican had been prepared and stored, it could be preserved for years.

Buffalo tongue, a favourite delicacy fancied by the plains Indians, was also dried, but always eaten whole. Some tribes made a type of blood sausage using the intestine as a casing. Tallow was rendered and stored in skin bags.

The preparation of buffalo hides was always the responsibility of the women, as traditionally the hides became their possessions regardless of what use they were intended for. So although the man was master of the household in tribes like the Plains Cree, the woman owned the tipi which she had sewn from buffalo skins.



The tanning of a buffalo hide was a lengthy process which involved scraping excess flesh from the furry skin and then dehairing it. Fat was used to soften the skin, and a mixture of buffalo brains, tree bark, and crushed liver was rubbed into it at different stages of the tanning process. When this was done, the skin was soaked, thoroughly washed, and then hung to dry. A woman usually spent many hours kneading the skin to soften it, particularly if it were to be used for clothing. To further preserve the leather, it was smoked.

The leather was dyed with various mixtures of roots and earth, if it were to be used for ornate garments. Tipis of buffalo hide were decorated using the same natural dyes. Motifs, painted on tipi walls by hunters, recounted personal exploits, honoured personal guardian spirits or warded off evil spirits.

Aside from lodge covering and clothing, the buffalo hide might be tailored into a saddle or cut into strips for a bridle. Before the days of horses the plains Indians travelled on foot and forded rivers in tub-like vessels fashioned from buffalo hide and branches, known as bullboats.

Prior to the influx of traders and trade goods buffalo horns were used as spoons and drinking cups, with bones serving as scrapers or other implements. Sinew was carefully removed and used as thread. The shaggy hair was plaited into halters, and hooves were boiled and rendered into a type of glue. Even the tail served a purpose — as a fly swatter.

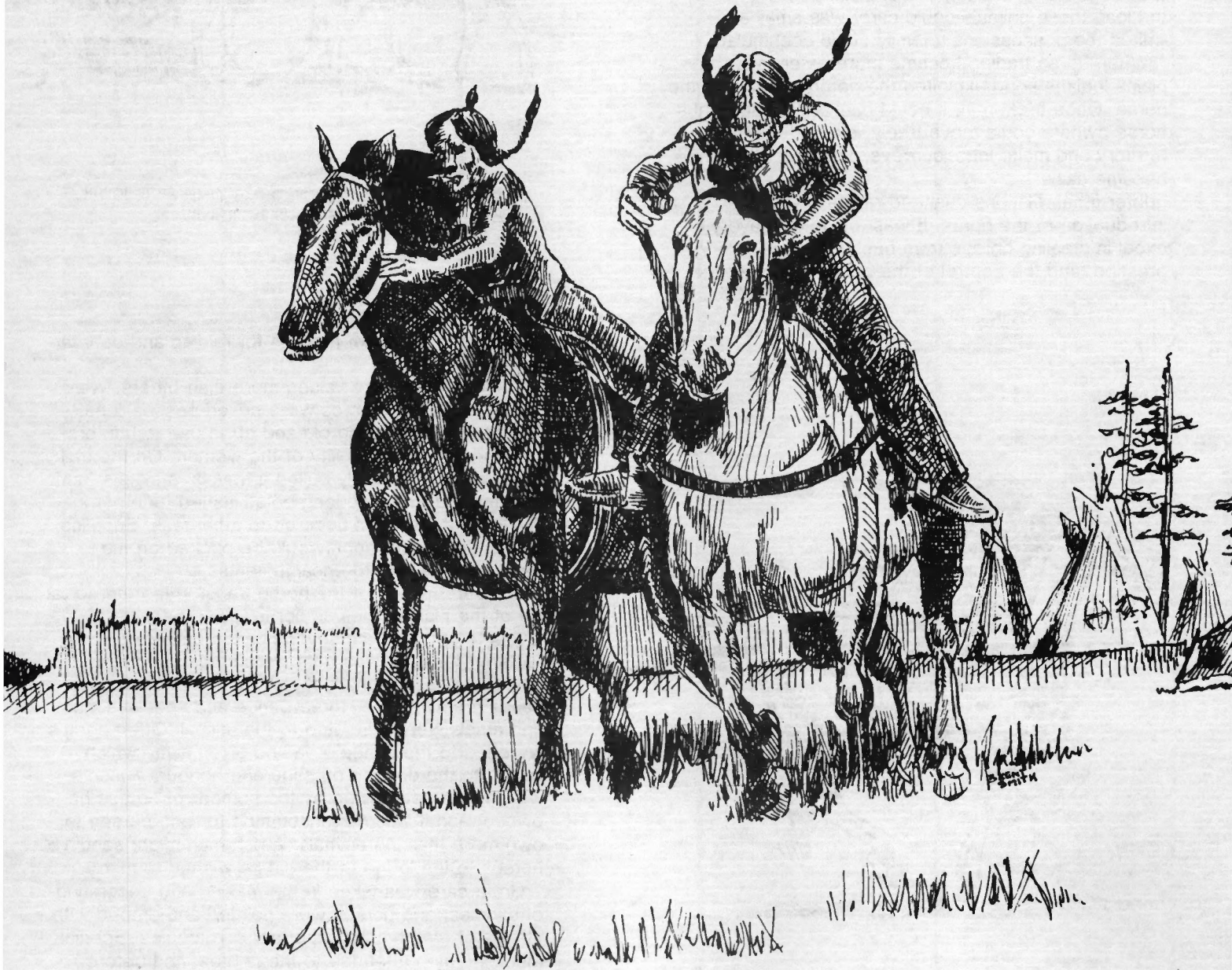
The availability of fuel for fires posed little problem as dried buffalo excrement was gathered when wood was scarce. During times of inter-tribal warfare, "buffalo chips" were often preferred because they produced relatively little smoke.

Explorer Henry Hind travelled across the Canadian prairies in 1858 and was most impressed by the extent to which Plains Cree existence was linked with the buffalo, horse and dog. Of the Cree he wrote: "It may truly be said that they exist on the buffalo, and their knowledge of the habits of this animal is consequently essential to their preservation. . . . Next to the buffalo the horse is the mainstay of the prairie Indians. . . . Next to the horse, the dog is the Prairie Indians most valuable friend . . ."





THE BIG DOG OF THE CANADIAN PLAINS



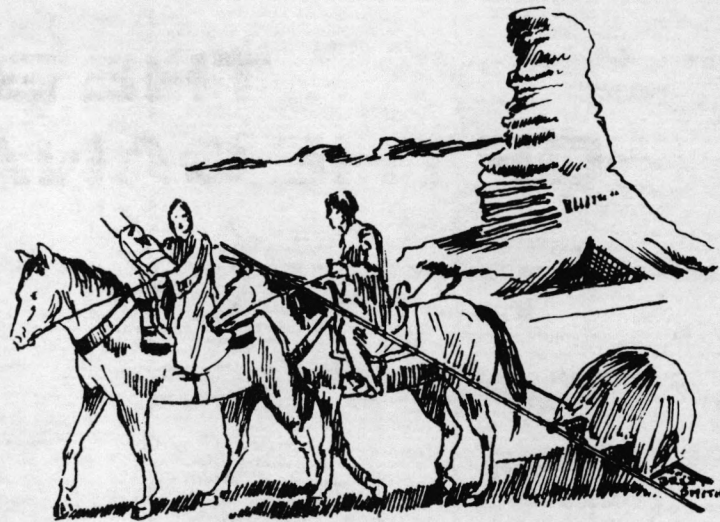
The Big Dog of the Canadian Plains

It is not known precisely when the Indians of the Canadian plains first obtained horses. The Spaniard, Coronado, introduced them to the Indians of the southern plains in 1541 where the horse grazed contentedly and its numbers soon increased. Stray horses formed wild herds and were much sought after by Indian tribes. As soon as the southern Indians became aware of their usefulness, they organized raiding expeditions to capture as many as possible. Soon the northern tribes procured horses from their southern acquaintances. Each tribe referred to the horse in a different manner. For the Sioux, the horse was "sunka waken", or mysterious dog. The Blackfoot named their steeds "ponokomita", or elk dog. "Mistatim", or big dog was the name which the Cree gave to the horse.

The plains Indians were once a pedestrian people with dogs being the only beast of burden. However, the load these animals could carry was small and limited the possessions a family could accumulate.

When horse trading became more extensive, the plains Indians soon exploited the potential value of the horse. Once broken in, it could haul large loads, thus horse owners could move freely, expand their territory and make long journeys. Travel and hunting became easier.

Inter-tribal relations changed radically with the introduction of the horse. It was a sign of bravery to excel in stealing horses from one's enemies. Glory, prestige, and the control of the buffalo migration



"THE HORSE WAS USED AS THE PRINCIPLE MEANS OF TRANSPORTATION"



routes were the chief motives for raiding and counter-raiding.

Some horses were valued more than others. War ponies or buffalo horses were prized possessions. The pack horse, being old and of no use to hunters, became the responsibility of the women. On the trail the pack horse usually pulled a travois, a simple frame constructed from two long poles lashed together in the form of an X and secured to a harness. Supplies and family possessions would be packed on the travois and hauled to encampments.

The introduction of the horse transformed the social life of the plains tribes as horse racing became a favourite sport. When several bands gathered together for festivities bets were made and many personal possessions lost and won. A number of bands practised the Horse Dance and special songs and rituals were attributed to the animal. Often horses were led to the dance area and given away which added to the donor's prestige and honour. A man's wealth was determined by the number of horses he owned, and it was not uncommon for one person to own more than 75 animals. A rich man might send 15 horses to the lodge of the girl he wished to marry.

Great care was taken in the making and decorating of saddles, and horses were painted and draped with strings of feathers for important ceremonies. Special medicine men attended to the horses, and before going on a raid both horse and rider took part in a ritual.



THE SIOUX



SITTING BULL, CHIEF OF THE SIOUX

The Sioux

The Sioux, or Dakota Indians, are a large confederacy of tribes scattered over the American plains and the Canadian west which speak the same language. The name Sioux is actually derived from the Ojibway word Nadouessioux, meaning "adders" in the sense of enemies or hated foes. White traders abbreviated this to Sioux. The Sioux themselves, however, referred to their people as Dakota, or "our friends".

Nearly two centuries ago the Sioux fought the Cree north of the borders of present day Manitoba. One of their branches, the Assiniboine, occupied large areas of Saskatchewan. The Assiniboine made peace with the Cree and they became allies about 1770. The Assiniboine, however, retained their own hunting grounds and are recognized as a separate tribe. Today they are Treaty Indians, while the Sioux parent tribe, which came to Canada as refugees from the United States, are not.

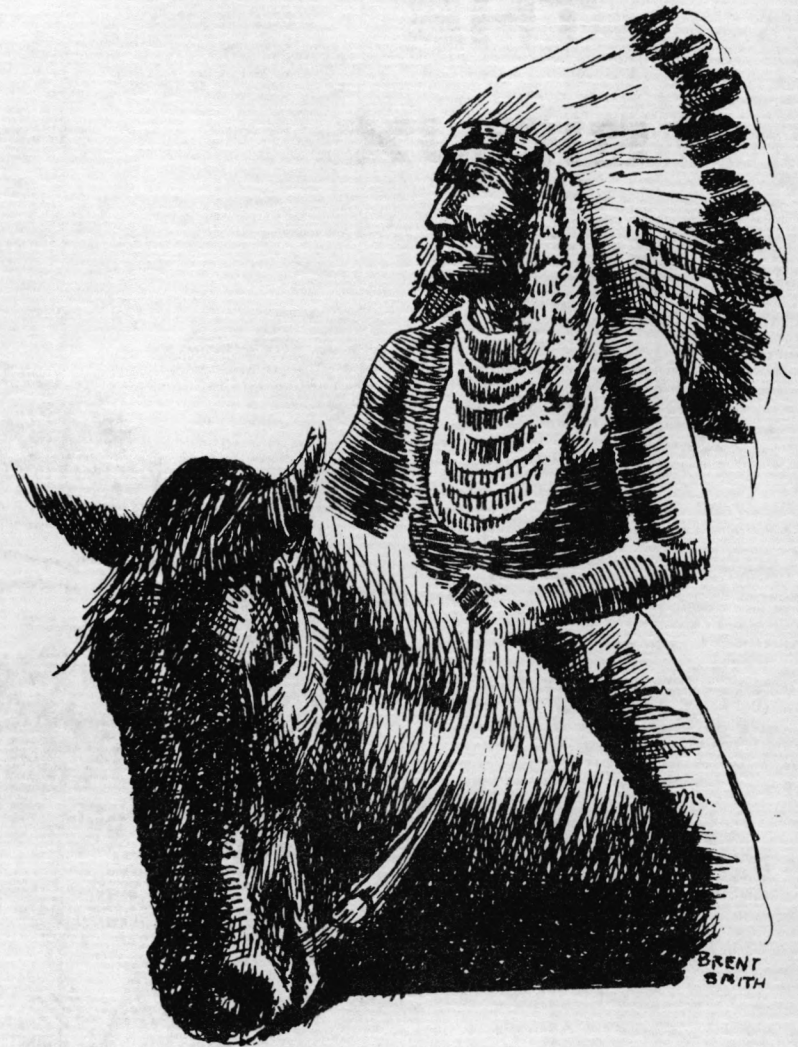
The Siouan way of life was much like that of other prairie people. The most distinguishing feature of their apparel was the design of their ornate moccasins with the geometric beadwork or quill pattern, containing a great deal of symbolism. The elaborate feathered headdress of the Sioux warriors has been copied and adopted for ceremonial use by many other tribes.

When the province of Manitoba was formed many Sioux families were camped in the parishes of Poplar Point, High Bluff and Portage la Prairie. They sent several deputations to the Lieutenant-Governor requesting reserves be set aside for them and necessary farming implements be provided. A reserve on Lake Manitoba was proposed, but the Sioux were afraid to settle near their former enemies, the Saulteaux of Red Lake. In 1874 lands were set aside for them in Manitoba and the scattered families banded together on the Assiniboine River, the Oak River and at Birdtail Creek.

In 1876, a band of Sioux living in the Qu'Appelle district of the area then regarded as the North-West Territories, (now part of Saskatchewan), sent their chiefs to convene with Lieutenant-Governor Morris and were granted a reserve. The following year another reserve was set aside for a band who hunted in the Turtle Mountain area at Oak Lake. Reserves at Moose Woods and Prince Albert were later assigned.

After the defeat of the American cavalry, at Little Bighorn in June, 1876, hundreds of Sioux refugees came into Canada under the leadership of Sitting Bull, and met no resistance from Canadian Indians. Peace with the Saulteaux had been made, thus ending the centuries-old enmity between the two peoples.

Major Crozier of the Royal North-West Mounted Police was Commanding Officer of Fort Walsh and dealt firmly and fairly with Sitting Bull, and with Lieutenant-Colonel Macleod, he maintained peace on the prairies. American commissioners approached Sitting Bull requesting his return and although he refused initially, he later did return, leaving a small number of his tribe who became Canadian citizens in the years that followed.



SIoux WAR CHIEF



THE ASSINIBOINE



Called "the people who cook with hot stones", the Assiniboine had broken from the Dakota Sioux, the tribe from which they originated. They settled and hunted on the land surrounding Lake Nipigon and The Lake of the Woods. For them and their neighbours, the Ojibway, the pursuit of game and the harvesting of wild rice were the mainstays of a hunting and gathering existence patterned after the seasons.

By the 1700s many Assiniboine bands had drifted to the northwest, dividing into two offshoots. One branch chose to encamp at the treeline northwest of Lake Winnipeg, the other relocated southward to the valley of the Assiniboine River.

About the middle of the 18th century the acquisition of horses and flintlock rifles enabled them to expand their territory further west. Finding willing

allies in the Cree, they opposed the Blackfoot Confederacy for control of the Canadian prairies. Pitting their skills against the Sioux, they made their way into the United States and waged war on the Mandan. The Kootenay and Salish tribes living beyond the Rocky Mountains soon found their lands threatened by the steadily-encroaching Assiniboine.

At the turn of the century the Assiniboine hunting grounds encompassed all the Canadian plains. Written in 1809, Alexander Henry's "Journal of Adventures" traces the vast expanse occupied by the Assiniboine: "The Assiniboine are from the Sioux. Their lands may be said to commence at the Hair Hills (Pembina Mountains) near the Red River, then running in a western direction along the Assiniboine River, and from that to the junction of the north and south

The Assiniboine

branches of the Saskatchewan, and up the former branch as far as Fort Vermilion, then due south to the Battle River, and then southeast until it strikes upon the Missouri, and down that river until near the Mandan villages, then a northeast course until it reaches the Hair Hills. All this space of open meadow country may be called the lands of the Assiniboines."

Henry estimated that at the beginning of the 19th century they numbered 10 000. In 1842 reliable estimates placed their population at 3 040. The 1890 Dominion Blue Book fixes the Assiniboine population of Alberta and Saskatchewan at 1 042. The decline in population resulted from smallpox epidemics.

The Canadian prairies abounded with wildlife during the first half of the 19th century and it is estimated there were more than 60 million buffalo grazing on the plains at this time. The Assiniboine were skilled buffalo hunters. Scattered bands of this tribe who lived near the mountains, however, demonstrated expertise in hunting deer, bear and moose as well. For these bands, fish provided an occasional change in diet. Roots and berries, gathered by the women, were eaten fresh or in the case of the saskatoon, or service berry, blended with dried meat and fat to make pemmican. Food was usually served in wooden dishes, and utensils were fashioned from bone or horn.

Before traders introduced cloth, Assiniboine dress was distinctly traditional — shirts and leggings of fine deerskin and moccasins of buffalo hide. Geometric designs, using quills, shells, and other ornamental objects enhanced the appearance of the garments worn by men and women, and jewelry for personal use or for decorating weapons was popular.

The Assiniboine lived in conical-shaped lodges made of buffalo hide and painted with elaborate scenes depicting the deeds of the owner.

Babies, carried in moss-lined bags on the mother's back, were given names signifying certain physical characteristics or peculiar circumstances that had occurred at the time of birth. The boys were given new names as they grew and distinguished themselves in hunting or war. Girls, however, usually retained their original name throughout life.

Both men and women smoked tobacco and the carving of stone pipes reached a high degree of

artistry among the Assiniboine. Suitable stone was an important trade between tribes and was often transported a long distance from where it had been found.

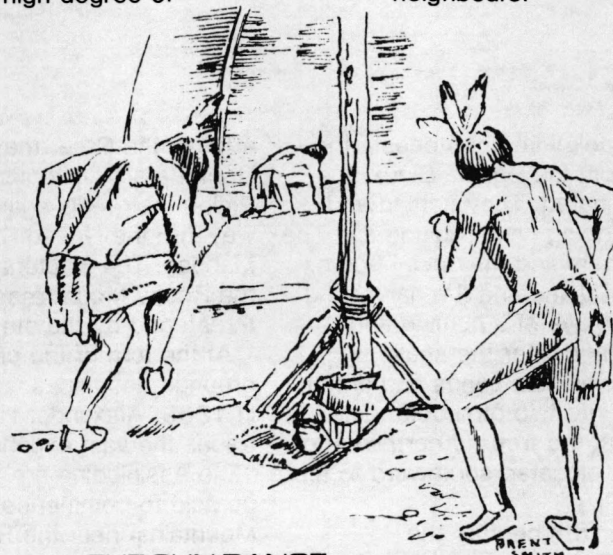
The Assiniboine had their own system of government administered by chiefs and councillors. At meetings all questions affecting the welfare and safety of the community were discussed and resolved, later becoming laws by which the people were governed. Within each community were appointed individuals responsible for securing the welfare of the people and assuring that community laws were kept.

Although few in number, warriors held places of honour in the tribe, and their skill on horseback and deadly use of bow and arrow made them feared opponents of the Blackfoot. Their love and acquired need of horses led them to raid Blackfoot and Blood camps in an effort to increase their own herds. In fact, a man's wealth was measured by the number of horses he owned. Horses were given as gifts to esteemed friends and to the father of a woman when she married.

The Assiniboine ascribed to certain religious practices with the Sun Dance being the most significant. Because of their frequent association with the Plains Cree, many rituals and beliefs were common to both tribes.

The Assiniboine buried their dead with great reverence. If, during winter, a person died some distance from the family burial ground, the body was carried by those who had come upon it and returned to the relatives. Burial was usually in a circular pit about five feet deep which was lined with bark and skins. The corpse was lowered in a sitting position and the pit roofed with logs and soil.

During the early reserve period of the 1880s, the once great Assiniboine tribe was divided and relocated to different regions. The Mosquito, Bear's Head and Lean Man bands settled in the Battleford district; Joseph's and Paul's bands moved to reserves near Edmonton; Carry the Kettle's band relocated near Sintaluta in southern Saskatchewan. At first, Pleasant Rump's and Ocean Man's people lived on their own reserves in southern Saskatchewan, but in 1901, they moved to reserves with their Cree neighbours.



THE SUN DANCE



THE BLACKFOOT

The Blackfoot comprised three tribes and were among the first Algonkians to move from the eastern woodlands to the plains and foothills of Alberta. The Siksika, or Blackfoot, the Pikuni, or Piegan, and the Kainah, or Blood, made up the confederacy which came to be known as the Blackfoot.

Tradition has it that the Siksika's ancestors lived near a great lake in the east where the soil was fertile and black. This dark earth stained their moccasins; hence the name Siksikauo, literally, Blackfoot. The name Piegan is derived from the word Pikuni, meaning "those who wear tattered robes". The Kainah, meaning "many chiefs", were often referred to as the Blood Indians.

Before 1800 the combined Blackfoot tribes had expanded and consolidated their territory east of the Rockies. By right of conquest they had fixed their western border on the slopes of the Rocky Mountains. In the south they reached the northern branches of the Missouri River, extending east about 300 miles, and north to the Saskatchewan River.

By 1800 their lifestyle had evolved considerably from what it had been at the outset of the 1700s. People now had horses and firearms and life was easier. Inter-tribal warfare with the encroaching Cree and Sioux was always imminent, but more time was now devoted to religious and social ceremonies. Traders had arrived seeking buffalo robes and pemmican in exchange for firearms and tools and it appeared that trade would lead to prosperity. White traders reckoned the combined Blackfoot population at nearly 7 000. In 1877, at the time of Treaty No. 7, the bands of the Blackfoot Confederacy numbered about 45 and were known by such traditional names as The Tall Men, Camping in a Bunch and The Fish Eaters.

Each of the three tribes had a head chief with numerous sub-chiefs presiding over individual bands. The head chief was a peacetime chief governing in normal times, but who passed his authority to a war chief in times of trouble or danger. The Blackfoot had unwritten codes of law to govern themselves during peacetime or in times of war and these laws regulated social and domestic life. Military societies and fraternal organizations were appointed by each band as enforcers and ensured the welfare of the people.

When important gatherings were held, such as the election of a chief or entertaining visitors from another tribe, camp criers (usually old men) made the rounds of the camp to summon others. Male adults voted on important matters pertaining to war or communal buffalo hunts. The ability to deliver speeches was greatly admired amongst the Blackfoot tribes, and often an able speaker could sway an assembly to his purpose.

Warfare was a way of life for the Blackfoot and prior to the influx of white settlers they continually



CROWFOOT, CHIEF OF THE BLACKFOOT

fought with the Cree and Assiniboine. When a war party prepared for a battle, a feast was held, religious sacrifices were offered and vows were made that would later be fulfilled at the annual Sun Dance. The war party travelled by day in their own territory, but once they entered that of their foe, they travelled by night. The element of surprise was often essential to victory.

The Blackfoot were a religious people with each man having his own guardian spirit, revealed in dreams after a period of fasting.

The Sun Dance was held in mid-summer when scattered bands of the tribe reunited and camped in a large circle of lodges. A large pole was cut and erected in the centre of the Sun Dance lodge which had walls from freshly-cut green branches. Inside, offerings and gifts of food which would later be distributed to the poor were secured to the main pole.

Women would sing songs or pray in silent thanksgiving for the recovery of the sick or for the safe birth of children. New names were bestowed on young boys, who then discarded the names they had been given as infants.

Young warriors might fulfil vows made to the Great Spirit who protected them on the warpath. A common method was to undergo a ritual that caused intense

The Blackfoot

physical pain and left scars on the back or chest of the individual. Sharp wooden skewers were inserted through the muscles of the back or chest and lines fastened to the skewers were tied to the main pole. The young man freed himself by straining until his flesh tore away. He chanted and danced during the ritual, making every effort to show no evidence of pain.

The Blackfoot people worshipped Omuqkatos, the Great Sun, and much of their life revolved around the spirit world. Strangely shaped trees, irregular rocks on the plains and uncommon land formations were recognized as stopping places of the spirits. When someone fell ill, an item of his clothing was hung from the top of the lodge, to be blown by the wind. It was believed the spirits would stop when they saw this, and hearing the petitions for the recovery of the sick person, would assist the medicine man in his task.

The spirits of the dead, if not treated with customary reverence, could be dangerous to the living. When a person died his lodge was immediately removed to another location and food and clothing were provided for the spirits. The items placed beside the body were, in effect, symbols, and though they appeared to be left untouched, it was believed that the spirit of the deceased claimed only their essence. Bodies were wrapped in robes and positioned on raised platforms beyond the reach of animals. The soul of the deceased was said to travel to a mysterious land where game was abundant and the weather always fair. The length of time it took an individual's soul to reach this paradise depended on the manner in which he had conducted himself during his lifetime.

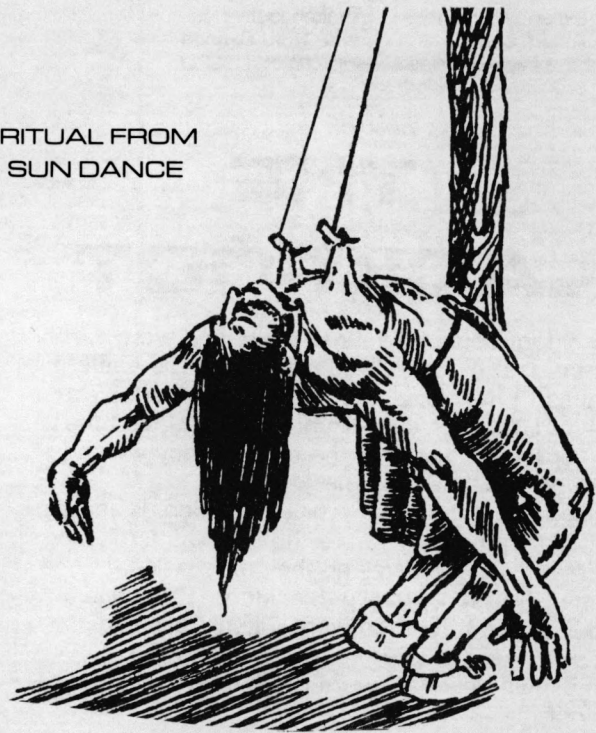
As was the case with most Indian tribes, the Blackfoot perceived the passage of time according to the rhythms of nature. Periods of time roughly corresponding to the months of a year were traditionally referred to as The Moon When the Geese Come, The Moon When the Geese Go Away and The Moon of the Big Snow.

For the Blackfoot family, life centred in the lodge or tipi sewn from buffalo hides. The tipi was conical and supported by as many as 12 poles secured at the top and positioned firmly in the ground. The skirting was held in place by pegs driven into the ground. When camping, the leader of the band selected a site, indicating to his wife where he wished the tipi pitched, and other families proceeded to group their lodges around this main shelter.

Cooking fires were built outside the dwellings throughout summer and during winter stones were arranged in the centre of each lodge and a fire was kept burning. Tent flaps helped regulate ventilation. The place of honour was located opposite the door flap and was always reserved for the head of the family. Bags of food, tools, weapons and garments were hung from the lodge poles and sleeping robes for each member were laid out around the walls, and served as couches during the day. It was customary to cradle infants in decorated moss bags which laced up to the child's chin. In this manner, a child could be hung on the lodge wall while the mother worked at her daily tasks.

A child usually received its name at birth with

RITUAL FROM
SUN DANCE



environment and circumstances often influencing the mother's decision of a name. Later, when physical or behavioral traits emerged, the name was replaced by another. In fact, it could be changed as many as eight times during a lifetime. A man never disclosed his own name. It was revealed to him by another. Crowfoot, perhaps the greatest Blackfoot chief, had an interesting array of names bestowed on him throughout his life. He was initially called Astoxkomi, then the Blackfoot name, Kyiah-sta-ah, or Bear Ghost. At one point, he was known as "Istowuneh'pata", or Packs a Knife, a name that had once been that of his father. Astoxkomi was a young man when he earned the name which he would make nationally and internationally famous. This was "Isapo-muxika", or Crow Indian's Big Foot, later shortened to Crowfoot by interpreters.

The Blackfoot were fond of colourful ornaments, and both men and women wore rings and strings of beads. Women made all the clothing worn by their families. Men wore breech cloths, leather shirts, leggings, moccasins and occasionally, buffalo robes. Caps of various furs were used during the winter and feathers were worn for ceremonies and symbolized badges of honour.

The training and racing of horses occupied much of their time as they were proud of their animals and wagered high stakes on the outcome of races. Colts were broken in by leading them into a marshy area and then leaping on their backs. Injuries to riders were commonplace, but the reputation of being a good horseman was deemed worth the inconvenience. After the signing of Treaty No. 7 in 1877, the Blackfoot were assigned to two reserves; one at Blackfoot Crossing, about 60 miles east of Calgary, and the other about 12 miles west of Fort Macleod. The Blackfoot, Sarcee and Blood lived at Blackfoot Crossing and the Piegan settled on the reserve near Fort Macleod. Because of inter-tribal disputes, only the Blackfoot remained at Blackfoot Crossing. The Sarcee moved to what is now Calgary and the Blood chose a reserve on the Belly River.



THE CREE



The name Cree is a variant of Kristinaux, the early French appellation. The Cree once referred to themselves as the "Nehiyowuk", or the Exact People, and for geographical reasons were divided into three main tribes. The Plains Cree dwelled on the great plains frontier, the Woods Cree lived in the forests of northern Alberta and Saskatchewan, and the Swampy Cree lived in northern Manitoba and Ontario.

When firearms were first obtained by the Cree, their sphere of activity extended across northern parts of present day prairie provinces and into the Northwest Territories. In time, and with support from their Assiniboine allies, they soon occupied Saskatchewan and most of northern and central Alberta. In so doing, they displaced the Blackfoot, who, in turn, pushed the Gros Ventre tribe and the Shoshone from the Canadian plains.

In the ongoing warfare, the last battle took place in March, 1866, at Ghost Coulee along the South Saskatchewan River when hundreds of Blackfoot were killed. Shortly after, the Plains Cree and the Blackfoot made peace and exchanged young men as a token of mutual trust. Mistawasis, or Big Child, head chief of the northern Plains Cree had been a young

man when he first confronted the great Blackfoot chief, Crowfoot; now, the two chiefs maintained peace between their warring peoples. Later both men signed treaties with the Government and ceded their territory to the Crown.

The Cree, a religious people, observed many customs to gain support from unseen spirits which inhabited all living and natural things. They held an annual Thirst Dance similar to the Sun Dance ceremony of the Blackfoot, Sioux and other tribes.

Like their friends, the Ojibway, they established several degrees of medicine men. When a young man felt the calling to become a medicine man, he would leave the camp and fast for many days, until the spirits who dwelled in various animals such as the beaver and otter revealed to him his sacred helper and servant.

The third man possessing magical powers was Kesikauyineo, or Man of the Day, who revealed the unknown and found lost articles or missing people. To do this, he retired to a small tent to summon the spirits, and as they communicated with Kesikauyineo, the tent shook violently. The fourth, Tipiskauyineo, held the power to reverse evil spells.

The Cree



MEDICINE MAN'S INITIATION

Since the warding off of evil spirits was a concern of most everyone, each man carried a medicine bag containing charms and other objects related to his personal spirit helpers.

It was customary for the Cree and other plains tribes to burn the prairie grass in certain areas to drive grazing herds of deer, antelope or buffalo into streams where they were stalked and killed by bow and arrow. This practice continued even after the arrival of the horse when the prairie fires served another purpose. The growth of the tender green grass was hastened by burning the old grass in early spring and the hunters' horses, lean after the winter months, were fed.

On long journeys the Cree built caches to conceal food for their return trip. In summer, large quantities of saskatoon berries and choke cherries, were gathered, dried and pounded for use in winter, as well as providing an immediate food source for the Cree.

Dried sage was used for flavouring food and moss for making a special tea. Of course, the main food source sought by the Cree was the buffalo. The plains Indian tribes had many ways to prepare buffalo meat: raw, roasted, boiled, frozen, or dried and preserved. Pemmican was the mainstay of a family — a pound or two was sufficient daily food intake for a man — and during the summer this delicacy of powdered meat blended with fat and berries remained well preserved.

The Plains Cree lived in portable lodges or "tipis" of tanned buffalo hide, usually painted with black and red mythological figures depicting spirits seen in dreams and thus deemed sacred. When the paintings faded, the owner of the skin tent destroyed it out of reverence for the spirits.

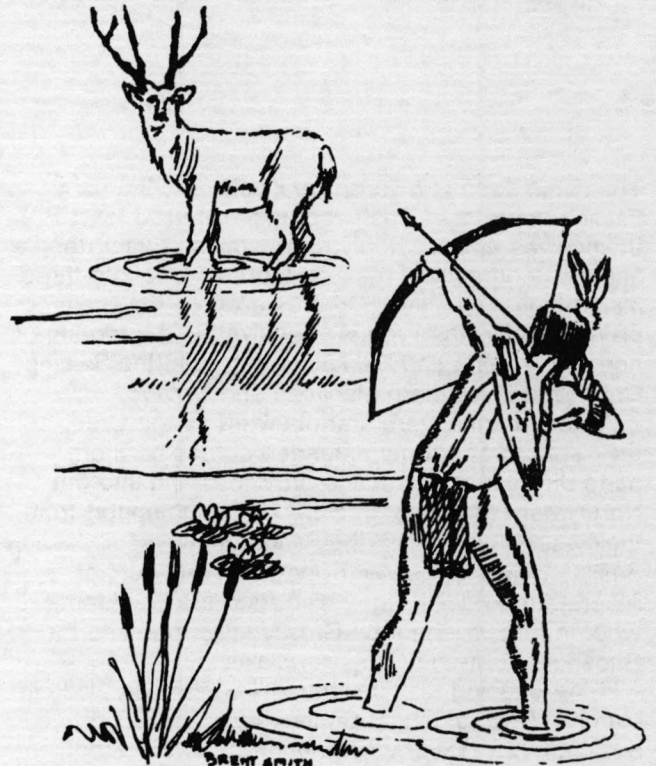
Household robes fashioned from buffalo hide were

decorated and painted with hunting scenes, conquests and significant events in the life of the owner. They were preserved for many years and served as a type of calendar which recorded the personal history of the artist and the history of his tribe.

Prior to the influx of traders all clothing was made with leather. Men wore leather shirts, leggings, breech cloths and caps, and women's clothing consisted of long robes with detachable sleeves. Both men and women wore buffalo-hide moccasins.

Special attention was given to hair fashion especially among Cree men. Explorer Alexander Henry, who met with the Cree during his travels in 1760 and 1766, described the various manners in which the Cree wore their hair: "Their hair is generally divided on the crown, and fastened in large knots behind each ear, from which is generally suspended a bunch of blue beads, or other ingenious work of their own. Their men have their hair adjusted in various forms; some of them have it separated on the top and tied in a tail upon each side; others form but one tail, which hangs down behind, around which is twisted a strip of otter skin or the dressed entrails of buffalo ..."

The most important character of Cree folklore was Wasakaychak and stories of his adventures at the beginning of the world could be related only during the winter months. The accounts of Wasakaychak are legends about creation, good and evil, and the ways of animals and have moral overtones reminiscent of Aesop's Fables. Rev. Henry Steinhauer and Rev. Doctor Ahenakew realized the value of such literature, being Indians themselves, and set about collecting and preserving Wasakaychak's legends during the 1800s.



INDIAN BRAVES WOULD STALK GAME THROUGH STREAMS.



special edition

Focus on specific claims

A historical perspective

Government mismanagement, unfulfilled commitments and broken promises are some of the charges Indians have hurled at federal authorities as issues that need to be dealt with in settling claims.

During the past several years the department has given careful consideration to these grievances. That consideration led to the 1969 federal policy acknowledging the government's lawful obligations to Indians, including the fulfillment of treaty entitlements.

The policy was confirmed in the 1973 *Statement on Claims of Indian and Inuit People* that acknowledged two broad classes of native claims: comprehensive — claims based on the notion of aboriginal rights (*Intercom*, March 1982), and specific — claims based on lawful obligations.

The 1973 statement sparked a substantial increase in claims that were submitted with the assistance of research funding by the government as well as by bands and some non-government organizations.

In July 1974 the Office of Native Claims (ONC) was created within the department. ONC's role is to review claims and to represent the minister and the government in claims assessment and negotiations with native groups.

Between 1970 and the end of the fiscal year 1981-82, a total of \$16.7 million was provided by the government for research and development of specific claims. Most of that money has been used by provincial Indian organizations on behalf of bands.

Indians dissatisfied — input sought

Despite federal efforts and contributions, Indian dissatisfaction with the government's specific claims policy and procedures culminated in a call for a new policy at the First Nations Conference conducted by the National Indian Brotherhood (NIB) in Ottawa in 1980.

Following up on that initiative, the department has sought Indian input through direct discussions. Naturally, given the wide range of issues, Indian groups are by no means unanimous on the subject. But there are some common views.

Indians complained that the criteria for determining the government's lawful obligations were too narrow. They believe claims should be based on moral and equitable grounds as well as on lawful obligation, and that these should be clearly set out.

Indians wish to ensure that "lawful obligation" is not interpreted as only allowing for claims originating after Confederation. It is their view that treaty rights with regard to land, hunting, fishing and trapping should be met with a fair interpretation.

It is contended that the government has a historical responsibility of trust for bands and their assets, and that the government should be held accountable for any breach of that responsibility.

With regard to that assessment of claims, Indian representatives said that the rules of evidence, time limitations and other procedural defences should be relaxed or eliminated. They feel oral tradition should be accepted as evidence, and that Indians should have access to Department of Justice opinions to enable them to prepare adequate responses.

Consensus the goal

In terms of process, Indian representatives said the department should actively assist in preparing claims, making internal documents more easily available and generally act in a supporting role. ONC should be either disbanded or given a more liberal mandate.

Indians said that the government should not unilaterally assess the validity of a claim, but should make a greater effort to reach a consensus on facts and merit. Independent third parties should be used to facilitate settlements, especially in the role of mediator.

The government should provide funding for court action, Indians said, and should be willing to negotiate while claims are under litigation. As well, funding should be increased and extended to all phases of the claims process.

In the area of compensation, it was the general view of Indian representatives that bands should be restored to positions held before loss. Many bands view claims as a means to restore or improve their land, and to obtain necessary capital for development. Claimed lands occupied by non-Indians should be returned to the bands and, if necessary, the former occupants compensated by the government.

Indian representatives were unanimous and insistent that Indian views be considered in developing any new or modified claims policy, and that regional variations and circumstances be taken into account.

The government has taken these views in consideration in developing a new policy and procedure to deal with specific claims.

Settlements reached

By the end of December 1981, about 250 specific claims had been presented to the department. Twelve claims had been settled involving cash payments around \$2.3 million. Seventeen had been rejected and five had been suspended by the claimants. Negotiations were in progress on 73 claims and another 80 were under review. Twelve claims had been filed in court and 55 others had been referred for administrative remedy.

Continued on page 2

"Historical" continued from page 1

In February the government signed an agreement with the Penticton band in British Columbia on its claim to lands cut off from its reserves in 1916. In addition to having 4 855.2 hectares of land returned by the provincial government, the band received \$13.2 million in compensation from the federal government for lands that had been alienated to non-Indians, and will receive \$1 million from the provincial government for lands it is retaining for public purposes (see *Penticton band first settlement of B.C. cut-off claims*).

In Nova Scotia, the Wagmatcook band has received payment of \$1.2 million in exchange for lands removed from its reserve almost a century ago. The money will enable the band to take advantage of economic opportunities and to undertake business ventures (see *Government and Nova Scotia band settle for \$1.2 million*). □

The Indian treaties and the Indian act

The fulfillment of treaties, which play a significant part in the heritage of Canadian Indians, are central to many specific claims.

As far back as the Royal Proclamation of 1763, the British sovereign recognized an Indian interest in lands occupied by various tribes. This interest in the lands could only be ceded to or purchased by the Crown. This policy led to the tradition of making agreements, or treaties as they were later called, with the Indians.

Following the American War of Independence (1775-1783), Upper Canada felt the pressures of settlement and many land cession treaties were made with Indians for the surrender of their interest in the land. Initially, these involved one-time cash payments, but in later surrenders the Crown set aside reserves and granted annuities and other considerations.

Thirteen treaties were concluded between the Indians and the government following Confederation. Eleven, the so-called numbered treaties, extend from the Quebec border, covering all of northern Ontario and stretching across the prairies into north-eastern British Columbia, southeastern Yukon and the Mackenzie Valley in the Northwest Territories.

Most post-Confederation treaties, in what are now the prairie provinces, were made before the provinces came into being or provincial boundaries were finally determined.

Features common to many of the western treaties include the provision of reserve lands, gratuities, annuities, medals, flags, clothing to chiefs and councillors, ammunition, twine and, where requested, schooling. Treaty No. 6, covering central Saskatchewan and Alberta, also provided for a medicine chest and assistance during pestilence and famine.

Government responsible

As well as concern with the fulfillment of treaties, specific claims relate to the administration of land and other assets under the Indian Act. Such land and assets, mainly money, were derived largely from the treaties and earlier agreements between Indians and the Crown, or they found their origin in colonially established Indian reserves and funds. In some cases, they came from what had been church-administered holdings.

All were brought within the aegis of a series of post-Confederation acts beginning in May 1868. At that time, legislation gave the Secretary of State control over the management of Indian lands, property and funds. The first Indian Act of 1876 and its several subsequent versions have maintained the principle of government responsibility for the management of Indian assets.

There are two principal categories of Indian assets falling under federal management: reserve lands and band funds. These assets are most often the issue in those claims in which a government administrative breach of an obligation is asserted.

In turn, land-related claims have to date been most frequently raised. They may find their origin in the taking of reserve lands without lawful surrender, or failure to pay compensation where lands were taken under legal authority.

Although not as frequent as land-related claims, some claims have arisen with respect to the administration of Indian moneys. These grievances may claim embezzlement, or that money owing to a band has never been paid into band funds.

Other claims concerning the administration of assets have arisen regarding the removal of timber or gravel from reserves without compensation, or regarding damage to trees or other assets. □

Press conference highlights

Minister's press conference announces fulfillment of a promise

On Thursday, May 13, 1982, our minister held a press conference to announce the government's new policy on specific claims.

Before answering questions, Mr. Munro explained to reporters that the policy was "the fulfillment of a promise I made a fairly short time after I became minister."

He said he had many requests from Indian organizations to spell out the guidelines, so the main purpose of the booklet, *Outstanding Business*, was to set down in writing, with greater clarity, what the rules were regarding the submission and assessment of specific claims.

"Also, we've been able to put in additional resources," Mr. Munro said, "which I hope would speed up the momentum leading to the resolution of some of these claims, and deal in a fair manner with third party interests."

The minister emphasized that there had been considerable consultation on the policy and process with Indian associations across Canada. "We've tried, in as thorough a way as possible, to take in account as many of their views as we possibly could," he said.

Citing the new policy that puts aside in negotiations the statutes of limitations (that set a time limit within which legal action can be taken) and the doctrine of laches (where rights and privileges not exercised over a reasonable time frame are lost), Mr. Munro said the government wasn't just talking about lawful obligations in the technical, legal sense, "but more of equity and justice in terms of the submission of these claims, and not binding Indian claimants to strictly legal principles with respect to evidence. That's only fair when one considers the time involved here over the decades and generations."

The minister said Indian communities complained that the government had been sticking to a very strict and narrow legal interpretation of lawful obligation. Reading from the section of the new policy entitled "Beyond Lawful Obligation", the minister commented that he thought it very significant the government was now prepared to pay for failure to provide compensation for reserve lands taken or damaged under government authority.

Mr. Munro said there were different views by Indian organizations regarding the process. He said some Indian groups saw the government as both judge and jury, and would prefer claims be submitted to an independent third party for a decision.



There was a good turnout of both local and national reporters at the minister's press conference to announce the government's new specific claims policy

Dollars — several hundred million

Other Indian organizations didn't want to be bound by an independent third party, he said, but wanted to settle claims through negotiations. The minister said the government has adopted the latter approach.

During the question portion of the press conference, Mr. Munro was asked how much money would be involved in settling the claims?

He said it was hard to predict, but it could be several hundred million dollars. "If now the government is under an obligation, as I think it is, to abide by the principles set out here, and these settlements come down the road, then that particular minister's going to have to go back to his cabinet colleagues to get more money," Mr. Munro said.

He said he had indicated to cabinet a ballpark figure the government might have to pay over the years, "so they're not going to be shocked. It's a confidential figure now because of the nature of what we're dealing with here in negotiations . . ."

The minister was asked if he thought the new policy would facilitate discussion at the upcoming constitutional conference?

"Well, that's my hope," he said. "By showing the political will on the part of the government to commit additional expenditures, to clarify the policies and liberalize them, to show that we are concerned about equity and justice, to build up some good will; it's just not rhetoric, we're putting money behind it, and in times of fiscal restraint I think that means something tangible, that we mean what we say.

"It should increase, I would hope, the trust aspect between the Indian people and the government at a pretty important time . . ."

Negotiating club?

One reporter suggested the government was holding a club over the negotiations by withholding the use of the statutes of limitations and the doctrine of laches as long as negotiations continued, but threatening to use them if the claim was taken to court.

Mr. Munro said the policy "could be interpreted that way, as a club." But he added that he wanted to open up the rules and he considered the decision not to invoke the defences of limitations and laches in negotiations as an advance.

The minister was asked about the status of claims arising out of treaties with the Crown before 1867.

He said the onus of responsibility was on the claimant "to use their research money and their competence to show some act on the part of the government, after Confederation, that clearly indicates an assumption of responsibility."

The press release handed out to reporters showed the government is substantially increasing funding to Indian associations from \$2.2 million in 1981-82 to \$3.7 million in 1982-83. The loan fund to support the development and negotiation of accepted claims has been increased to \$1.5 million annually starting in 1982-83, compared to \$300 000 annually for the three previous years. The loans are repayable from the proceeds of claims settlements.

"I think that success is within reach," the minister said, "because success in this endeavour is in the interest of both Indians and government, indeed of all Canadians." □

Some particular specific claims by province

Nova Scotia

Band/association	Substance of claim	Status of claim	Last action taken
Kedgemakooge (Union of Nova Scotia Indians)	Presented in 1973, requesting the return of three lots of unsold, surrendered lands in Kejimikujik National Park	Under negotiation	Parks Canada asked to reopen negotiations in 1980 to seek alternative settlement to previous commitment for return of lots. Proposal still under consideration
Whycocomagh	Presented in 1977. Alleged that 202 hectares of reserve land alienated without proper authority	Under review	Band provided additional legal argument in February 1980. Justice legal analysis and advice nearing completion

New Brunswick

Band/association	Substance of claim	Status of claim	Last action taken
Big Cove	Presented in 1973, alleging that the 1873 surrender of 1 530 hectares of land was illegal	Under negotiation	Band requested reopening of negotiations in December 1981. New federal offer is being prepared for presentation to the band
Eel Ground	Presented in 1976, it questions the legality of surrendering lands in 1946 for lease of water pipeline and log booming area. Band alleges the department wrongly issued a permit instead of a lease	Under negotiation	Band tabled a proposal for settlement in October 1979. ONC indicated the proposal wasn't acceptable in February 1982. Discussions are continuing

Quebec

Band/association	Substance of claim	Status of claim	Last action taken
Oka	Presented in 1977, it alleges unextinguished band interest in territory covered by seignory of Lake of Two Mountains	Under review	Claim referred to Department of Justice for legal opinion in May 1981
St. Regis	Claim filed in 1981 alleging improper surrender of lands in Dundee Township, and claiming unpatented lands on the areas adjacent to existing reserve boundaries	Under review	Historical research has been completed and legal advice is being prepared

Ontario

Band/association	Substance of claim	Status of claim	Last action taken
Big Grassy and Onegaming (Sasbaskong) bands (Ojibways of Assabaska)	Presented in 1977, bands seek compensation or alternate land for alleged loss of 648 hectares along the Lake of the Woods shoreline	Under negotiation	Joint appraisal of lands completed. Bands tabled demands for a settlement in February 1982. The government's response is being prepared
Six Nations	Presented in 1980, it alleges improper expropriation of land to build the railway	Under review	Claim referred to Department of Justice in February 1982 for legal advice
Temagami	Presented in 1974, it claims unextinguished native title to 10 280 km ² in the vicinity of Lake Temagami, as the band did not sign the Robinson-Huron Treaty	Under negotiation and in litigation	All parties agreed to negotiate a settlement. Meeting held on Bear Island May 22 1982. Trial date held over to June 14

Manitoba

Band/association	Substance of claim	Status of claim	Last action taken
Cross Lake	Presented in 1977, it alleges certain islands, known as Reserve 19D, were unlawfully alienated by Canada in 1938 and transferred to Manitoba in 1940	Under negotiation and in arbitration and litigation	Band opted to refer the claim to the Northern Flood Committee arbitrator, who decided he had authority to hear the case. Early in 1981 Manitoba filed a motion challenging the arbitrator's jurisdiction. Proceedings were adjourned indefinitely in March 1981 after an initial hearing to allow parties to re-evaluate their positions
Keeseekoowenin	Presented in 1980, it alleges wrongful alienation of reserve lands	Under negotiation	Claim accepted for negotiation in January 1982. Band is preparing a settlement proposal

Saskatchewan

Band/association	Substance of claim	Status of claim	Last action taken
Ministikwan	Presented in 1980. Band alleges 4 160 hectares (now crown lands in the right of the province of Saskatchewan) were unlawfully alienated from the Ministikwan Lake reserves	Under negotiation	Minister wrote in 1981 to band indicating support and to the province requesting its co-operation. Official provincial position on claim pending

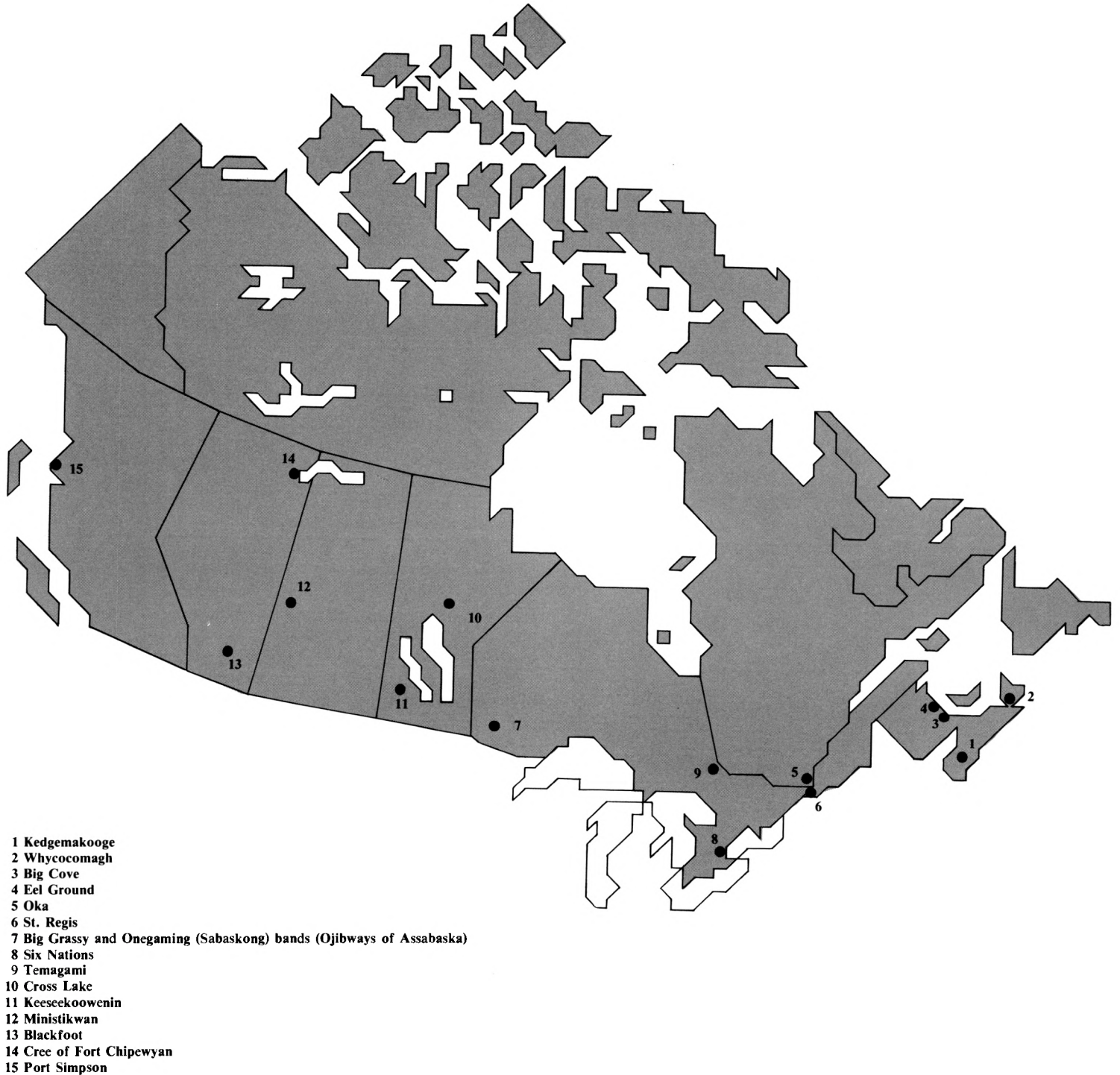
Alberta

Band/association	Substance of claim	Status of claim	Last action taken
Blackfoot	Presented in December 1980, it alleges unlawful alienation of oil and gas rights on reserve lands surrendered in 1910	Under review	ONC met the band in 1981 to review documents. Department of Justice is conducting a legal review
Cree (Fort Chipewyan)	Outstanding treaty land entitlement	Under negotiation	Band is preparing a proposal for settlement. Province has agreed to review the proposal

British Columbia

Band/association	Substance of claim	Status of claim	Last action taken
Port Simpson	Presented in December 1979, it alleges that division of Tsimpsonian Indian reserve number two in 1888 was illegal	Under review	Initial meeting was held with band in 1980 to discuss the facts and process. Second meeting is being arranged

Reference: *Specific Claims in Canada Status Report*, Department of Indian and Northern Affairs, April 7, 1982.



Specific claims policy

New policy adopts more flexible approach to negotiations

Although there have been a few successful settlements, the rate of resolving specific claims hasn't met with the expectations of either the government or the Indians. Because of this, and because hundreds of claims are being withheld pending clarification of the existing policy, the government has re-evaluated its policy and procedures on specific claims.

The government's primary objective is to discharge its lawful obligation, even if that obligation has to be determined by the courts. Negotiation, however, remains the preferred method of settling specific claims.

The government will recognize specific claims by Indian bands disclosing an outstanding "lawful obligation:" an obligation derived from the law on the part of the government.

A lawful obligation could arise when the government has not fulfilled a treaty or agreement between Indians and the Crown.

It could arise from a breach of the Indian Act or other statutes pertaining to Indians. A breach of an obligation arising from government administration of Indian funds or other assets could give rise to a lawful obligation, as could the illegal disposition of Indian land.

Fair and equitable resolution

In the interest of a fair and equitable resolution of specific claims, the government will acknowledge claims where there is evidence it has failed to provide compensation for reserve lands taken or damaged under the authority of the government or any of its agencies. The government will acknowledge claims where there is clear evidence of fraud by any of its employees or agents in connection with their acquisition or disposition of Indian reserve land.

The government will not refrain from negotiating specific claims on the basis of the statutes of limitation, which limit the length of time within which legal action can be taken, or under the doctrine of laches, where rights and privileges are lost if they are not exercised over a reasonable period of time.

In other words, bands with long-standing grievances will not have their claims rejected before they are even heard because of limitation or laches. The government will negotiate each claim based on the issues involved, but it reserves the right to use limitation or laches in court.

This new policy, while not meeting all the wishes of the Indians, will clarify procedures and liberalize past practices. The government has done its best to meet the aspirations of Indian people while retaining fiscal responsibility. The government will continue to fund the specific claims process through both contributions and loans, assist in the provision of documentation and enter into negotiations in a spirit of good faith. □

Compensation to be based on legal principles

When a claim has been successfully negotiated, a final agreement is signed and compensation is provided. The settlement and the application of established criteria for calculating compensation will depend upon the issues and obligations established in the claim and the claim's strength.

Generally, the claimant will be compensated for loss incurred and damages suffered because of the government's acknowledged breach of its lawful obligation. Compensation will be based on legal principles.

If the claimant established that reserve lands were taken or damaged under legal authority without compensation, the band will be compensated by payment of the value of the lands when taken, or the amount of the damage as appropriate.

When a claim is based on the failure of the governor-in-council to approve a surrender or the taking of land under the Indian Act, compensation will not be based on the current, unimproved value of the land, but on any damage the claimant might have suffered between the time of the surrender or forcible taking and the approval of the governor-in-council.

If the claimant established that reserve lands were never lawfully surrendered or taken under legal authority, the band will be compensated either by the return of the land or by payment of its current, unimproved value. Compensation may include payment based on the net loss of the use of the lands.

Compensation will not include an additional amount based on "special value to the owner," unless it can be established that the land had a special economic value to the claimant over and above its market value. As well, no additional payment will be made for the forcible taking of the land.

If compensation is to be used to purchase other lands, it may include reasonable acquisition costs, but not exceeding 10 per cent of the appraised value of the lands to be acquired.

Third parties considered

A reasonable portion of negotiating costs, where justified, may be added to the compensation, but legal fees included in these costs will be subject to Department of Justice approval. Compensation will take into account any previous expenditure already paid to the claimant with regard to the same claim.

In settling specific claims, the government will consider third party interests and, as a general rule, will not accept a settlement which would lead to third parties being dispossessed.

The actual amount which the claimant is offered will depend on the extent to which the claimant has established a valid claim. For example, if there is doubt the lands specified in the claim were ever reserve lands, the degree of doubt will be reflected in the compensation.

The settlement represents final redress of the particular grievance. If, however, there are insufficient grounds for negotiating a claim, the grievance may still be resolved through existing departmental or governmental programs. A claim not accepted for negotiation may be presented again for further review, if the claimant finds new evidence or legal arguments to support the claim. □

Specific claims process

Government and Indians work together to process claims

The process for dealing with specific claims is initiated by the claimant: an Indian band presents a claim to our minister, who represents the government.

Claim presentations should be clear and concise, including a comprehensive historical perspective, grounds for the claim and copies or lists of documentation upon which the claim is based.

In return, the Office of Native Claims (ONC) makes relevant material it may uncover in its research available to the claimants, and consults with them at each stage of the review process.

At the minister's direction, ONC reviews the claim, analyzing the historical facts and arranging for additional research if required. Meetings and exchanges of documents may be arranged between the claimant and the department to clarify certain aspects and reach a better understanding of the issues. As well, consultation and co-ordination may be required with other federal departments and provincial governments.

Justice involved

Having reviewed the claim, ONC refers it to the Department of Justice for advice on the federal government's lawful obligation. The legal advice is then reviewed with the claimant to obtain any additional views before the claim is referred to our minister, who determines its acceptability for negotiation and advises the claimant of his decision.

Once the claim has been accepted by the minister, ONC is given a mandate to negotiate a settlement with the claimant. The process for settling specific claims is often complex and settlements can vary, but most often they involve cash, land or other benefits. □

Wagmatcook band settlement

Government and Nova Scotia band settle for \$1.2 million

The first land claim settlement in the Atlantic provinces was signed at Nyanza, Nova Scotia, in March by our minister and by Finance Minister Allan MacEachen, M.P. for Cape Breton-Highlands-Canso.

Under the terms of the agreement, the Wagmatcook band received \$1.2 million as final settlement of its claim. The band agreed to terminate its court action against the government. A deduction of \$232 405 was made on the final payment to cover loans made by the government to the band to enable it to pursue its claim.

The Wagmatcook band first presented its claim to the government in 1973 maintaining that part of its original reserve land had been taken without proper authority. The claim involved more than 1 500 hectares of land severed from the reserve prior to and following Confederation.

The claim was accepted for negotiation in 1975, following a thorough review by the Office of Native Claims (ONC) and the Department of Justice.

Research into the history of the land showed that about 700 hectares had been alienated in the late 1800s without prior surrender. Under its specific claims policy, the government agreed to negotiate a settlement, but it didn't accept responsibility for lands alienated by Nova Scotia prior to Confederation.

Preliminary meetings were held in 1975 and 1976 with negotiations getting underway in September 1977. Negotiations lapsed twice before a final settlement was reached in January 1981.



The Hon. John C. Munro presents a land claim settlement cheque to Wagmatcook Band Chief Benedict Pierro, while Finance Minister Allan MacEachen, M.P. for Cape Breton-Highlands-Canso, looks on

Referendum passed

The proposed agreement was approved by cabinet in February of this year, and band members voted by referendum to accept the settlement negotiated by their chief and council.

Mr. MacEachen described the settlement as "a positive basis for both the band and the present day non-Indian property owners at Nyanza to work together for a better future." Most of the land negotiated in the claim is now occupied by non-Indians, who acquired it in good faith.

When he presented the settlement cheque to Wagmatcook Chief Benedict Pierro, Mr. Munro commended the band for its patience and persistence in pursuing a final agreement. "Both the federal government and other bands across Canada will benefit from the work and negotiations carried out here in Cape Breton," the minister said.

Chief Pierro said earlier that the funds would be used for investment and economic development. The money was paid to a band corporation that is managing it. If the money is used to purchase land, cabinet may be asked to grant reserve status to not less than 810 hectares.

Negotiator Murray Inch said the experience in reaching the Wagmatcook agreement was helpful in the review which led to the government's new specific claims policy. □

Penticton agreement

Penticton band first settlement of B.C. cut-off claims

The signing of an agreement this past winter between the federal government, British Columbia and the Penticton band marked the first settlement of the British Columbia "cut-off" land claims.

Still to be negotiated are 21 cut-off claims involving 31 reserves and more than 8 664 hectares. Informal agreement has been reached on three claims.

In the Penticton settlement, the province returned more than 4 855 hectares severed from the reserve in 1916, and agreed to pay \$1 million in compensation for land it retained.

The federal government paid the band \$13.2 million as total compensation for the alienation of 730 hectares occupied by third parties. This hectareage is the largest amount of alienated land involved in a cut-off claim.

The history of the cut-off lands goes back to 1912. For many years there was a dispute between the federal and British Columbia governments over the size and location of the province's reserves. A joint federal-provincial royal commission on Indian Affairs was established to investigate the matter. In 1919 the B.C. government passed the Indian Affairs Settlement Act, which enabled it to adopt the royal commission report.

In its report, the commission recommended cutting hectareage off reserves, with the proceeds to be divided between the province and Canada. The consent of the Indians was to be obtained.

In 1920 the federal government passed the British Columbia Indian Land Settlement Act, authorizing reductions in reserve lands. Indian consent, however, was not obtained and the bands never accepted the reductions.

Negotiated settlement sought

For several years there was little progress on the issue, but in 1969 the federal government acknowledged that cutting off reserves without the consent of the Indians should not have occurred.

The government didn't recognize a legal obligation because the reduction had been authorized by legislation. But, as a matter of policy, the government agreed to seek settlement through negotiations.



From left to right, Penticton Band Chief Morris Kruger, our minister and B.C. Attorney General Allan Williams at the signing of an agreement on the first of the cut-off lands

In 1975 the 22 bands involved established a negotiating committee, and during 1975 and 1976 numerous meetings were held between the federal and provincial governments in an attempt to resolve the issue.

A tripartite co-ordinating committee was established in 1977, and the following year both governments offered a settlement to the committee. The committee, however, objected to some elements, especially those dealing with cash compensation.

In December 1978 the federal government offered increased compensation, and the following March a new joint government offer was presented to the tripartite committee and referred to the bands involved.

The committee followed up by presenting its position to our minister for federal review, but negotiations came to a standstill and in December 1979 eight bands filed suit in federal court regarding their claims. Three other bands subsequently joined them.

Government revises offer

Since negotiations were proving unfruitful, in January 1981 the committee released its members to pursue individual settlements. That winter a federal negotiator met individually with representatives of the 22 bands to determine requirements for resuming negotiations.

In June 1981 the minister announced that the government would revise its portion of the settlement offer, and he and the attorney general of British Columbia wrote jointly to the bands inviting them to individual tripartite meetings to discuss renewal of negotiations.

The meetings were successful in getting negotiations underway again. To facilitate negotiations, the government set up a Vancouver branch of the Office of Native Claims under the direction of senior negotiator Peter Fisher.

Mr. Fisher said the Penticton settlement was due in part to the reasonable, patient attitude and unwavering determination of the band chief during negotiations. He said it took as long as it did to reach an agreement because it is a prototype of sorts, and he anticipates further settlements will be reached more quickly. □

Treaty land entitlements

Treaty land entitlements in the prairies: one settled, several to go

Under provisions of treaties signed in Manitoba, Alberta and Saskatchewan between 1871 and 1906, reserve lands were to be set aside for bands. Some bands, however, did not receive their full land entitlement.

This was recognized in the 1930 Natural Resources Transfer Agreements between the federal government and the prairie provinces. In the agreements, the provinces were to make available unoccupied Crown lands so that the federal government could fulfill its treaty obligations. This process was never completed.

Saskatchewan responds

In 1975, at the request of the Saskatchewan bands, our minister asked for the co-operation of the three provinces in resolving the issue. In 1976 Saskatchewan accepted the Federation of Saskatchewan Indians' (FSI) proposal for finalizing the process of settling treaty land entitlements, and the following year the federal cabinet agreed in principle to the proposal.

The agreement, known as the "Saskatchewan formula", calls for multiplying the band population figures as of December 1976 by the per capita hectareage stipulated in the treaty, which is about 52 hectares per person.

Under the agreement, the province made available unoccupied and occupied crown lands, and provided bands with the opportunity for revenue sharing in resource development or participation in joint ventures.

Since that time land entitlement claims have been filed for 34 bands and 21 of them have been validated. Validation is determined by whether or not the band received the quantity of land promised in the treaty, according to the band's population at the date of the first land survey.

After validity and land quantum were established the process of selecting land began for the 21 bands in Saskatchewan with the assistance of the department.

Crown lands were readily available in northern Saskatchewan, but in the south very little suitable crown land was available.

The federal government has granted \$2.6 million to Saskatchewan bands to conduct feasibility studies for selecting land. Twenty-one claims have been validated by the federal government, and the land quantum under the Saskatchewan formula totals 432 850 hectares. To date, the bands have selected approximately 76 per cent of their entitlement.

In January 1981 the Stoney Rapid band had its selection confirmed and the lands transferred to reserve status. Thirteen claims are currently under review to determine their validity.

Manitoba

In Manitoba, 21 claims are in the final stage of the validation process, and five claims are under review. It is anticipated that negotiations with the province and the Manitoba Chiefs Treaty Land Entitlement Committee will begin this summer.

Alberta

In Alberta, one claim has been validated, two are in the final stage of validation and five are under review. □

Native claims program

Claims funding is one of many services provided by the department for its client groups. The Native Claims Program provides financial support, in the form of contributions and loans, to native claimant groups for the research, development and negotiation of native claims. The program is administered by the Research Branch, Corporate Policy.

Historically, the provision of funds to support the research and development of claims by native groups goes back to 1970 and Indian Act revision discussions. Administered first by the Privy Council Office and later by Indian Affairs and Northern Development, the program's native claims activities have expanded enormously.

Claims are classified as either:

- *comprehensive* based on an interest in land derived by native people from traditional use and occupancy since time immemorial, which interest is recognized by the Crown, or
- *specific* relating to the administration of land or other Indian assets under the Indian Act, or to the fulfillment or interpretation of Indian treaties.

Native associations, on behalf of their member bands, conduct claims research that is supported by the Native Claims Program. Budget proposals by associations must include:

- claims to be researched
- estimated date for completion of research
- an itemized budget.

Whether or not a proposal is approved revolves around many factors, including the money available in a given year and the number of associations applying. Among other elements, departmental officers must consider:

- the relevance of the research project to the government's over-all claims resolution process
- the associations' record of achievement in previous research projects
- the geographical area, the number of bands and the number of persons served by the claimant group
- comparative costs.

Once a research project has been accepted and an amount of money allocated, a contract is drawn up between the two parties.

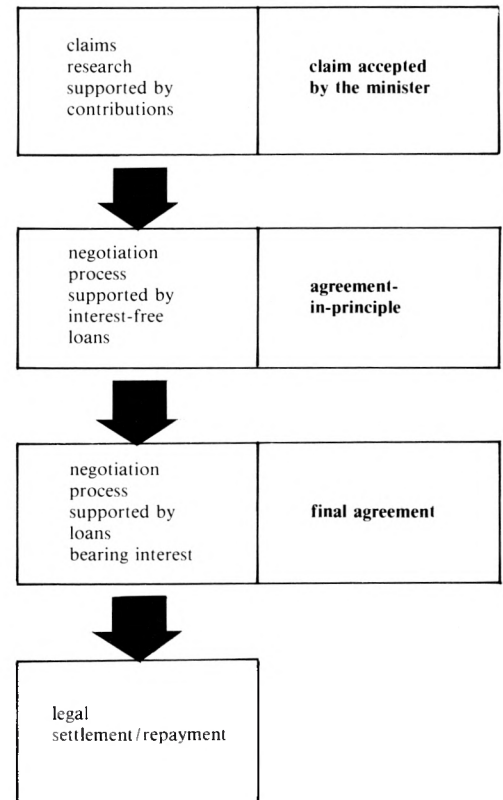
The contract will specify the total funds to be provided, with a schedule of payments. It will also require the recipient to submit quarterly progress and financial statements (a separate account must be maintained for funds received) and to provide an annual audited financial statement.

Although research contributions are non-repayable, the money must be accounted for.

Often, research findings will reveal that no basis for a claim exists or will enable settlement of a grievance through administrative channels, avoiding the more complex negotiation process.

Once a claim has been accepted for negotiation, a native claimant group may apply for a loan to support the cost of negotiations that are often conducted over a long time span and involve considerable investments. The loans that are provided are interest free until an agreement-in-principle is reached. Subsequent loans to support claimants' negotiation costs do carry interest charges. Loans and any accrued interest are repayable from the final settlement of a claim.

The funding process looks like this:



In the form of accountable contributions, Indian Affairs and Northern Development has provided about \$22 million in the past 10 years for research into Indian rights, treaties and claims. Another \$44 million was provided to native claimants in the form of loans between 1974 and 1982.

In response to a pressing need to resolve native claims, an increment in available funds for native associations was recently granted by Treasury Board. In the current fiscal year, 1982-83, \$3.7 million will be available to Indian associations as accountable contributions for claims research purposes, an increase of \$1.5 million over 1981-82. About \$14.3 million will be made available as loans, an increase of \$5.9 million over the 1981-82 budget.

During this current fiscal year, new terms and conditions for the program, as well as funding guidelines, will be developed in consultation with the client groups. □

This special edition of *Intercom* was published under the authority of the Hon. John C. Munro, P.C., M.P., Minister of Indian Affairs and Northern Development.

Additional copies are available from *Intercom*, Room 715, Ottawa, Ontario K1A 0H4 (994-497).

Centraide 1982
Juillet 1982

cahier spécial

Revendications particulières des autochtones

Aperçu historique

Mauvaise gestion de la part du gouvernement, promesses et engagements non tenus, voilà quelques-unes des accusations des Indiens aux autorités fédérales, et ce, à propos du règlement des revendications.

Au cours de ces dernières années, le Ministère a soigneusement étudié ces griefs. Cette étude a eu pour conclusion, en 1969, la préparation d'une politique fédérale de reconnaissance des obligations légales du gouvernement à l'égard des Indiens; cette dernière tenait compte également du respect des droits issus des traités.

Cette prise de position a été confirmée en 1973 dans la *Déclaration sur les revendications des Indiens et des Inuit* qui reconnaissait deux grandes catégories de revendications : les *revendications globales*, fondées sur les droits ancestraux (*Intercom*, mars 1982), et les *revendications particulières* fondées sur des obligations légales.

Ce fut le coup d'envoi : les démarches se précipitèrent. La recherche pour étayer les revendications fut financée par le gouvernement fédéral, et dans certains cas, par d'autres organismes et par les conseils de bande.

En juillet 1974, le ministère des Affaires indiennes et du Nord canadien mettait sur pied le Bureau des revendications des autochtones, chargé d'étudier les revendications et de représenter le Ministre ainsi que le gouvernement du Canada dans les négociations avec les groupes autochtones.

Entre 1970 et la fin de l'exercice financier 1981-1982, des crédits totalisant 16,7 millions de dollars avaient été accordés à titre de contributions comptables pour l'instruction et l'établissement des revendications particulières. La plus grande partie de ces crédits a été utilisée par des associations indiennes provinciales pour le compte de bandes indiennes.

Mécontentement des Indiens

Malgré les efforts et les contributions fédérales, le mécontentement des Indiens face à la politique officielle en matière des revendications particulières et au mode de règlement, a culminé dans un appel à de nouvelles lignes de conduite, lors de la Conférence des premières nations, organisée par la Fra-

ternité des Indiens du Canada (FIC), à Ottawa en 1980.

A la suite de cette initiative, le Ministère a cherché à faire participer davantage les Indiens par le biais de discussions directes. Naturellement, les groupes indiens sont loin d'être unanimes à ce sujet, mais l'on relève des points de vue communs.

Les Indiens se plaignent en effet de ce que les critères retenus pour déterminer les obligations légales du gouvernement aient été trop restrictifs. Ils estiment que les revendications devraient être fondées sur des prémisses morales et équitables aussi bien que sur une obligation légale et que ces prémisses devraient être clairement définies.

Les Indiens veulent être certains que les « obligations légales » ne sont pas limitées aux revendications datant d'une époque ultérieure à la Confédération. Ils pensent que les droits issus des traités et reliés à la terre, à la chasse, à la pêche et au piégeage doivent faire l'objet d'une juste interprétation.

On a souvent soutenu que le gouvernement était historiquement chargé de la protection des bandes et de leurs biens et qu'il s'était dérobé à cette obligation.

Quant à l'examen des revendications, les représentants indiens jugent qu'il faudrait élargir ou éliminer les règlements. La tradition orale devrait être reconnue comme une preuve valable et les Indiens devraient pouvoir consulter l'opinion du ministère de la Justice, afin d'être en mesure de préparer des réponses adéquates.

Un consensus, tel est le but

En ce qui a trait à la marche à suivre, les représentants indiens pensent que le Ministère devrait réellement les aider à préparer les revendications, leur faciliter l'accès aux documents internes et leur accorder en général un soutien actif. Dans cette optique, le Bureau des revendications des autochtones devrait être supprimé ou se voir accorder un mandat plus large.

Les Indiens soutiennent que le gouvernement ne devrait pas unilatéralement examiner la validité d'une réclamation mais s'efforcer davantage d'en arriver à un consensus fondé sur les faits et le mérite. Il faudrait recourir à des tierces parties pour parvenir à un règlement; celles-ci joueraient le rôle de médiateur.

Le gouvernement devrait fournir des fonds pour les recours en justice, affirment les Indiens, et être prêt à négocier pendant que les réclamations sont en litige. Ce financement de plus, devrait être augmenté et étendu à toutes les phases du processus de revendication.

Au chapitre des compensations, les représentants indiens sont en général d'accord pour que les bandes retrouvent leur statut antérieur à toute perte. De nombreuses bandes considèrent les revendications comme un moyen de récupérer leurs terres, de les agrandir et aussi d'obtenir le capital nécessaire à une mise en valeur adéquate. Les terres revendiquées, occupées par des non-Indiens, devraient être rendues aux bandes et, si nécessaire, les anciens occupants, dédommages par le gouvernement.

Les représentants indiens sont unanimes pour que l'on prenne en considération les différents points de vue des Indiens, au moment de l'élaboration de toute nouvelle politique des revendications ou de toute modification à y apporter. Ils réclament de plus que l'on tienne compte des variantes et du contexte régional.

Ce dernier aspect a joué un rôle lorsque l'on a préparé le document officiel sur les revendications particulières.

Revendications réglées

A la fin de décembre 1981, quelque 250 revendications particulières avaient été présentées au Ministère. Douze avaient été réglées moyennant des versements en espèces totalisant 2,3 millions de dollars environ. **Suite à la page 2**

Aperçu historique . . .

Dix-sept avaient été rejetées et cinq retirées par les requérants. Soixante-treize faisaient l'objet de négociations et 80 autres étaient encore à l'étude. Enfin, 12 étaient devant les tribunaux et 55 autres avaient été renvoyées à des instances administratives (par exemple, restitution de terres cédées mais non vendues).

En février, le gouvernement a signé un accord avec la bande de Penticton en Colombie-Britannique, au sujet de la revendication touchant des terres retranchées de sa réserve en 1916. En plus de retrouver 4 855,2 hectares de terres rendus par le gouvernement provincial, la bande a reçu la somme de 13,2 millions de dollars en compensation, de la part du gouvernement fédéral pour des terres qui avaient été utilisées à d'autres fins; elle recevra un million de dollars du gouvernement provincial pour les terres que celui-ci conserve à des fins publiques. (Se reporter à l'article sur Penticton.)

En Nouvelle-Écosse, la bande Wagmatcook a reçu 1,2 million de dollars en échange de terres retirées de la réserve, voilà près d'un siècle. Cette somme permettra à la bande de tirer parti de certaines initiatives économiques et de se lancer dans des entreprises. (Se reporter à l'article sur ce sujet.) □

Les traités indiens et La Loi sur les Indiens

Les traités font partie intégrante du patrimoine des Indiens du Canada et se retrouvent aujourd'hui au cœur de leurs revendications.

Dès la Proclamation royale de 1763, la Couronne britannique reconnaissait aux diverses tribus indiennes des droits sur les terres qu'elles occupaient : celles-ci ne pouvaient être cédées ou vendues qu'à la Couronne. C'est ainsi qu'on en est venu à conclure avec les Indiens des accords, ou des traités comme on les a appelés par la suite.

Au lendemain de la Guerre d'Indépendance américaine (1775-1783), une forte vague d'immigration s'est fait sentir dans le Haut-Canada. De nombreux traités ont alors été conclus avec les Indiens pour qu'ils cèdent leurs droits fonciers. Au début, ces traités ne comportaient qu'un simple versement en espèces, mais par la suite, ils sont devenus plus complexes. Ils prévoyaient la création de réserves, le versement de rentes et la reconnaissance d'autres avantages.

Après la Confédération, 13 traités ont été conclus entre les Indiens et le gouvernement du Canada. Onze d'entre eux, dits numérotés, couvrent tout le territoire depuis la frontière du Québec jusqu'au delta du Mackenzie, ce qui comprend le nord de l'Ontario, les provinces des Prairies, le nord-est de la Colombie-Britannique, le sud-est du Yukon et la vallée du Mackenzie, dans les Territoires du Nord-Ouest.

La plupart de ces traités sont intervenus avant même que les provinces des Prairies ne voient le jour ou que leurs frontières ne soient définitivement tracées.

Beaucoup de ces traités présentaient des clauses communes, comme la création de réserves, des versements à titre gracieux, des rentes, divers approvisionnements (médailles, drapeaux, munitions, ficelle, vêtements pour les chefs et leurs conseillers, etc.) et, sur demande, des services d'éducation. Le traité n° 6, qui couvre le centre du Saskatchewan et de l'Alberta, prévoyait en outre la constitution d'une caisse médicale et garantissait des secours aux Indiens touchés par la peste et la famine.

Le gouvernement

Les revendications particulières ont trait non seulement au respect des dispositions des traités conclus avec les Indiens, mais aussi à l'administration des terres et des autres biens en vertu de la *Loi sur les Indiens*. Ces terres et ces autres biens, surtout des sommes d'argent, proviennent dans une large mesure de l'application de traités et d'accords conclus antérieurement entre les Indiens et la Couronne. Ces biens tirent également leur origine des réserves et des fonds mis à leur disposition à l'époque coloniale. Dans certains cas, il peut s'agir d'avoirs autrefois gérés par l'Église.

Tous ces biens sont rattachés à une série de lois adoptées après la Confédération, c'est-à-dire depuis mai 1868; elles donnaient au Secrétariat d'État les pouvoirs de régir la gestion des terres, des biens et de tous les fonds appartenant aux Indiens. La première *Loi sur les Indiens*, qui remonte à 1876, et toutes ses versions subséquentes, maintenaient en vigueur le principe selon lequel il revient au gouvernement de gérer les biens des Indiens.

Les deux grandes catégories de biens appartenant aux Indiens et administrés par le gouvernement fédéral sont les terres des réserves et les fonds des bandes. Ils constituent le plus souvent le point central des revendications lorsqu'on affirme que le gouvernement a rompu l'un ou l'autre de ses engagements dans l'administration de ces biens.

Par ailleurs, ce sont les revendications foncières qui ont jusqu'à maintenant été présentées en plus grand nombre. Elles peuvent avoir trait à la prise de possession de terres de réserve qui n'ont pas été dûment cédées par la bande intéressée, ou au refus de verser les indemnités requises lorsqu'il y a eu prise de possession légale des terres.

L'administration des fonds a aussi fait l'objet de certaines revendications, en moins grand nombre cependant. Il peut s'agir notamment de sommes qui ont été détournées, ou encore de sommes dues qui n'ont jamais été versées.

D'autres revendications touchant l'administration des biens des Indiens portaient plus précisément sur l'enlèvement de bois d'oeuvre ou de gravier d'une réserve, sans qu'il y ait eu compensation. Dans d'autres cas, elles s'appuyaient sur des dommages causés aux arbres ou à d'autres biens. □

Promesse du Ministre

Le jeudi 13 mai 1982, le Ministre a tenu une conférence de presse pour annoncer la nouvelle politique du gouvernement sur les revendications particulières.

Avant de répondre aux questions, M. Munro a expliqué aux journalistes que cette proposition était la réalisation d'une promesse faite peu de temps avant d'être nommé ministre. Il a déclaré que des associations indiennes lui avaient présenté nombre de requêtes réclamant l'établissement de directives, aussi l'objectif principal du document, *Dossier en souffrance*, était-il de mettre par écrit, et ce, le plus clairement possible, les règles régissant la présentation et l'évaluation des revendications particulières.

Par ailleurs, a déclaré M. Munro, nous avons pu augmenter les crédits à ce chapitre, ce qui, je l'espère, permettra d'accélérer le processus menant à la solution de certaines de ces revendications et de traiter de manière équitable les parties intéressées.

Le Ministre a fait ressortir que l'on avait beaucoup consulté les diverses associations indiennes du Canada à ce sujet et que l'on avait essayé, d'une manière aussi complète que possible, de prendre en considération les différents points de vue.

Citant la nouvelle politique qui rejette les statuts sur la prescription et la règle du retard indu (ces deux expressions sont reprises plus loin), M. Munro a affirmé que le gouvernement ne se contentait pas de parler d'obligations légales dans un sens purement technique mais davantage d'équité et de justice, et ce, en termes de présentation des revendications. Ces dernières ne sont pas seulement liées à des principes strictement juridiques quant aux preuves à apporter, mais aussi aux événements passés ce qui est normal lorsque l'on considère les décennies et les générations écoulées.

Le Ministre a fait remarquer que les communautés indiennes se plaignaient de la façon dont le gouvernement s'était acquitté au sens le plus étroit du terme de ses obligations légales. Citant le passage *Au-delà de l'obligation légale* dans *Dossier en souffrance*, le Ministre a déclaré que, selon lui, il était très important que le gouvernement soit maintenant disposé à compenser les défauts de versements relatifs aux terres de réserves prises ou endommagées par le gouvernement fédéral.

M. Munro a bien sûr mentionné que les associations indiennes avaient des opinions différentes quant au mode de règlement. Certains groupes indiens, en effet, perçoivent le gouvernement à la fois comme juge et partie et préféreraient que les revendications soient soumises à une sorte d'arbitre indépendant, chargé de prendre une décision.



Il y avait un grand nombre de journalistes à la conférence de presse du Ministre, au cours de laquelle il annonçait la nouvelle politique sur les revendications particulières.

Montant : des millions de dollars

D'autres associations ne veulent pas être liées à un tiers, mais souhaitent régler les revendications par des négociations. D'après le Ministre, cette option correspond à celle retenue par le gouvernement.

Durant la partie réservée aux questions, il fut demandé à M. Munro à combien s'élevait le règlement des revendications.

Selon lui, il était difficile de le calculer mais cela pourrait être de l'ordre de plusieurs centaines de millions de dollars. Si le gouvernement est maintenant soumis à l'obligation de se plier aux principes ici exposés et que ces règlements aboutissent à un résultat, il me faudrait alors discuter avec le cabinet pour obtenir davantage d'argent, a déclaré M. Munro.

Il a précisé avoir indiqué une somme globale que le gouvernement serait amené à verser en plusieurs années. Personne ne pourra être surpris. Ce chiffre reste, pour l'instant confidentiel, étant donné la nature même des négociations.

Il fut demandé au Ministre s'il croyait que cette nouvelle politique faciliterait la discussion, lors de la prochaine conférence constitutionnelle.

Eh bien! je l'espère, a-t-il déclaré, « en démontrant que le gouvernement a la volonté politique de faire des dépenses supplémentaires, en expliquant les lignes de conduite et en les libéralisant, afin de montrer que nous nous préoccupons de justice et d'équité, et faisons preuve de bonne volonté. Ce n'est pas simple rhétorique, nous investissons beaucoup d'argent et, à une époque de compressions budgétaires, je pense que cela signifie quelque chose de tangible.

Ces propositions devraient restaurer, je le souhaite, la confiance entre les Indiens et le gouvernement. »

Négociation : épée de Damoclès?

Un des journalistes a suggéré que le gouvernement plaçait une épée de Damoclès au-dessus des négociations en différant l'application des statuts sur la prescription et de la règle du retard indu, et en menaçant d'y revenir, si la revendication était portée devant les tribunaux.

M. Munro a ajouté que la politique pouvait être interprétée de cette façon, comme une épée de Damoclès mais qu'il avait l'intention d'assouplir les règles. Il considérait la suppression du recours à ces deux types de prescription, dans les négociations, comme un progrès.

On a également posé des questions au Ministre sur la situation de revendications tirant leur origine des traités signés avec la Couronne, avant 1867.

Il a précisé que le poids de la responsabilité était placé sur ceux qui mènent une action en revendication. Ces derniers doivent utiliser leur compétence et les sommes dont ils disposent pour faire des recherches afin de démontrer qu'un acte du gouvernement, ultérieur à la Confédération, indique clairement une présomption de responsabilité.

Un communiqué, distribué aux journalistes, indiquait l'intention du gouvernement d'augmenter considérablement le financement qu'il accorde aux associations indiennes, le faisant passer de 2,2 millions de dollars en 1981-1982 à 3,7 millions de dollars en 1982-1983. Le fonds de prêts d'aide au développement et à la négociation des revendications acceptées a été porté à 1,5 million de dollars par an, commençant en 1982-1983, soit une amélioration par rapport au montant de 300 000 \$ par an pour les trois années précédentes. Ces prêts seront déduits des sommes obtenues au moment du règlement des revendications.

Je pense que le succès est à notre portée, avançait le Ministre, parce qu'il est de l'intérêt des Indiens comme du gouvernement de réussir dans cette entreprise. □

Quelques revendications particulières

Nouvelle-Écosse

Bande ou association	Nature de la revendication	Situation actuelle	Dernières mesures prises
Kedgemakooog (Union des Indiens de la Nouvelle-Écosse)	Revendication présentée en 1973. Elle porte sur le retour de trois lots cédés mais non vendus dans le parc national Kejimikujik	En cours de négociation	Parcs Canada a demandé de reprendre les négociations en 1980 pour tenter de trouver une autre solution que le retour des terres à la bande. Le dossier est à l'étude.
Whycocomagh	Revendication présentée en 1977. La bande juge illégale l'aliénation de 202 ha de terre de réserve.	A l'étude	La bande a transmis, en 1980, d'autres preuves dont on achève l'analyse.

Nouveau-Brunswick

Bande ou association	Nature de la revendication	Situation actuelle	Dernières mesures prises
Big Cove	Revendication présentée en 1973. La bande prétend que la cession de 1973 de 1 530 ha de terres était illégale.	En cours de négociation	La bande a demandé de reprendre les négociations en décembre 1981. Une nouvelle proposition est à l'étude
Eel Ground	Revendication présentée en 1976. La bande met en doute la légalité de la cession à bail en 1946, d'un secteur où se trouvent en une conduite d'eau et une aire de flottaison du bois. La bande prétend que le Ministère a fait erreur en délivrant un permis plutôt que d'accorder un bail.	En cours de négociation	La bande a déposé un projet de règlement en octobre 1979. Le BRA a rejeté la proposition en février 1982. Les discussions se poursuivent.

Québec

Bande ou association	Nature de la revendication	Situation actuelle	Dernières mesures prises
Oka	Revendication présentée en 1977. La bande soutient qu'elle a toujours un intérêt dans le territoire la Seigneurie du lac des Deux Montagnes.	A l'étude	La revendication a été transmise au ministère de la Justice pour être soumise à une étude juridique en mai 1981.
St. Regis	Revendication déposée en 1981. La bande soutient que la cession de certaines terres dans le Canton de Dundee était illégale. Elle réclame donc des terres sans titre de propriété.	A l'étude	On a terminé les recherches historiques à ce sujet, et préparé une demande de consultation juridique.

Ontario

Bande ou association	Nature de la revendication	Situation actuelle	Dernières mesures prises
Big Grassy et Onegaming (Sabaskong), (Ojibways de de l'Assabaska)	Revendication présentée en 1977. Les bandes réclament une indemnisation ou d'autres terres pour une prétendue perte de 648 ha le long du lac des bois.	En cours de négociation	L'évaluation des terres a été faite en accord avec toutes les parties intéressées. Les bandes ont déposé leurs propositions de règlement en février 1982. Le gouvernement prépare sa réponse.
Six Nations	Revendication présentée en 1980. Expropriation injustifiée pour la construction d'un chemin de fer	A l'étude	Dossier transmis au ministère de la Justice en février 1982
Temagami	Revendication présentée en 1974. La bande revendique des droits non abolis sur des terres d'une superficie de 10 280 km ² , situées dans les environs du lac Temagami, puisqu'elle n'a pas signé le traité Robinson du lac Huron.	En cours de négociation et en litige	Toutes les parties ont accepté de négocier un règlement mais aucun progrès n'a été réalisé. Réunions à ce sujet le 22 mai 1982 dans l'île Bear. La date du procès a été repoussée au 14 juin.

Manitoba

Bande ou association	Nature de la revendication	Situation actuelle	Dernières mesures prises
Cross Lake	Revendication présentée en 1977. La bande prétend que certaines îles, formant la réserve 19 D, ont été illégalement aliénées par le Canada en 1938 et ensuite cédées au Manitoba en 1940.	En cours de négociation, arbitrage puis en litige	Après examen des aspects légaux, la bande a soumis la revendication au médiateur du comité des inondations dans le nord du Manitoba. En 1981, la province a contesté cette décision. L'affaire a été ajournée en mai 1981, à la suite d'une première audience et ce, pour permettre aux parties d'examiner de nouveau leur dossier.
Keeseekoowenin	Revendication présentée en 1980. Aliénation injustifiée des terres de réserve	En cours de négociation	On a accepté de négocier la revendication en janvier 1982. La bande prépare une proposition de règlement.

Saskatchewan

Bande ou association	Nature de la revendication	Situation actuelle	Dernières mesures prises
Ministikwan	Revendication présentée en 1982. La bande soutient que des terres d'une superficie de 416 ha (maintenant terres de la Couronne appartenant à la province), ont été illégalement retranchées de la réserve.	En cours de négociation	En 1981, le Ministre a envoyé une lettre à la bande pour mentionner son appui à la cause, et une autre à la province pour solliciter sa coopération. La position officielle n'est pas connue.

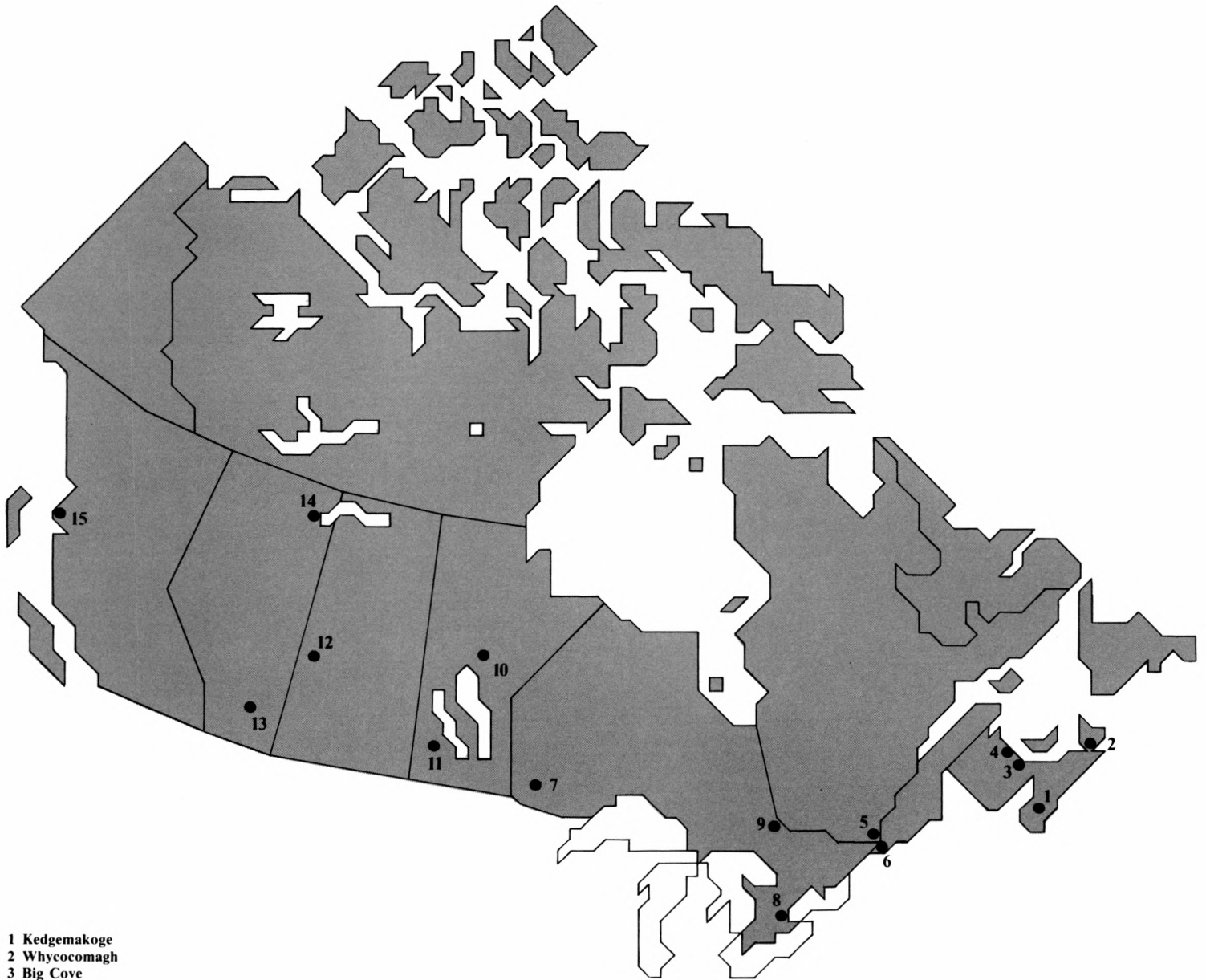
Alberta

Bande ou association	Nature de la revendication	Situation actuelle	Dernières mesures prises
Pieds-Noirs	Revendication présentée en décembre 1980. Revendication relative à la cession illégale de droits pétroliers et gaziers sur des terres de réserve cédées en 1910.	A l'étude	Le BRA a rencontré les représentants de la bande en 1981 pour examiner les documents. Le ministère de la Justice étudie actuellement le dossier.
Cree (Fort Chipewyan)	Obligations non remplies relatives à des droits fonciers reconnus par traité	En cours de négociation	La bande prépare un projet de règlement. La province a accepté d'étudier toute proposition

Colombie-Britannique

Bande ou association	Nature de la revendication	Situation actuelle	Dernières mesures prises
Port Simpson	Revendication présentée en 1979. La bande allègue que la subdivision de Tsimpsonian, faite en 1888, était illégale.	A l'étude	Première rencontre à ce sujet en 1982 afin de discuter des faits et des procédures. Une seconde rencontre aura lieu prochainement.

Les revendications particulières au Canada, État de la question, Ministère des Affaires indiennes et du Nord Canadien, avril 1982.



- 1 Kedgemakoge
- 2 Whycocomagh
- 3 Big Cove
- 4 Eel Ground
- 5 Oka
- 6 St. Regis
- 7 Big Grassy et Oneganing (Sabasgong), (Ojibways de l'Assabaska)
- 8 Six Nations
- 9 Temagami
- 0 Cross Lake
- 1 Keeseekoowenin
- 2 Ministikwan
- 3 Pieds-Noirs
- 4 Cree (Fort Chipewyan)
- 5 Port Simpson

Nouvelle orientation

Bien qu'il y ait eu quelques accords réussis, le rythme de règlements des revendications particulières n'a répondu ni aux souhaits du gouvernement, ni à ceux des Indiens. Pour cette raison, et parce que des centaines de dossiers ne sont pas fermés dans l'attente d'un éclaircissement de la politique actuelle, le gouvernement a examiné de nouveau ses orientations en ce domaine ainsi que ses méthodes d'étude des revendications particulières.

L'objectif fondamental du gouvernement est de respecter ses obligations légales, même si elles doivent être déterminées par les tribunaux. La négociation, toutefois, demeure le moyen privilégié de règlement.

Le gouvernement acceptera les revendications particulières formulées par des bandes indiennes, dans la mesure où elles reposent sur une *obligation légale* non tenue, c'est-à-dire une obligation découlant de la loi.

Il peut y avoir obligation légale lorsque le gouvernement n'a pas respecté un traité ou un accord passé entre les Indiens et la Couronne. Celle-ci pourrait également résulter d'une infraction à la *Loi sur les Indiens* ou à tout autre statut touchant les Indiens, être reliée à la gestion par le gouvernement de fonds indiens ou de tout autre bien ou encore se rattacher à l'aliénation illégale de terres indiennes.

Solution juste et équitable

Dans l'intérêt d'une solution juste et équitable des revendications particulières, le gouvernement acceptera le bien-fondé d'une revendication lorsqu'il aura été prouvé qu'aucune indemnité pour des terres de réserves prises ou endommagées n'a été versée; il en sera de même en cas de fraude, au cours de l'acquisition ou de la vente de terres de réserves indiennes.

Le gouvernement ne refusera pas de négocier des revendications particulières en fonction des statuts sur la prescription, qui limitent la période au cours de laquelle on peut recourir en justice, ou encore la règle du retard indu. D'après cette dernière, il y a

perte des droits et des privilèges, si ces derniers ne sont pas exercés au cours d'une période raisonnable.

En autres termes, les bandes ayant des griefs dont l'origine remonte à une époque lointaine, ne verront pas leurs demandes rejetées avant même d'avoir été entendues et ce, malgré ces deux types de prescription. Le gouvernement examinera chaque revendication en fonction des questions soulevées mais se réserve le droit d'user de l'un ou de l'autre type de prescription, dans le cadre d'une action en justice.

Cette nouvelle politique, même si elle ne satisfait pas tous les Indiens, permettra de préciser les procédures et de faire preuve d'une certaine souplesse. Le gouvernement a essayé du mieux possible de répondre aux aspirations des Indiens tout en exerçant sa responsabilité fiscale. Il continuera de financer l'instruction de ces dossiers par le biais de contributions et de prêts, de faciliter la préparation d'une documentation et de participer aux négociations de bonne foi. □

Compensation fondée sur des principes légaux

Lorsqu'on est parvenu à un règlement sur le sujet, un accord définitif est signé et une compensation, versée. Les critères de calcul de la compensation peuvent différer selon les points en litige, les obligations déterminées dans la revendication ainsi que selon le degré de validité de la revendication.

En général, le requérant sera indemnisé des pertes et des dommages subis à la suite d'une infraction du gouvernement, à ses obligations légales. Cette compensation obéit aux principes du droit.

Si le requérant démontre que les terres de réserves ont été prises ou endommagées par une autorité quelconque sans qu'il y ait eu compensation, la bande recevra une indemnisation correspondant à la valeur des terres en cas d'expropriation, ou encore à celle des dommages subis.

Lorsque la revendication repose sur le manquement du gouverneur en conseil d'approuver une cession ou le retrait d'une terre en vertu de la *Loi sur les Indiens*, l'indemnité ne sera pas calculée d'après la valeur actuelle inchangée de la terre, mais d'après les dommages subis par le requérant pour la période allant de la prise par force à l'approbation par le gouverneur en conseil.

Si le requérant peut démontrer que des terres de réserve n'ont jamais été légalement cédées ou expropriées par les autorités, la bande sera dédommée soit par le retour des terres en question, soit par le paiement de leur valeur actuelle non améliorée. La compensation peut inclure un paiement fondé sur la perte nette de l'utilisation des terres.

Cette somme n'inclura pas de montant supplémentaire correspondant à la «valeur spéciale pour le propriétaire», à moins qu'il ne puisse être établi que la terre avait une valeur économique spéciale, venant s'ajouter à sa valeur commerciale. Par ailleurs, aucun paiement complémentaire ne sera versé pour le dédommager de l'expropriation forcée de la terre.

Si la compensation doit servir à l'achat d'autres terres, elle peut inclure des coûts raisonnables d'acquisition qui ne peuvent pas dépasser 10 p. 100 de la valeur connue des terres à acheter.

Tierces parties

Lorsque cela se justifie, une partie raisonnable des coûts de négociation peuvent être ajoutés au montant final mais les frais légaux devront être approuvés par le ministre de la Justice. Dans le total alloué, on tiendra compte de toute somme déjà versée au requérant, au titre de la revendication.

Dans le cadre du règlement des revendications particulières, le gouvernement tiendra compte des intérêts des tierces parties et, en règle générale, n'acceptera pas de règlement conduisant à la spoliation de tiers.

Le montant proposé dépendra avant tout de la validité de la réclamation. En cas de doute, en particulier s'il est difficile de démontrer que les terres visées étaient des terres de réserve, la somme affectée reflètera cette situation.

Le règlement du dossier représente la réparation définitive de ce grief particulier. Si, toutefois, il n'existe pas de données suffisantes pour négocier une revendication, celle-ci pourra malgré tout être résolue dans le cadre de programmes actuels proposés par le gouvernement. Une revendication qui n'aura pas été acceptée pour négociation, pourra être de nouveau instruite, si le requérant trouve d'autres faits ou d'autres arguments légaux à l'appui. □

Revendications particulières

Présentation

La demande d'examen d'une revendication particulière est lancée par le requérant : une bande indienne expose une revendication au Ministre qui représente le gouvernement.

Ces questions sont souvent très complexes. Il faut donc les présenter avec clarté et concision, sans oublier de joindre un résumé historique complet, les raisons sur lesquelles repose la revendication, ainsi que des copies ou des listes des documents à l'appui.

En retour, le Bureau des revendications des autochtones (BRA) mettra à la disposition des parties requérantes les documents pertinents et les consultera à chaque étape du processus d'examen.

Sous la direction du Ministre, le BRA étudie le dossier, analyse les faits historiques et mène des recherches complémentaires, si cela est nécessaire. Des réunions et des échanges de documents peuvent avoir lieu entre le requérant et le Ministère afin d'éclaircir certains aspects et d'en arriver à une meilleure compréhension. De la même façon, il peut être utile de procéder à des consultations et d'entrer en relation avec d'autres ministères fédéraux ainsi qu'avec des gouvernements provinciaux.

Rôle du ministère de la Justice

Après avoir étudié la requête, le Bureau des revendications des autochtones la transmet au ministère de la Justice afin que celui-ci

donne son opinion sur les obligations légales du gouvernement fédéral. La réponse de ce ministère est ensuite étudiée avec le requérant afin de connaître d'autres points de vue, s'il y a lieu. Puis le dossier est renvoyé au Ministre, qui décide de la recevabilité de la cause et informe la partie adverse de la décision.

Une fois la revendication acceptée par le Ministre, le BRA a le mandat de négocier le règlement. Le mode de règlement est souvent compliqué. Les résultats peuvent varier d'un cas à l'autre puisque cela comporte des avantages financiers, fonciers ou autres. □

Règlement avec la bande Wagmatcook

Le gouvernement et la bande s'entendent sur 1,2 million de dollars

Le premier règlement de ce genre dans les Maritimes a été ratifié à Nyanza (Nouvelle-Écosse), en mars dernier par le ministre John Munro et celui des Finances, Allan MacEachen, député de Cape-Breton, Highlands-Canso.

Dans le cadre de cet accord, la bande Wagmatcook a reçu la somme de 1,2 million de dollars, en règlement définitif de sa revendication. Elle a convenu de mettre fin aux poursuites intentées contre le gouvernement et d'accepter une déduction de 232 405 \$ correspondant au montant prêté pour instruire le dossier.

La bande Wagmatcook a présenté sa revendication pour la première fois en 1973. Elle affirmait qu'une partie des terres appartenant à l'origine à la réserve, avait été prise illégalement. La revendication portait sur plus de 1 500 hectares de terres, retranchés de la réserve avant la Confédération et après.

La plainte a été acceptée pour négociation en 1975, après un examen détaillé fait par le Bureau des revendications des autochtones et le ministère de la Justice.

Les recherches faites à ce sujet ont indiqué qu'environ 700 hectares avaient été aliénés à la fin du siècle dernier sans qu'il n'y ait eu cession. Conformément à sa politique des revendications particulières, le gouvernement a accepté de négocier un règlement mais il a rejeté toute responsabilité pour les terres prises par la Nouvelle-Écosse antérieurement à la Confédération.

Des réunions préliminaires ont été tenues en 1975 et en 1976, les négociations ayant commencé en septembre 1977. Elles ont été interrompues deux fois, avant qu'on ne parvienne à un règlement définitif en janvier 1981.

Referendum

L'accord proposé a été approuvé par le cabinet en février 1982 et les membres de la



Le Ministre John Munro présente un chèque au chef de la bande Benedict Pierro, en règlement de la revendication. On le voit ici en compagnie du ministre des Finances, M. Allan MacEachen, député de Cape-Breton Highlands-Canso.

bande ont accepté, à la suite d'un referendum, le règlement négocié par leur chef et leur conseil.

M. MacEachen a décrit ce règlement comme «un événement positif permettant à la fois à la bande et aux propriétaires non indiens actuels de Nyanza de collaborer à la construction d'un avenir meilleur». La plus grande partie des terres, ayant fait l'objet d'une négociation dans le cadre de la revendication, est maintenant occupée par des non-Indiens qui ont acquis ces dernières de bonne foi.

Lorsqu'il a présenté le chèque au chef Wagmatcook Benedict Pierro, M. Munro a

félicité la bande de sa patience et de sa bonne volonté dans la recherche d'un accord final. «Le gouvernement fédéral comme les autres bandes du Canada profiteront du travail et des négociations menées ici, à Cap-Breton», a ajouté le Ministre.

Le chef Pierro avait dit précédemment que les fonds seraient investis et utilisés au chapitre de l'expansion économique. L'argent a été versé à une corporation formée par la bande qui se chargera de la gestion. Si ces sommes sont consacrées à l'achat de terre, il sera demandé au cabinet d'accorder le statut de réserve à quelque 810 hectares de terres.

Le négociateur, M. Murray Inch, estime que l'expérience acquise lors des discussions avec les Wagmatcook, a facilité le processus de révision; ce dernier point a joué un rôle dans la définition de la nouvelle orientation du gouvernement dans le domaine des revendications particulières. □

Accord avec la bande de Penticton

Terres retranchées en Colombie-Britannique

La signature d'un accord, l'hiver dernier, entre le gouvernement fédéral, la Colombie-Britannique et la bande de Penticton, correspond au premier règlement de revendication touchant les terres retranchées, dans cette province.

Il reste encore à négocier 21 dossiers semblables pour un total de 31 bandes et une superficie de plus de 8 664 hectares. On est parvenu à une entente, à caractère non officiel, pour trois revendications.

A la bande de Penticton, la province a rendu plus de 4 855 hectares de terres, retranchées de la réserve en 1916. Elle a, de plus, accepté de verser une indemnité de un million de dollars pour les terres qu'elle conserve. Le gouvernement fédéral, pour sa part, a proposé de payer à la bande, la somme de 13,2 millions de dollars correspondant à l'aliénation de 730 hectares de terres, occupés par des tiers. C'est donc la plus grande superficie adjugée, dans une revendication de ce genre.

L'histoire des terres retranchées remonte à 1912. Pendant de nombreuses années, le gouvernement fédéral et la Colombie-Britannique se sont opposés quant à l'étendue et à la situation des réserves dans la province. Une commission royale sur les affaires indiennes, regroupant des fonctionnaires des deux gouvernements fut instituée pour s'occuper de ce sujet. En 1919, le gouvernement de la Colombie-Britannique vota l'*Indian Affairs Settlement Act* (Loi sur le règlement des affaires indiennes), ce qui permit d'adopter le rapport de la commission royale.

Dans son rapport, la commission recommandait de diminuer l'importance des réserves et de répartir le surplus de terres, résultant de cette opération, entre la province et le Canada. Mais il restait à obtenir le consentement des Indiens.

En 1920, le gouvernement fédéral vota la *British Columbia Indian Land Settlement Act* (Loi sur les réserves indiennes en Colombie-Britannique) qui autorisait la diminution des réserves. L'accord des Indiens ne fut jamais obtenu et les bandes n'ont jamais entériné cette décision.

En vue d'un règlement

Pendant longtemps, il y eut peu de progrès à ce chapitre, mais en 1969 le gouvernement fédéral admit que le fait d'avoir retranché des terres sans le consentement des Indiens, n'aurait pas dû se produire.



De gauche à droite, le chef de la bande Morris Kruger, le ministre du MAINC, M. John Munro et le procureur général de la Colombie-Britannique, M. Allan Williams, lors de la signature de l'accord.

Pourtant le gouvernement ne se reconnaissait aucune obligation légale, car ce retrait avait été sanctionné par voie de législation. Mais, pour le principe, il accepta de rechercher un mode de règlement, par le biais de la négociation.

En 1975, les 22 bandes concernées créèrent un comité de négociations et au cours de 1975 et de 1976, de nombreuses réunions furent organisées entre les deux gouvernements afin de trouver une solution.

Un comité de coordination tripartite fut institué en 1977 et, l'année suivante, les deux gouvernements firent une proposition. Le comité s'opposa à certains aspects, en particulier à ce qui avait trait à la compensation en espèces. En décembre 1978, le gouvernement fédéral suggéra d'augmenter le montant de l'indemnité et au mois de mars de l'année suivante, une nouvelle offre fut faite au comité tripartite qui la transmit aux bandes.

Le comité y donna suite en présentant son point de vue au Ministre pour que le gouvernement fédéral l'étudie mais les négociations entrèrent dans une impasse et, en décembre 1979, huit bandes portèrent leurs revendications à l'attention de la Cour fédérale; trois autres se joignirent à elles par la suite.

Nouvelle proposition du gouvernement

Les négociations ayant échoué en janvier 1981, le comité autorisa ses membres à rechercher des règlements à titre individuel. L'hiver dernier, un négociateur fédéral rencontra chacun des représentants des 22 bandes afin de déterminer les conditions en vue d'une reprise des négociations.

En juin 1981, le Ministre annonça que le gouvernement considérerait de nouveau sa proposition de règlement et, en accord avec le procureur général de la Colombie-Britannique, il écrivit aux bandes pour les inviter à des réunions tripartites individuelles au cours desquelles serait discutée une reprise des négociations.

Les réunions furent couronnées de succès. Afin de faciliter ces dernières, le gouvernement créa une direction du Bureau des revendications des autochtones à Vancouver et la plaça sous la responsabilité d'un négociateur principal, Peter Fisher.

M. Fisher a déclaré que le règlement conclu avec la bande de Penticton, était en partie dû à l'attitude raisonnable et patiente ainsi qu'à la détermination inflexible du chef de la bande au cours des négociations. Il a déclaré que, s'il avait fallu si longtemps pour signer cet accord, c'était parce qu'il s'agissait d'une sorte de première. Il espère à l'avenir parvenir à un règlement beaucoup plus rapidement. □

Droits découlant des traités

Dans les Prairies : une revendication réglée, plusieurs à l'étude

En vertu des traités signés avec le Manitoba, l'Alberta et le Saskatchewan entre 1871 et 1906, des terres de réserve avaient été mises de côté. Certaines bandes cependant ne reçurent pas leur part.

Cette situation particulière fut reconnue dans les accords de 1930 sur le transfert des ressources naturelles conclus entre le gouvernement fédéral et les provinces des Prairies. Selon ces textes, les provinces devaient libérer des terres innocuées de la Couronne, de telle sorte que le gouvernement fédéral pourrait s'acquitter de ses obligations découlant des traités. Cette question ne fut jamais complètement réglée.

Saskatchewan

En 1975, à la demande des bandes de cette province, le Ministre du MAINC fit appel à la bonne volonté des trois gouvernements concernés afin de trouver une solution à cette affaire. En 1976, le Saskatchewan acceptait la proposition de la fédération des Indiens de cette province, de mettre la dernière main au processus de règlement des droits découlant des traités. L'année suivante, le cabinet donnait un accord de principe au projet.

Dans cette entente, connue sous le nom de formule du Saskatchewan, on proposait de multiplier le chiffre, correspondant à la population de la bande au 31 décembre 1976, par le nombre d'hectares per capita tel que stipulé dans le traité, ce qui représentait environ 52 hectares par personne.

En vertu de cet accord, la province a donné des terres de la Couronne qui étaient occupées et d'autres, libres. Elle a, de plus, accordé aux bandes le droit de partager des revenus provenant de la mise en valeur des ressources ou de se joindre à des projets en coparticipation.

Depuis cet événement, des revendications du même genre ont été déposées par 36 bandes et 21 demandes ont déjà été acceptées. Le critère de validité repose sur le fait que la bande a reçu ou non la quantité de terre, promise dans le traité et ce, en fonction de la population de la bande à la date du premier arpentage.

Après avoir reconnu la validité de la requête et précisé l'étendue, le choix des terres est en cours pour 21 bandes. Cette dernière opération se fait avec l'aide du Ministère.

Les terres de la Couronne, actuellement disponibles, sont situées dans le nord de la province tandis que dans le sud, il reste difficile de disposer du peu de terres de la Couronne.

Le gouvernement fédéral a accordé une subvention de 2,6 millions de dollars à plusieurs bandes du Saskatchewan pour faire des études de faisabilité, reliées à la sélection de terres. Quelque 21 revendications ont été validées par le Bureau des revendications des autochtones. La superficie des terres demandées en fonction de la formule préparée par le Saskatchewan, s'élève à 432 850 hectares. Actuellement, les bandes ont choisi 76 p. 100 des terres.

En janvier 1981, la bande Stoney Rapids a vu sa sélection acceptée et les terres ont obtenu le statut de réserve. Treize revendications sont en cours de révision afin d'en déterminer la validité.

Manitoba

Au Manitoba, 21 dossiers en sont à l'étape finale du processus de validation et 5, en cours d'étude. On prévoit que les négociations avec la province et le comité des chefs du Manitoba sur les droits découlant des traités commenceront cet été.

Alberta

En Alberta, une revendication a été acceptée, deux en sont à l'étape finale de la validation et cinq, en cours d'étude. □

Programme des revendications des autochtones

Le financement des revendications est l'un des nombreux services qu'assure à ses groupes clients, le ministère des Affaires indiennes et du Nord canadien. Ce programme accorde aux groupes revendicateurs un appui financier, sous forme de contributions et de prêts, au titre de la recherche, de l'élaboration et de la négociation de leur dossier. C'est la Direction de la recherche des Orientations générales qui administre le programme.

L'attribution de fonds à la recherche et à la préparation des revendications pour les groupes autochtones date de 1970 et découle des discussions sur la révision de la *Loi sur les Indiens*. Administré d'abord par le Bureau du Conseil privé et plus tard par le ministère des Affaires indiennes et du Nord canadien, le programme a connu un essor considérable de ses activités dans le domaine des revendications.

On peut classer les revendications en deux catégories :

- *les revendications globales*
c'est-à-dire fondées sur un *droit* des autochtones à la terre résultant de l'occupation et de l'usage traditionnels depuis très longtemps; cet intérêt est reconnu par la Couronne;
- *les revendications particulières*
c'est-à-dire relatives à l'administration des terres ou d'autres biens indiens en vertu de la *Loi sur les Indiens*, à l'exécution ou encore à l'interprétation des traités indiens.

Les associations autochtones, pour le compte des bandes qui en sont membres, mènent des recherches actives sur ces deux sujets et ce, en accord avec le Programme. Les propositions budgétaires des associations doivent comprendre :

- l'exposé des revendications qui feront l'objet de la recherche;
- la date approximative de l'achèvement de la recherche;
- un budget détaillé.

L'accueil ou le rejet d'une proposition dépend de nombreux facteurs, dont les deux plus importants sont la disponibilité des fonds au cours d'un exercice financier donné et le nombre d'associations qui présentent des demandes. Entre autres considérations, les fonctionnaires du Ministère doivent tenir compte des points suivants :

- la pertinence du projet par rapport à l'ensemble du processus des revendications;
- les résultats des projets de recherche antérieurs;
- l'étendue géographique, le nombre de bandes et le nombre de personnes visés par le groupe revendicateur;
- les coûts comparatifs.

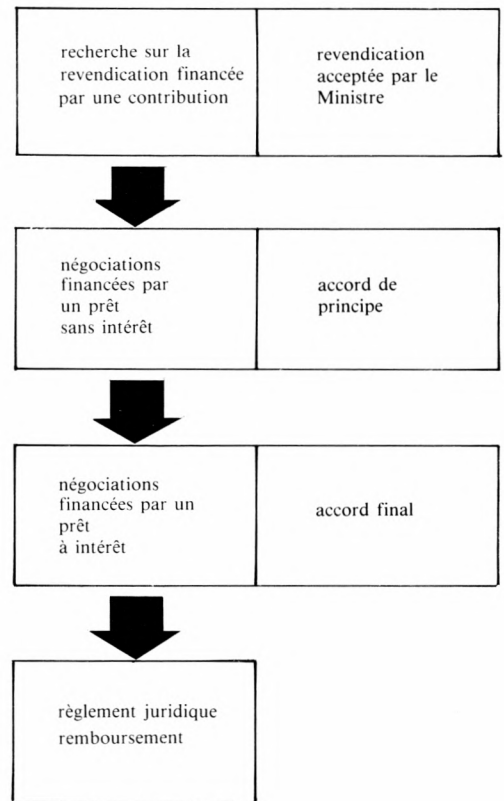
Une fois le projet accepté et les fonds attribués, on dresse un contrat liant les deux parties dans lequel on précise le montant des fonds à affecter et le calendrier des paiements. Le contrat exige également du bénéficiaire qu'il présente un état de la gestion et un état financier chaque trimestre (il faut tenir un compte distinct des fonds reçus), on doit aussi fournir un bilan financier annuel vérifié.

Bien que les contributions versées à ce chapitre ne doivent pas être remboursées, il faut malgré tout justifier l'usage des fonds.

Souvent, les conclusions de la recherche menée révéleront que la revendication n'est pas fondée ou encore permettront le règlement d'un grief par les voies administratives, évitant la démarche plus complexe de la négociation.

Dans les cas où l'on accepte de négocier une revendication, le groupe revendicateur peut demander un prêt pour faire face aux frais généraux qui souvent s'étendent sur une longue période et donnent lieu à des dépenses considérables. Les prêts consentis sont sans intérêt jusqu'à l'accord de principe. Toutefois, les prêts ultérieurs consentis au chapitre des dépenses de négociation des revendicateurs comportent des frais d'intérêt. Les prêts et les intérêts courus sont rem-

boursables à partir du règlement final de la revendication. Les étapes du financement se déroulent de la façon suivante :



Sous forme de contributions comptables, le ministère des Affaires indiennes et du Nord canadien a accordé quelque 22 millions de dollars, au cours des dix dernières années, à la recherche en matière des droits des Indiens, des traités et des revendications. De 1974 à 1982, les revendicateurs autochtones ont reçu en plus 44 millions de dollars sous forme de prêts.

Étant donné la nécessité de résoudre cette question, le Conseil du Trésor a permis récemment d'augmenter les fonds mis à la disposition des associations autochtones. Pendant l'année financière 1982-1983, les associations indiennes disposeront de 3,7 millions de dollars au titre de contributions comptables à des fins de recherche sur les revendications, soit une hausse de 1,5 million de dollars par rapport à 1981-1982. Quelque 14,3 millions de dollars pourront être affectés à des prêts, soit une augmentation de 5,9 millions par rapport au budget de 1981-1982.

Au cours de cette année financière, des modalités et des conditions nouvelles, de même que de nouveaux principes directeurs en matière de financement, seront établis pour le programme, et ce, en consultation avec les groupes clients. □

Ce cahier spécial d'*Intercom* a été publié avec l'autorisation de l'hon. John C. Munro, c.p., député, ministre des Affaires indiennes et du Nord canadien.

Des exemplaires supplémentaires de cette livraison peuvent être obtenus auprès d'*Intercom*, pièce 715, Ottawa (Ontario) K1A 0H4 (tél.: 994-4978).



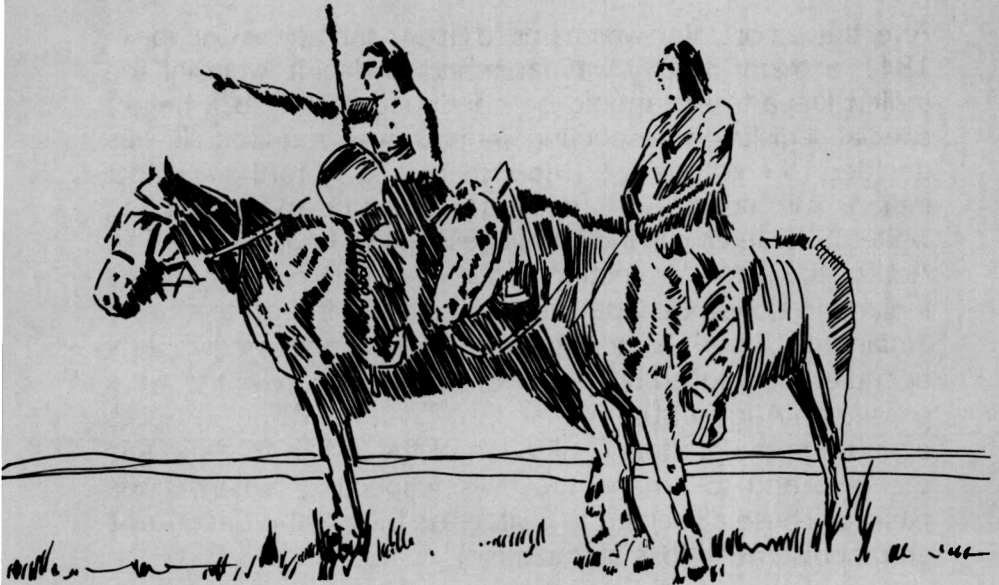
Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

Saskatchewan Region

2.

The Indian and Civil Government



Canada

Early in its relations with native tribes, the British maintained one major thrust: the nurturing of the Indians as allies, invaluable in the event of a breakout of fighting against any other colonial force with designs on North America. Towards this goal, an Indian Department was established with an entire hierarchy of Superintendents, Deputy Superintendents, Commissaries, Interpreters, Smith and Missionaries. The Indian Department was military controlled. Then in 1830 the Department was split into two units — one for Upper and one for Lower Canada, and placed under Civil Administration.

This change brought about a new direction in philosophy. The aims were no longer to keep Indians at bay and as a buffer zone. The objective now was to educate them and civilize them. The Indian Department was also by means of treaties, to pave the way for the orderly settlement of the colony, while protecting the Indians' rights to occupy certain parcels of land. The civilization of the Indian became the goal of the Department. This was felt to be a moral duty. And it was felt as well that the civilization process would take only one generation.

After the Act of Union which united Upper and Lower Canada in 1841, a major inquiry was launched to decide whether the Indian Department should be continued and if so, whether special legislation respecting Indians was required. It was decided to continue the Department and to further protect Indians with special laws dealing with liquor and preventing whites from settling in Indian villages. To that end, in 1850, "An Act for the better protection of the lands the property of the Indians in Lower Canada" and "An Act for the protection of Indians in Upper Canada from imposition and the property occupied or enjoyed by them from trespass and injury" were passed on August 10th of that year. Then in 1857 "An Act to encourage the gradual Civilization of the Indian tribes in this province and to amend the laws respecting Indians" was passed. These all served to civilize the Indian and encourage enfranchisement (loss of franchise).

Contemporaneously, treaties were being signed between the Indians and representatives of the Crown in which the Indians agreed to refrain from war, or surrender their claims to the land of the region, in return for government guarantees to such things as military protection, goods, money, hunting, trapping and fishing rights throughout the region, and/or more specific rights to smaller areas of land in the region. This was a period of near desparation for the Indians — buffalo herds were disappearing and illness among them was rampant as was periodic starvation — these treaties were signed to protect further the Indians during this horrendous period.

To this point in history, two main types of treaties had been signed (1) early Maritime treaties signed in the early 1700s. These were essentially peace treaties. (2) the Upper Canada treaties (late 1700s) and the treaties signed in the South Vancouver Island area in the mid-1800s.

Legislation was being developed hither and yon on a piecemeal basis. In order to try to deal with Indians in a manner that was common across almost all areas “An Act Respecting Civilization and Enfranchisement of Certain Indians” was passed in 1859. It consolidated all existing legislation dealing with Indians, but NOT land reserved for Indians. It had sections dealing with debt, liquor, pawns for liquor, presents and enfranchisement.

Then in 1860, “An Act Respecting the Management of Indian Lands and Property” was passed vesting the superintendance of Indian Affairs in the Commissioner of the Crown Lands Department on July 1st, making him the Chief Superintendent of Indian Affairs. After this date the Imperial Government was no longer responsible for the management and expenses of Indian Affairs — the Province of Canada was now responsible.

For a discussion of other developments in the history of the administration of Indian Affairs, see other pamphlets in this series.

The following is a list of titles published in this series by Indian and Northern Affairs Canada.

- The Indian as Ally
- The Indian and Civil Government
- The Indian in Confederation
- Indian Treaties in Saskatchewan
- The Indians of Saskatchewan

Produced under the authority of Dr. Owen A. Anderson, Director-General, Saskatchewan Region, Indian & Inuit Affairs. Produced by Information Services, Saskatchewan Region.



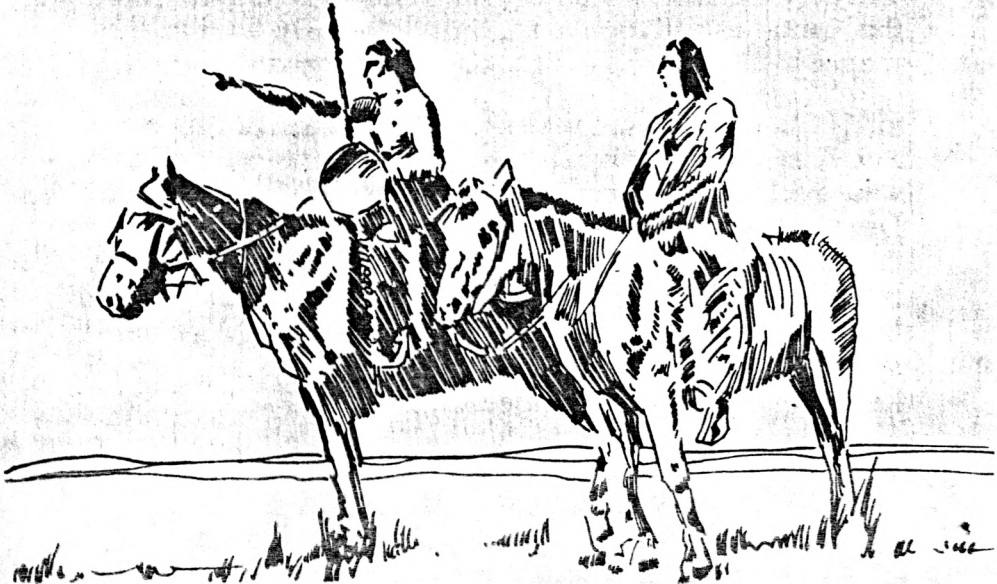
Indian and Northern
Affairs Canada

Affaires Indiennes
et du Nord Canada

Saskatchewan Region

3.

The Indian in Confederation



Canada

On July 1, 1867, Canada was born. The Dominion of Canada was created by the British North America Act. Section 91, sub-section 24, gives the federal parliament exclusive legislative jurisdiction in relation to Indians and lands reserved for Indians. Administration of Indian Affairs was made the responsibility of Canada through the Department of the Secretary of State. Then in 1873, it became the responsibility of a branch of the Department of the Interior.

The Province of Canada treaties of the mid-1800s and the post-Confederation "numbered" treaties of the latter half of the 19th and early part of the 20th centuries were relatively complex agreements in which Crown representatives promised annuities, game and other rights, reserves, as well as cash grants for land surrendered.

As these treaties were being signed, all laws respecting Indians were again consolidated in 1876. This consolidation coincided with the expansion of federal government jurisdiction — first to the Maritimes and then to the West. The 1876 law had three main concerns: membership, lands and local government.

In 1880 another Act was written called the Indian Advancement Act. That same year, a separate Department of Indian Affairs was established. It continued in existence as a separate Department until 1936 when it again became a branch — this time of the Department of Mines and Minerals. Then in 1946 it became a branch of the Department of Citizenship and Immigration. The 1880 Act became the framework for all successive Indian Acts until the Act itself was rewritten 71 years later. It was, however, amended annually.

A Special Committee, 1946-48, made numerous recommendations towards passing a new Indian Act. In 1950, Bill #267 went before Parliament and was loudly and vociferously argued over, to such a point that another bill was introduced after much varied consultation with Indian groups. On May 17, 1951, the new bill was passed, #79, after only three days of debate.

The new Indian Act still protected Indians from alienation, Indian property from depredation; and provided for a form of local government as well as a system for ending Indian status. It no longer contained the restrictive provisions of the earlier Acts: those dealing with liquor, sales of produce, aboriginal dancing and ceremonies, among others. The powers of the Minister and the Governor-in-Council remained formidable though — over half the Act was at their discretion.

In 1960 the Government of Canada extended the federal franchise (vote) to status Indians. It was claimed as a great victory for social justice. It is important to note that in 1885 male Indians who lived on Reserves had been given the right to vote in the very same way as any other male British subject living in Canada, and that they exercised this right until 1898 (through the Electoral Franchise Act of July 4, 1885). They were enfranchised in 1898 when provincial voting qualifications were made the prerequisite of the Dominion Vote — only the Indians of Nova Scotia had uninterrupted franchise from 1885.

1966 was the year the present day Department of Indian and Northern Development was formed. On April 17, 1982, the Canadian Constitution was patriated by H. R. H. Elizabeth II. This move was preceded by intense emotional jurisdictional and moral battles among Indians, the provinces, the federal government and the British Parliament. Lobbying by all types of interest groups took place at a very highly visible and impactive level. Section 25 of the Canadian Charter of Rights and Freedoms says

... The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and (b) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.

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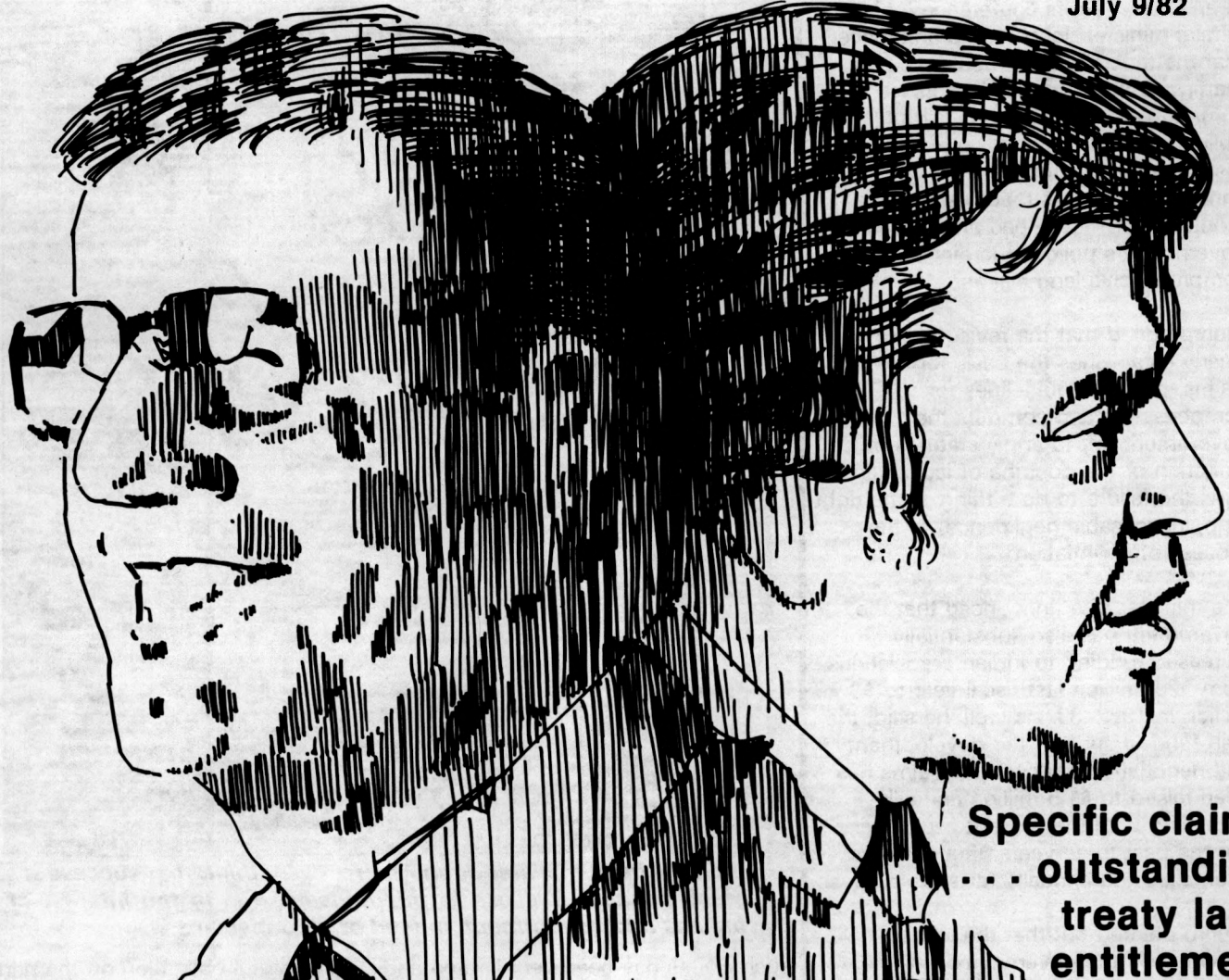
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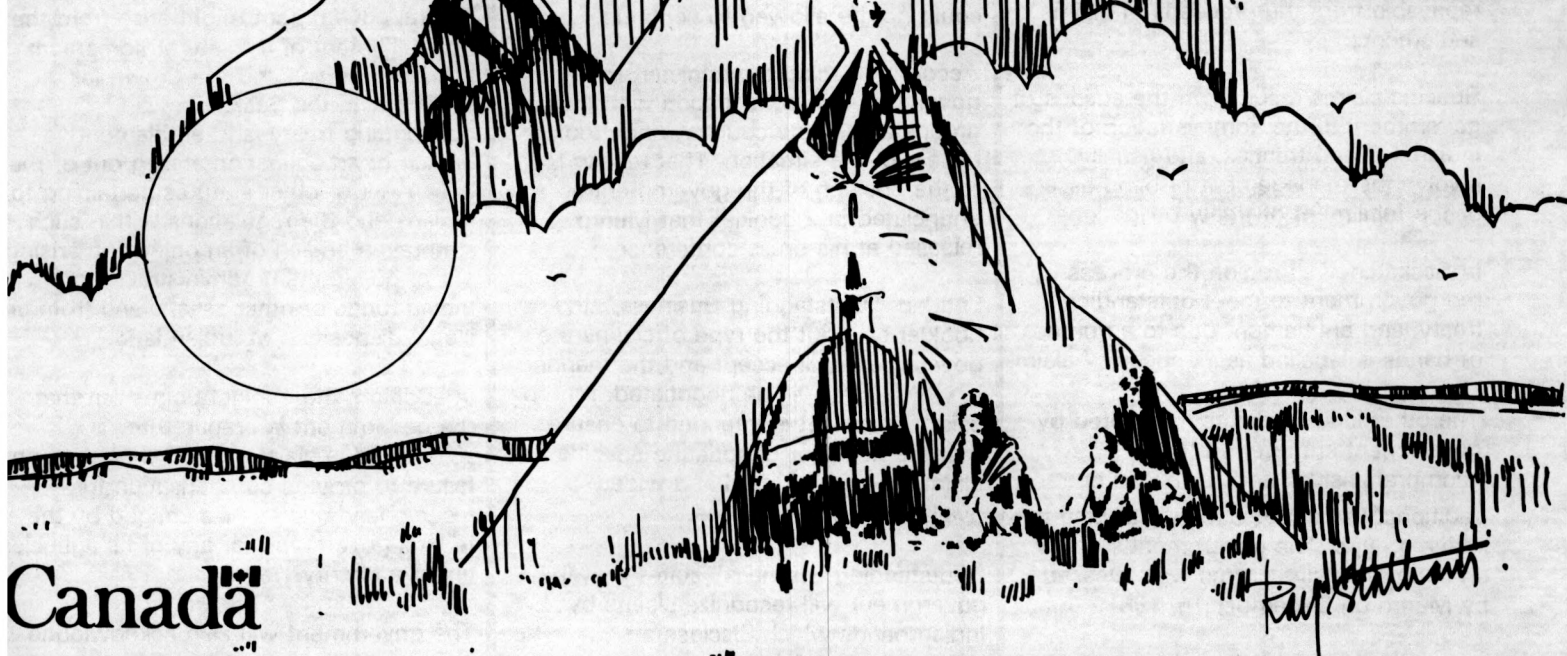
THE UPDATER

July 9/82

Affaires Canada
Saskatchewan Region
et du Nord Canada



**Specific claims
... outstanding
treaty land
entitlement**



Canada

Roy Stathow

prints of program activity report interviews, articles, and stories which have appeared in past issues of DIAND's Saskatchewan region's internal publication *Update*.

Munro renews, strengthens gov't. commitment to settle specific claims

In an Ottawa press conference Indian Affairs minister John Munro announced that the federal government has reaffirmed and strengthened its commitment to meeting its lawful obligations to Indians through the resolution of specific claims. The announcement was made some five months after Munro had announced the government's policy regarding comprehensive land claims.

Munro stated that the revised policy clearly establishes the basis for specific claims, provides guidelines for compensation and commits the government not to apply statutes of limitation or the doctrine of laches (in Law, the failure to do a thing at the right time; inexcusable negligence) to the process of negotiation.

The minister also announced that the government has also substantially increased funding to Indian associations from \$2.2 million last fiscal year to \$3.7 million in 1982-83. As well, he said, the loan fund to support the development and negotiation of accepted claims has been raised to \$1.5 million annually, beginning with the present fiscal year. For the past three years \$300,000 has been allocated annually for such purpose.

Munro pointed out that the loans provided by the government are repayable from the proceeds of claims settlements.

Specific claims result from the actions of government in the administration of the Indian Act and treaties, and usually involve the management of band assets or the fulfillment of treaty obligations.

In Saskatchewan region the process by the government to meet outstanding treaty land entitlement due to a number of bands is labelled as a "specific" claim.

The other kind of claims negotiated by government are referred to as "comprehensive" and are based on traditional use and occupancy of land by native groups. The government's policy on comprehensive claims was released by Munro on December 16, 1981.

The government first introduced a specific claims policy in 1973, but Munro stated that to date progress in resolving



Indian Affairs minister John Munro, "... I think that success is within reach because success in this endeavour is in the interest of both Indians and government, indeed of all Canadians."

such claims has been very limited and could not be allowed to continue.

Accordingly, said the minister, the government, in consultation with Indian groups across the country, undertook a review of the situation. That review led to the position of the government as enunciated in a booklet that Munro released at his press conference.

Entitled, "Outstanding Business," the booklet sets out the type of claims the government will accept and the manner in which they will be negotiated. Munro said the booklet is intended to ensure that the basis for negotiating specific claims is clearly stated and widely available to all Canadians.

"Outstanding Business" states that the government will recognize claims by Indian bands which disclose an outstanding lawful obligation and cites how such lawful obligation may have arisen in a number of circumstances.

A lawful obligation on the part of the federal government might arise from the non-fulfillment of a treaty or agreement between Indians and the Crown (as applies with the Saskatchewan outstanding treaty land entitlement); a breach of an obligation arising out of the Indian Act or other statutes pertaining to Indians and the regulations within such statutes; a breach of an obligation arising out of government administration of Indian funds or other assets; and from an illegal disposition of Indian land.

In addition, the booklet points out that the government is prepared to acknowledge claims which are based on failure to provide compensation for reserve lands taken or damaged by the federal government or any of its agencies under authority.

The government will also acknowledge claims which are based on fraud in connection with the acquisition or disposition of Indian reserve land by

employees or agents of the federal government in cases where the fraud can be clearly demonstrated.

"Outstanding Business" — copies of which were sent to all provincial premiers as well as to all band chiefs and Indian organizations — states that the government will negotiate each claim on the basis of the issues involved. Bands with longstanding grievances will not have their claims rejected before they are

even heard because of the technicalities provided under the statutes of limitation or under the doctrine of laches.

In other words, the government is not going to refrain from negotiating specific claims with Indian people on the basis of such statutes or the doctrine, although the government does reserve the right to use such statutes or the doctrine of laches once a claim is involved in a court case.

The Indian Affairs minister said that he is confident that the government's new measures will improve the process of specific claims settlement.

"I think that success is within reach," said Munro, "because success in this endeavour is in the interest of both Indians and government, indeed of all Canadians."

Excerpts from *Outstanding Business*

In his forward to Outstanding Business, Indian Affairs minister John Munro stated . . . "The claims referred to deal with specific actions and omissions of government as they relate to obligations undertaken under treaty, requirements spelled out in legislation and responsibilities regarding the management of Indian assets. They have represented, over a long period of our history, outstanding business between Indians and government which for the sake of justice, equity and prosperity now must be settled without further delay.

"To date progress in resolving specific claims has been very limited indeed. Claimants have felt hampered by inadequate research capabilities and insufficient funding; government lacked a clear, articulate policy. The result, too often, was frustration and anger. This could not be allowed to continue. The Government of Canada, therefore, undertook a review of the situation including consultation with Indian groups across the country. This booklet represents the outcome of this review.

"Together with this effort at meeting the concerns of the Indian people, the Government has approved a substantial increase in the funding made available to claimants for their research and negotiation activities; it has, also, reinforced the capabilities of the Office of Native Claims. The instruments for greater success are now in place . . ."

Outstanding Business provided this brief overview of the relationship between Indian treaties and the specific claims process:

"Treaties play a significant part in the heritage of Canada's Indians and are central to many of their existing claims. As far back as the Royal Proclamation of 1763, the British sovereign recognized an Indian interest in the lands occupied by various Indian tribes which could only be ceded to, or purchased by, the Crown. This policy led to the tradition of making agreements, or treaties as they were later called, with the Indians.

"As Upper Canada began to feel the effects of settlement after the American War of Independence (1775-1783), many land cession treaties were made with the Indian people for the surrender of their interest in the land. Initially these involved one-time cash payments, but in later surrenders, such as the Robinson-Huron and Robinson-Superior Treaties of 1850, the Crown undertook to set aside reserves, and to grant annuities and other considerations for the benefit of Indian people.

"Following Confederation, 13 treaties were concluded between the Indians and the Government of Canada. Eleven — the so-called numbered treaties — extend from the Quebec border, covering all of northern Ontario, and across the prairie provinces into northeastern British Columbia, southeastern Yukon and the MacKenzie Valley in the Northwest Territories. Most post-Confederation Treaties in what are now the Prairie provinces were made before the provinces came into being or provincial boundaries were finally determined.

"Features common to many of the western treaties include the provision of reserve lands; gratuities; annuities; medals and flags; clothing to chiefs and councillors; ammunition and twine; and schooling were requested. Treaty No. 6, covering central Saskatchewan and Alberta also provided for a medicine chest and for assistance during times of pestilence and famine."

In a section of Outstanding Business entitled "recent history" it is stated, ". . . over the years following the signing of the treaties, Indians concluded that the government had not fulfilled all of its commitments to them. Some Indians maintained that the government had reneged on some of its promises under treaty. Others charged that the government had deliberately disposed of their reserve lands without first securing their permission. Claims of mismanagement of band funds and other assets were presented to government.

"Faced with an increase of such claims and a growing discontent among the Indian population, the government determined to give careful consideration to each of these claims in order to determine their validity and its responsibility.

"In 1969 the Government of Canada stated as public policy that its lawful obligations to Indians, including the fulfillment of treaty entitlements, must be recognized. This was confirmed in the 1973 *Statement on Claims of Indian and Inuit People*. The 1973 statement recognized two broad classes of native claims — 'comprehensive claims'; those claims which are based on the notion of aboriginal title; and 'specific claims'; those claims which are based on lawful obligations.

"Following the issuance of the 1973 statement there was a marked increase in claims activities. Research funded by the federal government and in some cases by non-government organizations and band councils, was

accelerated.

"In July 1974 the Office of Native Claims was created and located within the Department of Indian Affairs and Northern Development to review claims and represent the Minister and the Government of Canada in claims assessment and negotiation with Native groups.

"Between 1970 and the end of fiscal year 1981-82, a total of \$16.7 million in accountable contributions had been provided by the federal government for the research and development of specific claims; most of that has

been used by provincial Indian organizations on behalf of Indian bands.

"Approximately 250 specific claims had been presented to the Department by the end of December 1981. Twelve claims had been settled involving cash payments of some \$2.3 million. Seventeen claims had been rejected and five had been suspended by the claimants. Negotiations were in progress on 73 claims and another 80 were under government review. Twelve claims had been filed in court and 55 others referred for administrative remedy (e.g. return of surrendered by unsold land). . . ."

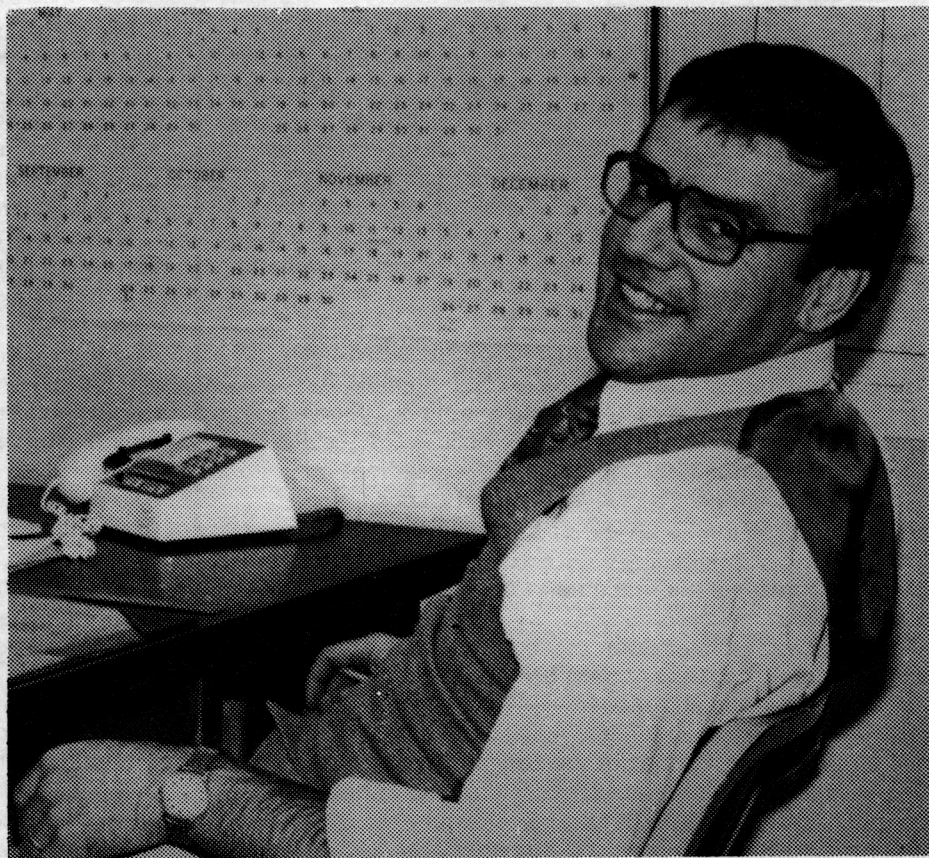
Gross reviews entitlement history

Saskatchewan's experience in moving towards the settlement of outstanding treaty land entitlement was central to many of the informal conversations held between this region's intergovernmental relations manager and his counterparts from across Canada during the recent national meeting of Indian Affairs' intergovernmental team. Al Gross, who as intergovernmental relations manager has developed and defined the region's liaison approach to both the Saskatchewan government and the Federation of Saskatchewan Indians (FSI) regarding the settlement of entitlement, was recognized by his peers as the possessor of considerable expertise in developing workable tripartite mechanisms. As well, most of the intergovernmental relation officers were extremely interested in ascertaining the present status of the entitlement process along with an accounting of the evolution of the Saskatchewan efforts.

Partially as a result of the interest shown in the Saskatchewan experience by the non-regional departmental staff, but primarily because we recognized that it had been some time since Update had devoted any coverage to the entitlement process, we asked for and received the following interview with Gross on the last day of the National Intergovernmental Affairs Conference, hosted by Saskatchewan at Waskesiu — a resort community within the Prince Albert National Park.

Update: As with all stories, there has to be a beginning. Now with the Saskatchewan treaty land entitlement it started

Gross: Let's go back to 1763 when a Royal Proclamation by the British King stated that new found land [the lands of North America] could be taken in the name of the King but added the proviso



Intergovernmental relations manager, Al Gross, "... within the next few years Canada and Saskatchewan may be able to proudly proclaim that constitutional and legal obligations concerning outstanding Indian land entitlements within the province has been fulfilled."

that treaties between the Crown and the natives of the "discovered" lands had to take place before non-Indian settlement or developments could begin.

But let me interrupt myself and point out that all I'm providing in this review . . . this historical overview . . . is a sketch. A very brief sketch. If anyone wishes more complete information they can contact me for further details.

Update: That's understood. We're just after a quick picture.

Gross: Having said that, I'll take a jump to 1867 and the British North America Act, under which the federal government assumed the responsibility for "Indians and lands reserved for Indians."

At the time of confederation in 1867, Canada consisted of Upper and Lower Canada along with two Maritime colonies. What is now prairie Canada was owned by the Hudson's Bay Company, yet was the object of considerable attention by many Americans who felt that the grasslands of

the north-west, to say nothing of the potential riches to accrue from mineral resources, could best be settled and developed by those living under a flag carrying stars and stripes.

The Canadian government was quick to perceive the very real threat of American expansion and moved with considerable speed to purchase all the lands held by the Hudson's Bay Company.

Thus, in 1870, Canada held a land bridge between Ontario in the east and the British colony [now British Columbia] on the shores of the Pacific, a colony which could be brought into confederation with the promise that a railway would be built to connect them with the rest of the country. At the same time it was recognized that the railway to the western ocean could also bring in farmers to develop the agricultural potential of the prairies both to add to the wealth of the dominion and to occupy those lands which seemed so attractive to American farmers. Considering the limitations, both human and financial of the newly created Dominion of Canada, it was an audacious undertaking . . . a bold and visionary scheme . . . probably the most important decision in our history.

Update: But . . . ?

Gross: But first the new government had the responsibility to establish treaties with the Indians of the prairies before

non-Indian settlement or development could take place and suddenly, within the space of a few short years most of the treaties of western [prairie] Canada were in place. Within the Saskatchewan context, treaty numbers four and six, signed in 1874 and 1876 respectively, extinguished most of the Indian claims in the southern agricultural belt. These treaties cleared the way for the railway to be built.

The northern part of what is now Saskatchewan was largely covered by treaty numbers eight [1899] and ten [1906]. Small portions of treaty numbers two [1871] and five [1875] made up the remaining part of the province.

The land allocation in most treaties was similar in that each family of five was to receive one square mile or 128 acres per person. The reserve lands were chosen by the band but were approved by the government.

Update: But not all bands received their full allotment, right?

Gross: Obviously not.

Update: But why didn't . . .

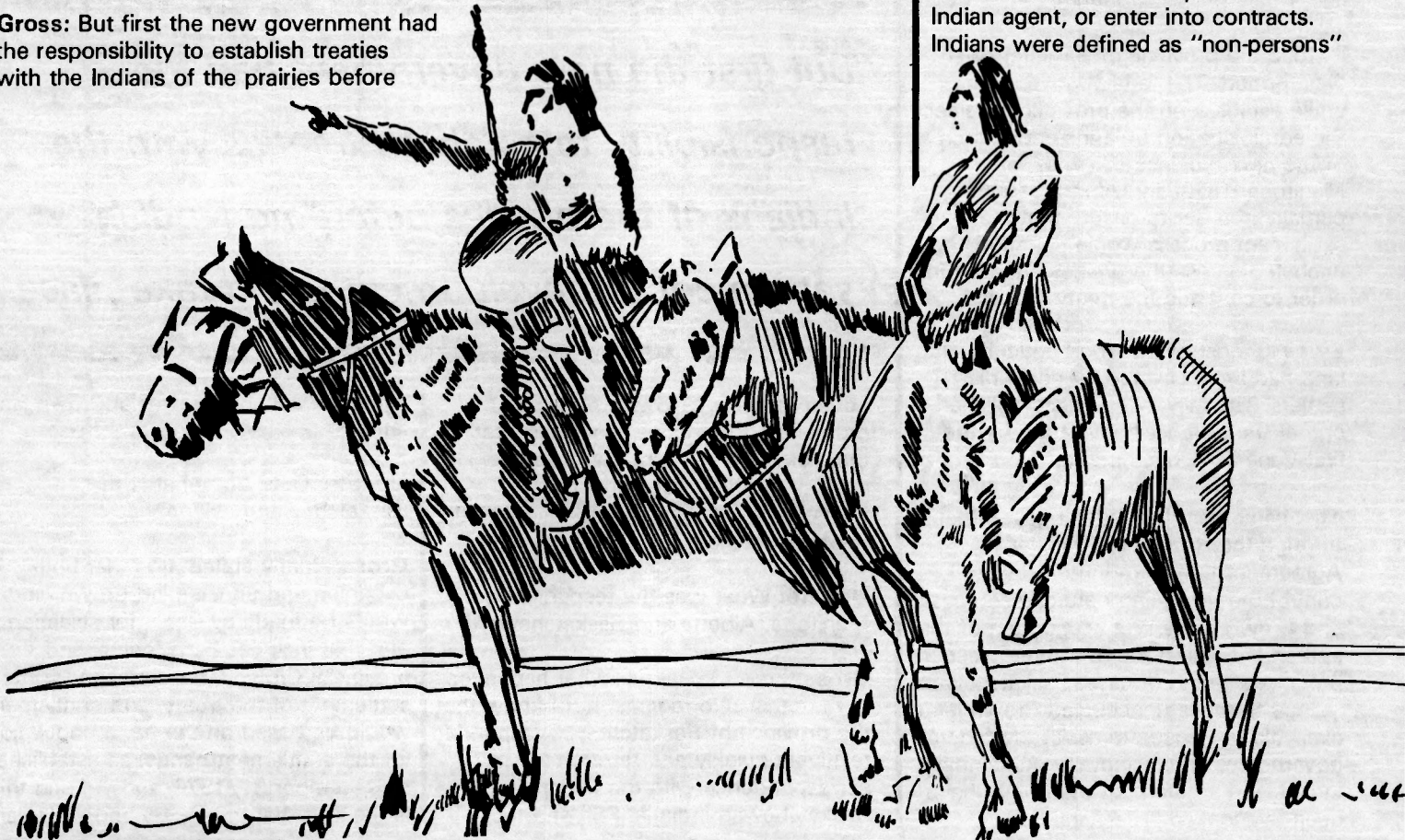
Gross: Why didn't we meet the full allotment back then? There are a number

of reasons, a number of causes. Some of them are attributable to the attitudes of the day . . . the geographical and communication constraints . . . the mobility and lifestyle of the Indian communities . . . a number of reasons and it is just a reality we have to accept. Some bands didn't receive their full allotment and it wasn't until the 1960s, following considerable research which incidently was funded by the department of Indian Affairs in the main, that the government realized the extent of outstanding treaty land entitlement in the west.

Update: But surely the Indian people of the bands involved must have known of the difference between what they should have received and what they did receive?

Gross: Undoubtably they did, in some instances. But again you have to look back in time in the context of those times. The passing of the 1876 Indian Act set up rules and procedures for government workers dealing with the Indian bands but in today's perception was not overly concerned with the human welfare, rights or customs of the Indian people. The Act made Indians "wards" of the state and denied them many rights other Canadians enjoyed.

Indians could not for example vote, leave the reserve without the permission of the Indian agent, or enter into contracts. Indians were defined as "non-persons"





who had to be controlled, monitored and directed. Needless to say the bands were not consulted on the powers or effects of the Indian Act prior to its passage in parliament. Those were indeed different times . . . different attitudes.

Anyway, to answer your question, concerns of the bands had to be expressed to the Indian agent who acted as the go-between for the bands with the rest of the world. In some instances the concerns of bands over treaty land entitlement were never heard. In other instances they were overlooked. In some cases they were just ignored.

In 1905 the province of Saskatchewan was formed. The federal government while establishing the province, retained the administration of lands and resources of the new province (likewise for Manitoba [1870] and Alberta [1905]) partially in order to ensure that the land settlement process would continue unabated across the prairies, yet also in order to continue the treaty process.

By 1930 most of the good agricultural land had been claimed by non-Indian settlers. The railway had accomplished one of the purposes envisaged by the first Canadian government.

That same year the federal government through the Resources Transfer Agreement transferred into provincial control the remaining natural resources and Crown lands. Yet section ten of that agreement stated that the three western provinces — in our case, Saskatchewan — had to make unoccupied Crown land available to Canada to assist the federal government in fulfilling any outstanding Indian land entitlement that might have been overlooked. The Canadian

government, by the exclusion of that section, obviously knew that there might well be some entitlement land due in the west, but I'm not too sure that they had any real comprehension of the variance between what was owed and what had been met.

Update: You were saying earlier that it wasn't until the '60s that any real meaningful research was initiated vis-a-vis entitlement?

Gross: Yes, and it was as a result of that treaty research that the federal

federal government agreed to negotiate the land entitlement claims.

Update: And these negotiations led to the so-called Saskatchewan agreement . . . or formula . . . or Saskatchewan position?

Update: It . . . the negotiated result . . . has been called all three at various times but let's call it the Saskatchewan position. And that position was arrived at by 1977 . . . at a time incidently when it was recognized by all parties involved in the entitlement process that there was

"But first the new government had the responsibility to establish treaties with the Indians of the prairies before non-Indian settlement or development could take place."

government in 1975 wrote to the premiers of the prairie provinces, stating that some bands were owed additional land under the agreements of the treaties. Canada said it was time that the debt was settled.

Update: What was the response from Manitoba, Alberta and Saskatchewan?

Gross: I can't speak for what happened in the other two regions, but I know that the province of Saskatchewan responded relatively quickly and through correspondence with the Federation of Saskatchewan Indians (FSI) and the

very little suitable provincial Crown lands left.

Update: O.K., but what is the Saskatchewan position?

Gross: Briefly stated, it is that both occupied and unoccupied Crown land would be made available for selection . . . and that includes both federal and provincial Crown land. Acreage for the settlement of the treaty land entitlements would be based on the band populations (of the entitlement bands) as established at December 31, 1976, and . . . and this is the part that I really try and stress and

can't stress too much, where occupied Crown lands are selected, the lessee's interest . . . the interest of the so-called third party, must be satisfactorily discharged. And must be discharged in a way that the province of Saskatchewan approves.

Update: So there is no way, whatsoever, that either level of government is riding roughshod over the rights of those with third party interest?

Gross: No way . . . in fact, where negotiations have taken place, those with third party interest have been more than satisfied.

Update: Before I ask you to spell out the details of how the selected land becomes reserve land, I'd like to get you to give me a quick rundown of the current status. How many entitlement acres have been approved by the federal government as owing to bands? How many have been selected . . . and so on?

Gross: Sure, I'll give the overview, but then I'd like to have Doug Bouck [regional surveyor, Energy Mines and Resources] answer those other questions when we get back to Regina.

Update: Fine. But where are we?

Gross: Well, of the approximate 1.1 million acres claimed, 250,000 have been committed, 60,000 have been transferred, 300,000 have not been selected and the balance is under review.

Now the nearly 800,000 acres of lands selected by the 21 entitlement bands are roughly categorized along these lines. 66,000 acres come from federal [PFRA] pastures, 145,000 acres come from provincial pastures, 11,000 acres come from federal school lands, 141 acres of Crown lands suitable for agricultural purposes have been chosen and the balance of nearly 430,000 acres is land which might have application for forestry, mineral, or recreational development.

Update: Thanks, Al, but after I talk with Doug Bouck, I'll want a final comment from you.

Gross: Anytime.



Doug Bouck, regional surveyor, Energy, Mines and Resources, ". . . the regional surveyor reviews the selection made by the band for obvious survey requirements covering such things as natural and artificial boundaries, and road exclusions or closures."

Doug Bouck, next to Al Gross and Owen Anderson, is probably the most knowledgeable federal civil servant in Saskatchewan when it comes to understanding all the legal ins and outs associated with the entitlement process. He has been involved with the Saskatchewan "experience" for a number of years.

Update: You've heard what Al Gross had to say and now what I'd like from you, if I could, please, is an explanation of how land that has up to now been federal or provincial Crown land ultimately is turned into lands "owned" by the various entitlement bands?

Bouck: Funds and human resources are made available to the bands from the federal government to aid in their search for acceptable lands. Having chosen a site, the band sends to the Department of Indian & Inuit Affairs [I&IA] a Band Council Resolution [BCR] requesting that these lands be negotiated for. The regional surveyor [RS], heading the Saskatchewan regional office legal surveys division, of the federal department of Energy, Mines & Resources prepares a sketch of the selection according to the original BCR.

This is then included in the "desk book" prepared and maintained by the I&IA regional office. This desk book reflects the current status of all new land entitlement claims. The RS reviews the selection for obvious survey requirements covering such things as natural and artificial boundaries, and road exclusions or closures.

Update: And the Saskatchewan government . . . ?

Bouck: The Saskatchewan government through the provincial Indian lands coordinator [PILC] is then informed of the selection request. That office then seeks comments from both provincial departments and rural municipalities potentially affected by the selection. This is a critical stage in the life of the land transaction. Should the selection or some aspect of the negotiations be unacceptable to any of those contacted by the PILC then a renegotiation stage is implemented. The cycle continues until all parties are in agreement or the band chooses to discontinue the pursuit of those lands.

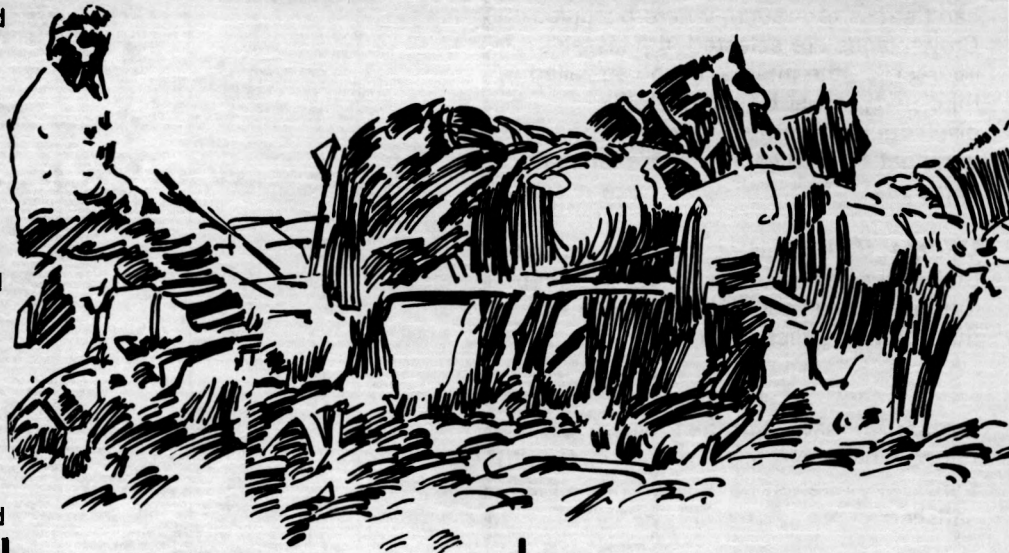
Update: Let's assume a site has been selected.

Bouck: Assuming a site has been agreed upon, the RS prepares a preliminary plan composed of a line map and photo coverage of the land chosen. In addition, there is provided in the legend, space for confirmation by the chief and band council, the provincial government and the federal government stating that the lands negotiated for are those portrayed on the plan. This signed plan is then filed in the regional surveyor's office. The Canadian Affairs' "desk book" sketch is then amended, if necessary, to conform to the final selection.

The provincial minister responsible for new land entitlements then commits the lands chosen to be utilized for Indian land claim purposes. The minister of I&IA is informed of this commitment along with the director and controller of surveys [D&CS] who is responsible for surveys on Crown provincial lands. The Indian Affairs minister then accepts the provincial offer, on behalf of Crown Canada. At this time, the band designates a name for the new selection.

Update: And then . . .

Bouck: The I&IA regional office informs the RS that the survey work may begin. This request acts as a commitment of



according to provincial acts and regulations. The RS issues complementary administrative instructions covering such things as deadlines, negotiated survey costs and specific items like the employment of Indian band members on the survey crew. Surveys affecting Crown Canada lands only have instructions issued by the RS under section 43 of the Canada Lands Surveys Act and the provincial acts and regulations are not involved.

The field survey is concluded and the

Update: And then it's on to Ottawa?

Bouck: Once the plan is suitable for approval the original is forwarded to the Surveyor General [SG] of Canada Lands for his signature. Then it is sent to the D&CS for his confirmation and approval. The next approval of the plan comes from the provincial minister who administers the lands from which the selection will be taken. The signed plan and mylar copies are then forwarded to the land titles office in the Land Registration District where the selection is located. The plan is registered or filed under section 109 of the Land Titles Act. The survey plan is now official. The mylar copies are distributed to the Chief Surveyor at Land Titles, the D&CS and to the SG for recording in the Canada Lands Survey Records. The iron posts placed by the surveyor now officially mark out the limits of the selected lands but a new Indian reserve has not been created yet.

Update: How much more?

Bouck: By referring to the above registered plan the provincial government prepares an Order in Council transferring administration and control of the subject lands (including mineral rights) to Crown Canada for Indian reserve purposes. The federal government in a subsequent Order in Council sets aside those lands described in the provincial OC for a specific Saskatchewan Indian band. This federal OC is the last link in the chain of events required to create a new Indian reserve.

Al Gross was asked to review Bouck's comments and make any additional statements he'd like if clarification was required.

"The federal government in 1975 wrote to the premiers of the prairie provinces, stating that some bands were owed additional land under the agreements of the treaties. Canada said it was time that the debt was settled."

funds from Indian Affairs to cover all survey costs. The RS reviews the final selection and identifies all the survey and land consolidation problems which could prohibit the orderly execution of the survey. The D&CS is consulted on survey matters affecting Crown provincial lands. Problems to be resolved by I&IA are then forwarded to that office by the regional surveyor. Depending on the type of problem, the PILC may also be involved. Once all matters have been settled the RS begins the contract survey procedure.

If the land to be surveyed is provincial Crown land then the regional surveyor requests survey instructions from the D&CS. The plan will then be prepared

appropriate survey plan is prepared by the contract land surveyors. The survey returns are submitted to the RS where, for provincial lands, a preliminary examination is made to ensure the completeness of the survey and the fulfillment of administrative instructions. The plan is forwarded to the D&CS for the official examination of the survey returns. Concurrently, a provisional plan is sent to the bands seeking their approval. The band, via a BCR confirms that the limits of the survey shown on the plan satisfies their original request. The regional surveyor, upon being informed by the province of any irregularities on the survey plan, contacts the contract surveyor and requests the plan be amended.

Gross: No, all of Doug's comments are right on. As you can perhaps infer from this whole process, a great deal of time, effort and money goes into this entitlement settlement. There are safeguards for all parties. There is room for consultation, negotiation.

Update: Perhaps this is a good place to end this review, but I would like to hear from you your feeling of how long this entitlement process will continue before a final settlement is concluded? And I'd like your comments regarding what impact the new provincial government in Saskatchewan might have on the process?

Gross: In both questions you're asking me to be a sage, and I'm not paid for that particular ability. But I will say this about both questions:

As far as the new provincial government is concerned, I see no evidence that there will be any negative change. In fact, there is considerable indication — starting right from the new premier's statements to the federation [Federation of Saskatchewan Indians] that he wants to see the entitlement issue settled quickly and equitably — that the process might even be speeded up.

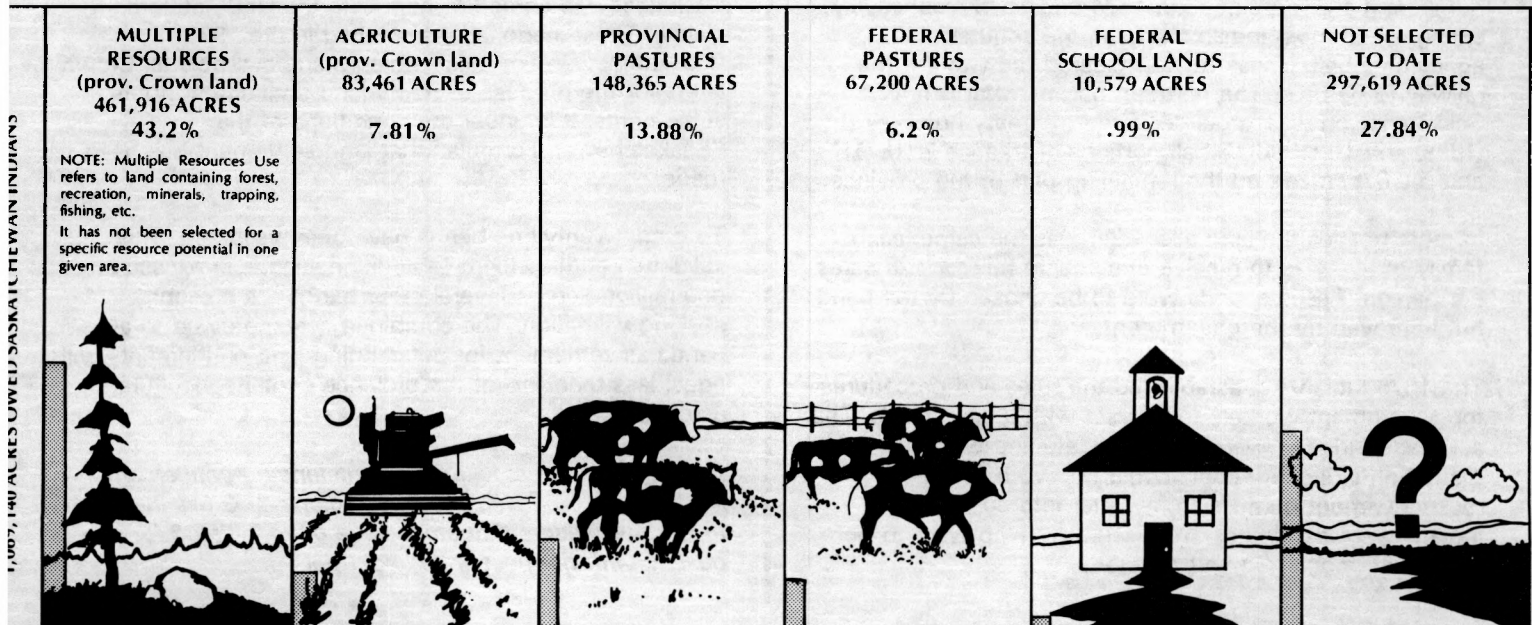
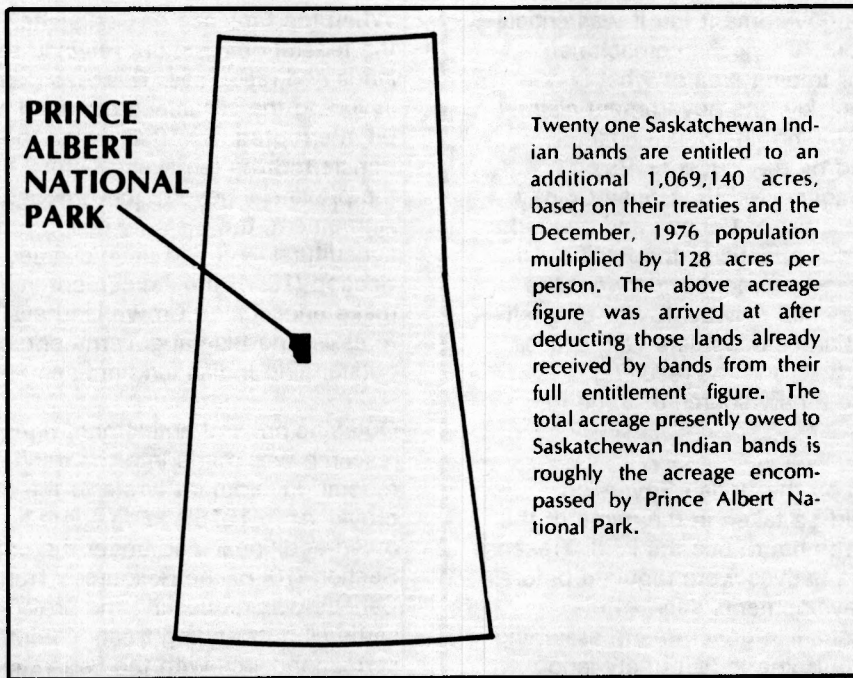
Naturally, I'm sure the new government

will want to review the whole matter in order to obtain a good handling of it, but then I'm confident that the process will continue.

Update: And as for the time frame?

Gross: All I can say on that is within the next few years, Canada and Saskatchewan may be able to proudly proclaim that it has fulfilled constitutional and legal obligations concerning outstanding Indian land entitlements.

Update: Thanks, Al.



1,007,140 ACRES OWNEU SASNAU TEWAN INDIANS

A historical background on treaty land entitlement rights

Intergovernmental Relations manager Al Gross also provided the following overview of the historical background on:

Treaty Land Entitlement Rights

In 1867, the federal government of Canada assumed the responsibility for "Indians and lands reserved for Indians" through the British North America Act. At that time Canada consisted only of Upper and Lower Canada and two Maritime colonies. The government felt it was critical to Canada's future to prevent American encroachment into the rich mineral and fur trading area of what is now western Canada. Moving quickly, the government claimed all land west and north of Ontario. In 1870, Canada purchased all land then held by the Hudson's Bay Company. This acquisition connected the British Colony, now British Columbia, to the rest of Canada and created a nation that stretched from the Atlantic to the Pacific. To protect its vast territory the government underwent the construction of a transcontinental railway. It was also felt the railway would provide European settlers with access to western Canada's fertile belt, and the resulting development would provide a new source of trade for eastern goods.

A 1763 Royal Proclamation by the British Sovereign stated new found land could be taken in the name of the King, but recognized native rights to use the land. Treaties between the Crown and the natives were required before non-Indian settlement or developments such as the railway could begin. The Canadian government, assuming sole responsibility for extinguishing Indian treaty land entitlements, began to settle the treaties in 1871. Treaty numbers 4 and 16, signed in 1874 and 1876 respectively, extinguished most Indian claims in the southern agricultural belt. These treaties cleared the way for the railway to be built. The northern part of what is now Saskatchewan was largely covered by treaty numbers 8 (1899) and 10 (1906). Small portions of treaties 2 (1871) and 5 (1875) made up the remaining part of the province.

In most treaties the land allocation was the same: each family of five was to receive one square mile or 128 acres per person. Reserve lands were to be chosen by the band but approved by the government.

The 1876 Indian Act established the rules and procedures for government workers to interact with Indian bands. The act made Indians "wards" of the state and withdrew many rights. Indian people could not: vote, leave the reserve without permission, or enter into contracts. Indians were defined as "non-persons" who were to be controlled, monitored and directed.

Indian agents were appointed to liaise on behalf of the bands. Band concerns relating to treaty land entitlement, were often ignored or overlooked.

When the Province of Saskatchewan was formed in 1905 the federal government retained the administration of lands and resources. This was done for several reasons including the assurance that land settlements would not be interrupted. By 1930, when the federal government transferred the remaining natural resources and land to the provincial government through the Resources Transfer Agreement, the majority of the province's good agricultural land had been claimed by non-Indian settlers. Section (10) of the Agreement instructed the province to make unoccupied Crown land available to Canada in order to assist the federal government in fulfilling any outstanding Indian land entitlements.

Outstanding land entitlement rights were not realized until research was made into the treaties during the 1960s. The federal government wrote to the premiers of the prairie provinces in 1975 stating some Indian bands were still owed additional land under the original treaties. Under Section (10) of the Resources Transfer Agreement, Canada was requesting the provinces' cooperation to settle all outstanding treaty commitments. Through correspondence with the Federation of Saskatchewan Indians and the federal government, the Government of Saskatchewan agreed to negotiate the land entitlement claims. These negotiations resulted in the 1977 "Saskatchewan Formula" which made available all Crown lands for the purpose of treaty land entitlement rights settlements. It is under the conditions of the "Saskatchewan Formula" that land settlement has been made.

To date, twenty-one bands have been validated. This validation entitles them to additional lands in excess of one million acres. Several other bands are presently seeking validation. The combined acreage owed to all bands as settlement for outstanding land entitlements will equal less than 1% of the province's total agricultural acreage.

But how will the resolution of outstanding entitlement land impact on Saskatchewan Region? Al Gross indicated to Update readers that steps have been initiated for dealing with the post-entitlement period.

Entitled Land Development Service Demand on DIAND Saskatchewan Region

Introduction

The process of treaty land entitlement fulfillment in Saskatchewan has been proceeding since 1975. The last phase of the actual process is that of selecting lands to fulfil outstanding entitlements. To date, twenty bands have selected 896,088.0 acres out of a total of 1,054,944.4 acres of entitled land.

1. Needs

Once the transfers of these lands into reserve ownership are complete, a new process will start. This process will involve integration of new lands into the existing reserve land base. This integration will place demands on the developmental resources of the region. In order to avoid an ad hoc service demand, it is necessary to initiate a land development resource requirements study. The information is required for a special submission to the Central Agencies for additional resources to meet the service needs of entitled bands.

2. Objectives

- To design and develop information on strategic implications of the entitled land development process to the regional program.
- To ascertain the degrees and categories of the demands which will result from the entitlement fulfillment process that DIAND is able to plan the implementation in such a way that they may meet those future demands.

This will involve the following:

1. Identification of categories and amounts of lands selected in specific administrative/geographic sectors. Service demands for development, operations and maintenance of selected lands.
Resource requirements: financial, organizational and human.
2. The phasing of the demands within the realms of availability of resources.
3. Developing a mechanism by which Bands can participate and help schedule demands.
Strategies for coordination of the land resource development program, involving Bands, DIAND and other funding agencies.
Implications if services are not provided for the development of newly acquired lands on entitled reserve communities.
A strategy for prioritizing the need and criteria for allocation of resources based on:
 - A more consistent information base regarding quality, capabilities and potentials of the land.
 - Identification of all the relevant physical, social and economic factors (internal and external) affecting long-range land resource planning.

3. Approach

A four (4) phased approach is suggested over an approximate time frame of five months as follows:

Phase I Inventory and analysis of entire data base.

Phase II Development of criteria for:

- resource requirements
- prioritizing
- allocation/utilization of the land
- resource allocation process

- information system (a standardized format for information gathering, up-dating and maintenance system).

Phase III Strategy options.

Phase IV Skill development requirements.

Phase V Strategies for resource procurements, organization development and implementation.

- program planning and development
- delivery process to include capital, O & M, training, organizational requirements and logistics
- coordination mechanism
- evaluation.

4. Targets

Minimum development/planning period: ten years (1982-1992). Programming at yearly intervals.

5. Project Management

The management of the study will be conducted through an inter-disciplinary technical committee which will also act as a steering committee. It will be composed of:

- FSI representative and delegated members of entitled bands
- Provincial delegate
- DIAND headquarters and regional delegate.

6. Methodology

- A. Analysis of existing documentation (Band development plans, FSI policy statements, relevant DIAND materials, Energy, Mines and Resources, provincial and corporate information as appropriate).
- B. Discussions with Indian Governmental and private sector participants (including potential ones) concerning ways in which the criteria identified can be brought to bear upon the fulfillment of Treaty obligations on entitled land development process.
- C. Quantify the demands for service. This involves a number of variables:
 - total lands obtained through entitlement
 - capability/potential of land
 - desired uses of these lands
 - percentage of the total to be put to the different categories of use
 - current status of entitlement parcels, i.e. developed or undeveloped.
- D. Understanding of these variables will lead to a clearer specification of service needs and will thus lead to a knowledge of capital demands, as well as technical, educational and advisory service demands.
- E. The demands may be allotted to various branches of DIAND. Alternative service supplies should be specified.
- F. To accomplish this, there must be a study of the total land package of each band to determine intended use of land resource.
- G. Delivery process:
 - assessment of impact of entitled land development on DIAND
 - criteria for prioritizing allocations
 - financing process (inter-departmental)
 - quality control
 - operations and maintenance (development schedule and phasing).



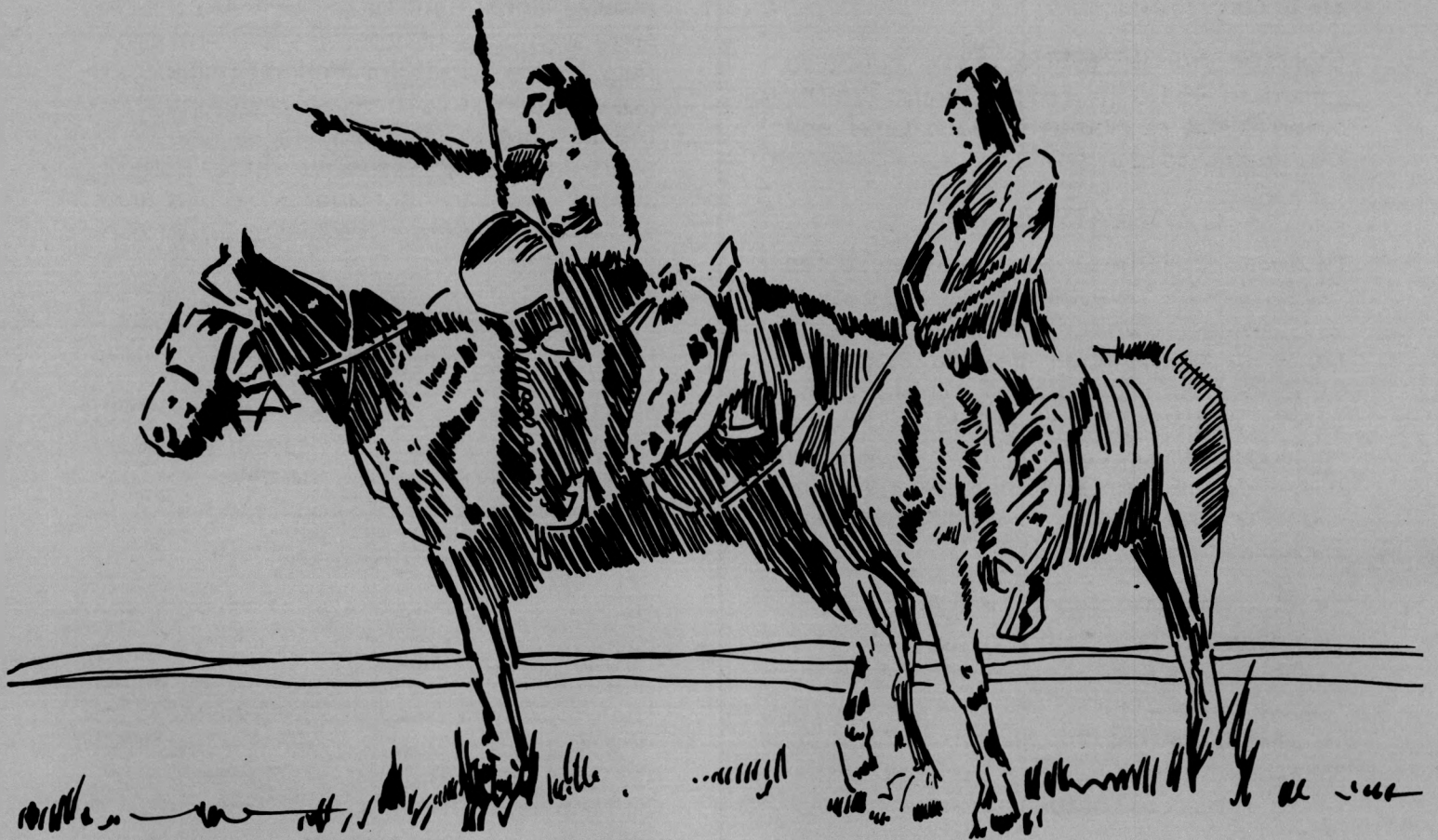
Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

Saskatchewan Region

4.

Indian Treaties in Saskatchewan



Canada

Early during the settlement of North America, the British sovereign recognized, as a matter of policy, an Indian interest in the lands occupied by the various native tribes. Such an interest could only be extinguished by mutual agreements or treaties, as they were later called, with the Indians.

The following is a listing of Indian treaties affecting Saskatchewan.

TREATY NO. 2

For Treaty No. 2 dated August, 1871, the Federal Government was represented by Indian Commissioner, Mr. Wemyss Simpson, the Hon. A. G. Archibald, and the Hon. James McKay, who together secured a surrender from the Chippewa Indians of a tract of land in southwestern Manitoba and a small portion of southeastern Saskatchewan.

GOVERNMENT OBLIGATIONS: Reserves, 160 acres per family of five, school on each reserve; control of liquor traffic, commissioners to take census.

CONTINUING BENEFITS: \$3.00 per head raised to \$5.00 in 1875; Chiefs \$25.00; triennial suit of clothes to each Chief and headman (added in 1875).

TREATY NO. 4

By treaty No. 4 (the Qu'Appelle Treaty) dated September 15, 1874, the Treaty Commissioners, Hon. Alexander Morris, Lieutenant-Governor of Manitoba and the Northwest Territories, Hon. David Laird, Minister of the Interior, and W. J. Christie, retired factor of the Hudson's Bay Company, obtained a surrender from the Plains Cree and Chippewa Indians of a tract of land comprising most of southern Saskatchewan.

GOVERNMENT OBLIGATIONS: Reserves, one square mile for family of five, subject to Government's rights to deal with settlers on reserve lands; right to sell or lease reserve lands with consent of Indians and to appropriate reserve lands for Federal public purposes, subject to compensation for improvements and lands; schools, right to hunt, trap and fish in tract surrendered subject to Government regulations; control of liquor traffic.

TREATY PRESENTS: Indians \$12.00; Chiefs \$25.00; Headmen \$15.00; miscellaneous agricultural equipment, supplies, etc.; flags and medals.

CONTINUING BENEFITS: Indians \$5.00; Chiefs \$25.00; Headmen \$15.00; \$750.00 annually for ammunition and twine; triennial suit of clothes for Chiefs and Headmen.

TREATY NO. 5

Treaty No. 5 (Lake Winnipeg Treaty) was concluded September 20 & 24, 1875 at Berens River and Norway House. Treaty Commissioners, Hon. Alexander Morris and Hon. James McKay obtained a surrender of 100,000 square miles in northern Manitoba for the Chippewa and Swampy Cree Indians.

GOVERNMENT OBLIGATIONS: Reserves, 160 acres per family of five (100 acres per family of five at Fisher River), subject to Government's right to deal with settlers on reserve lands; right to sell or lease reserve lands with consent of Indians and to appropriate reserve lands for Federal public purposes, subject to compensation for improvements; right to navigation of all lakes and rivers and free access to the shores thereof, schools, right to hunt and fish ceded area; subject to Government regulations; control of liquor traffic.

TREATY PRESENTS: Miscellaneous agricultural equipment, supplies, etc.; flags, medals.

CONTINUING BENEFITS: Indians \$5.00; Chiefs \$25.00; Headmen \$15.00; \$1,000.00 annually for ammunition and twine; triennial suit of clothes for Chiefs and Headmen.

TREATY NO. 6

By Treaty No. 6, dated August 23 & 28, and September 9, 1876, at Forts Carlton and Pitt and Battle River, the treaty Commissioners, Hon. Alexander Morris, Hon. James McKay and Hon. W. J. Christie, obtained a surrender from the Plains and Woods Cree and Assiniboine Indians of 120,000 square miles extending across central Saskatchewan and Alberta.

GOVERNMENT OBLIGATIONS: Reserves, one square mile to each family of five, subject

to Government's right to deal with settlers on reserve lands; right to sell or lease reserve lands with consent of Indians and to appropriate reserve lands for Federal public purposes, subject to compensation for improvements; schools, control of liquor traffic, right to hunt and fish in tract surrendered, subject to Government regulations.

TREATY PRESENTS: \$12.00 per head; miscellaneous agricultural equipment, supplies, etc.; flags and medals.

CONTINUING BENEFITS: Indians \$5.00; Chiefs \$25.00; Headmen \$15.00; \$1,500.00 annually for ammunition and twine; triennial suit of clothes for Chiefs and Headmen. Assistance in case of pestilence and famine; medicine chest for use of Indians.

TREATY NO. 8

June 21, 1899 — Cree, Beaver, Chipewyan and others. Northern Alberta, the Northwest Territories south of Great Slave Lake, and Northeastern British Columbia.

Area ceded 324,900 square miles.

GOVERNMENT OBLIGATIONS: Reserves, one square mile for each family of five or 160 acres in severalty, subject to Government's right to deal with settlers on reserve lands; subject to Government's right to deal with consent of Indians and to appropriate reserve lands for Federal public purposes, subject to compensation for improvements and lands; right to hunt, trap and fish subject to Government regulations; school teachers.

TREATY PRESENTS: Indians \$12.00; Chiefs \$32.00; Headmen \$22.00; miscellaneous agricultural equipment, supplies, etc.; ammunition and twine; \$1.00 per head for families preferring hunting and trapping to agriculture; medals and flags.

CONTINUING BENEFITS: Indians \$5.00; Chiefs \$25.00; Headmen \$15.00; triennial suit of clothes for Chiefs and Headmen.

TREATY NO. 10

August 28, 1906 — Chipewyan, Cree and others. Northern Saskatchewan. Area ceded 85,800 square miles.

GOVERNMENT OBLIGATIONS: Reserves, up to one square mile for each family of five, subject to Government's right to deal with settlers on reserve lands; right to sell or lease reserve lands with the consent of the Indians and to appropriate reserve lands for Federal public purposes, subject to compensation for improvements and lands; Indians who do not wish to live on reserves may have 160 acres per head in severalty off reserves; education, right to hunt, trap and fish.

TREATY PRESENTS: Indians \$12.00; Chiefs \$32.00; Headmen \$22.00; medals and flags.

CONTINUING BENEFITS: Indians \$5.00; Chiefs \$25.00; Headmen \$15.00; distribution of twine and ammunition annually, triennial suit of clothes to Chiefs and Headmen.

Legal Characteristics of Indian Treaties

Indian Treaties are a unique form of legal instrument, starting somewhere between contracts and international treaties. They are agreements which are regarded as binding in law (like contracts) and are always made between Indians and the Crown (unlike contracts).

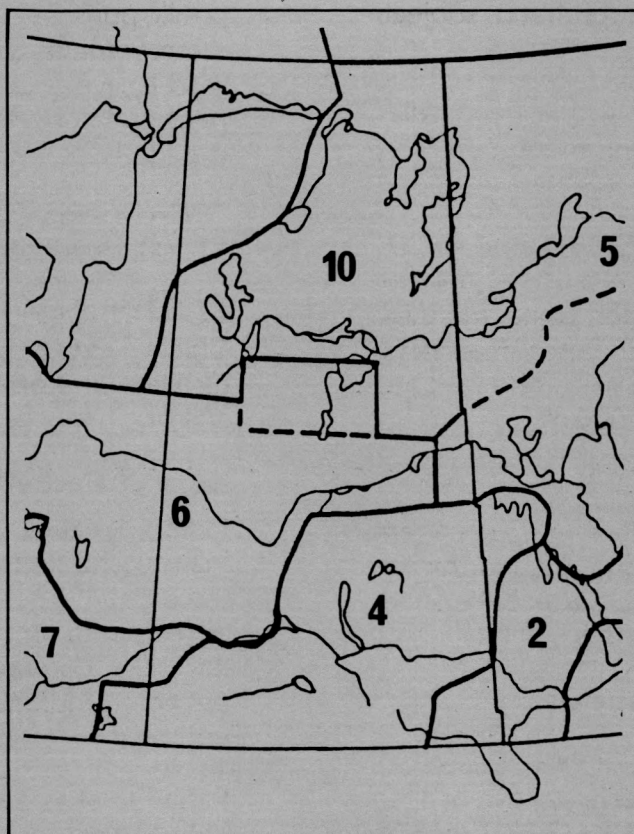
Indian treaties are normally signed on behalf of relatively large numbers of Indians and usually affect larger land areas — all of the more modern treaties relate to specific geographical areas of land.

They share the name and formality of international treaties, however, to date, they are not considered to be agreements between two or more sovereign states — they are considered to be agreements between the sovereign state of Canada and groups of private Canadian citizens.

Unlike international treaties, Indian treaties do not necessarily require notification by the appropriate Canadian legislation to be binding — they are binding in law when made.

Unlike international treaties they have been held to prevail over provincial statutes but not federal statutes in the event of a conflict.

For a discussion of other aspects of the history of the Indians in Saskatchewan and the rest of Canada, see other pamphlets in this series.



Indian Treaties in Saskatchewan

The following is a list of titles published in this series by Indian and Northern Affairs Canada.

- The Indian as Ally
- The Indian and Civil Government
- The Indian in Confederation
- Indian Treaties in Saskatchewan
- The Indians of Saskatchewan



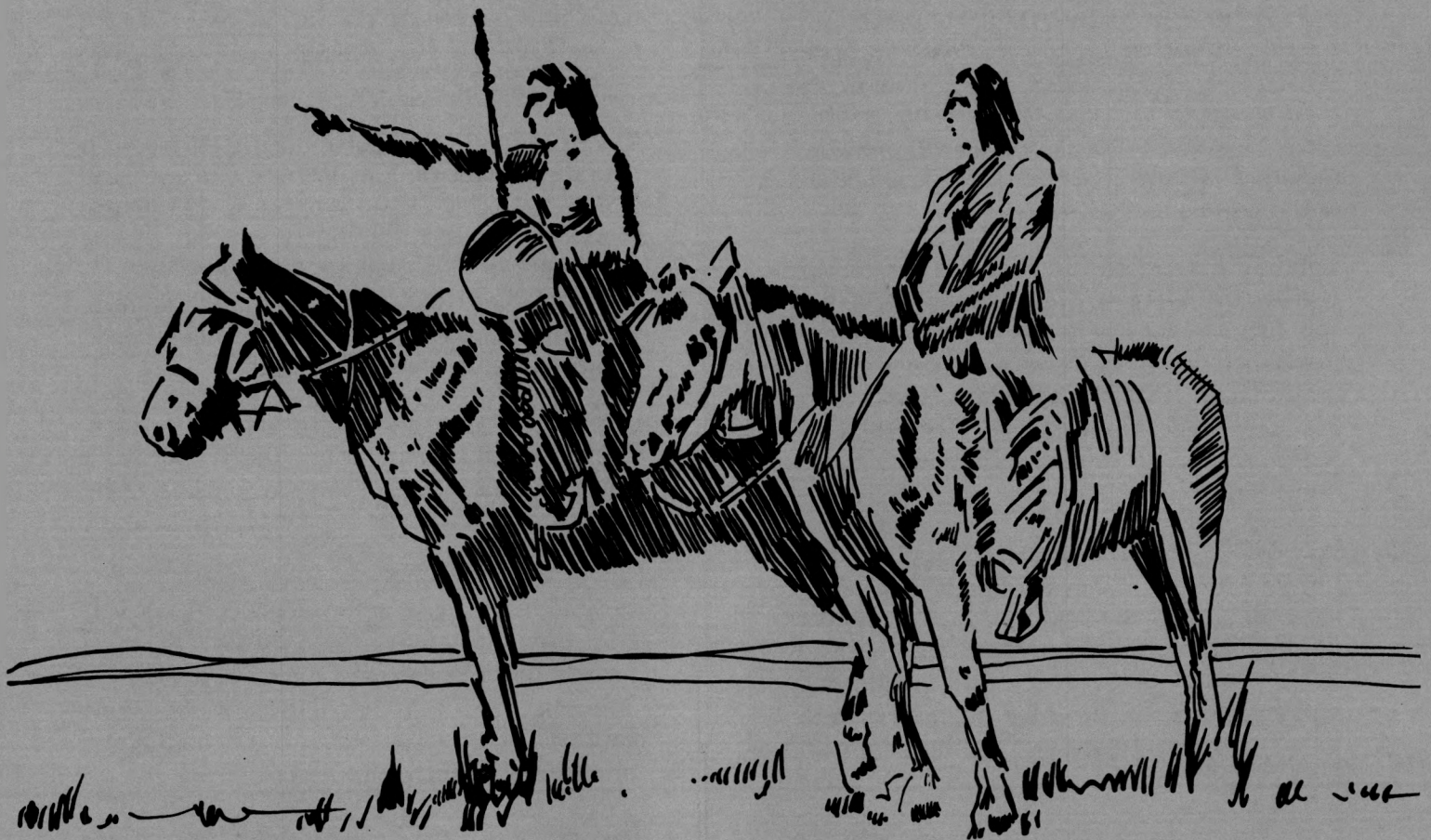
Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

Saskatchewan Region

5.

The Indians of Saskatchewan



Canada

There are five Indian tribes represented on the reserves in Saskatchewan: Cree, Assiniboine, Saulteaux, Chipewyan, and Sioux. Another six tribes were in the province during the early 18th century, but have since moved westward. The tribes which are no longer here include: Slave, Beaver, Snake, Sarsi, Blackfoot, and Gros Ventres.

Prior to their first contact with Europeans in the 17th Century, the Indians of the Canadian Plains were a cultured people whose life and customs centred upon the buffalo. Tribes of Blackfoot, Peigan, Gros Ventre, Assiniboine and Cree followed herds in a constant search for food. The horse was unknown to them until after 1700, when Spanish animals were traded from the south. Before that time, the dog was their only domesticated animal, so their possessions were limited to a few essentials as they moved from place to place. After the acquisition of the horse and of European trade goods, the Canadian Plains Indians were able to travel in large bands. This enabled them to create a more complex culture which included warrior societies, religious rituals, and unique social customs.

Tribal movements, in and out of Saskatchewan, accelerated during the 17th Century. The Blackfoot were in the Battleford region; the Beaver north of Meadow Lake; the Slave around Lake Athabasca; and the Snake along the South Saskatchewan River. Then the Cree, Assiniboine, Saulteaux, and Chipewyan bands moved in with European guns.

When 20-year-old Henry Kelsey in 1690 became the first European to see the Canadian Plains, he was led like a tourist by friendly guides. The prairie provinces had already been crossed by the trails of many migrants, and the pace on the trails quickened when Saskatchewan Indians got the horse around 1750.

The whole picture of tribal movements was complicated in historic times by a leap-frog

race for riches led by the fur traders. The exploratory trips of the Hudson's Bay Company were interrupted in the early 18th Century by wars with the French, who opened Fort-a-la-Corne in 1753 near the forks of the North and South Saskatchewan Rivers, north of Melfort.

The Bay's Anthony Henday travelled across the present-day province in 1754 on his way to the foothills of the Rockies. Over the next 20 years, the Company's men made 44 trips to the upper waters of the Saskatchewan and Churchill Rivers.

Many forts and posts were sponsored by independent firms as well as by the larger Hudson's Bay, Northwest, and XY companies. Explorations of central Saskatchewan were made by such fur traders as La Verendrye (1741), Henday (1754-55), Cocking (1762-63), Pond (1775-78), Tumor (1779, 1791-92), Fidler (1796, 1799, 1800), and Thompson (1786-88), 1796, 1797, 1802).

The Hudson's Bay Company's first western inland post was built in 1774 at Cumberland House by Samuel Hearne to compete with the Nor'Westers, who were building posts across the west. Men like William Tomison, William Pink, and Matthew Cocking, pushed the trade westward by building Hudson House, Buckingham House, and Green Lake.

During the 19th century, the Gros Ventres, Beaver, Snake, and Slave tribes withdrew westward out of Saskatchewan pressured by the westward advance of tribes from the east.

For at least a century before confederation, the prairies of Saskatchewan were filled with wars, not between Europeans and Indians, as in the United States, but between the Plains Cree and the Blackfoot. The wars made the South Saskatchewan River a vast battlefield, and front line, and a boundary.

The last and most decisive battle took place during March, 1866 in Ghost Coulee, south of

the Village of Riverhurst, along the South Saskatchewan River. Hundreds of Blackfoot were trapped and killed in the encounter. Shortly after this, the Plains Cree and Blackfoot made peace by exchanging young men as tokens of mutual trust.

Mistawasis, or Big Child, head chief of the northern Plains Cree, was a young man when he met in battle with Crowfoot, a most valiant chief of the Blackfoot. Even after peace had been made, they remained rivals, but amicable, holding each other in high regard. Crowfoot's people called the Cree chief "The Iron Buffalo of the Plains." Crowfoot had a nephew who was to become the famous Chief Poundmaker.

Poundmaker's father was an Assiniboine, his mother a Metis of Cree and French-Canadian extraction. Poundmaker defeated the Sarsi Chief, Cut Knife, for the bountiful buffalo grounds around Battleford, and became a Plains Cree chief in 1864.

The fur trade was consolidated in 1821 when the Nor'Westers joined the Bay. Fort Pitt (1829-90) on the North Saskatchewan River served the Battleford District; and Swan River District was served on the Assiniboine River by Fort Pelly (1824-1912).

The Bay gave up its charter in 1869 after 200 years of governorship. In 1870, Riel's Provisional Government set the terms of the Manitoba Act, which brought Rupert's Land into Canada. The Company then went into the retail business, opening its first store in Saskatchewan at Yorkton in 1898.

In the period immediately preceding the admission of Manitoba into Confederation, a number of important changes occurred in the Northwest. With the advent of increased European settlement and the transfer of the Company territories to governmental authorities, the Hudson's Bay Company's monopoly over trade in the Northwest ended. The result-

ing lack of a central authority with sufficient means of law enforcement led to an increase in the previously repressed liquor trade, and to a general weakening of law and order. In addition, the wholesale slaughter of the buffalo resulted in the near extinction of the once vast herds which had inhabited the plains. The totality of these events, combined with the spread of European diseases, such as smallpox, placed the plains Indians in a precarious position.

There were early indications that the plains Indians realized that the European settlers would want to acquire their lands. The history of treaties, wars and more treaties in the American west was well known to the Canadian Indians and this knowledge constituted an obvious source of uneasiness. Consequently, the plains Indians were wary of letting European settlers establish residence until the land question had been settled.

Government policy was to open up the prairies for settlement after Indian title had been extinguished by treaty. Prompted by the request of a delegation of Manitoba Indians, negotiations for the first post-Confederation treaty were scheduled for the spring of 1871.

The procedures utilized in negotiating Treaties No. 1 and 2 were followed by the Government in negotiating subsequent Indian treaties in the Prairie provinces. Between 1871 and 1923, eleven distinct treaties were negotiated with the Indians, encompassing a geographic area of virtually all of northern Ontario, Manitoba, Saskatchewan, Alberta, and parts of British Columbia, the Northwest Territories, and the Yukon.

Material from Zenon Pohrecky, Saskatchewan Indian Heritage. (Extension Division, University of Saskatchewan. 1970). p.ii.

For other aspects dealing with the history of the Indians in Canada, see other pamphlets in this series.

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THE UPDATER

July 9/82

Indian and Northern
Affaires indiennes
et du Nord Canada

Saskatchewan Region

Saskatchewan Region



**Specific claims
... outstanding
treaty land
entitlement**

Canada

Reprints of program activity report interviews, articles, and stories which have appeared in past issues of DIAND's Saskatchewan Region's internal publication *Update*.

Munro renews, strengthens gov't. commitment to settle specific claims

In an Ottawa press conference Indian Affairs minister John Munro announced that the federal government has reaffirmed and strengthened its commitment to meeting its lawful obligations to Indians through the resolution of specific claims. The announcement was made some five months after Munro had announced the government's policy regarding comprehensive land claims.

Munro stated that the revised policy clearly establishes the basis for specific claims, provides guidelines for compensation and commits the government not to apply statutes of limitation or the doctrine of laches (in Law, the failure to do a thing at the right time; inexcusable negligence) to the process of negotiation.

The minister also announced that the government has also substantially increased funding to Indian associations from \$2.2 million last fiscal year to \$3.7 million in 1982-83. As well, he said, the loan fund to support the development and negotiation of accepted claims has been raised to \$1.5 million annually, beginning with the present fiscal year. For the past three years \$300,000 has been allocated annually for such purpose.

Munro pointed out that the loans provided by the government are repayable from the proceeds of claims settlements.

Specific claims result from the actions of government in the administration of the Indian Act and treaties, and usually involve the management of band assets or the fulfillment of treaty obligations.

In Saskatchewan region the process by the government to meet outstanding treaty land entitlement due to a number of bands is labelled as a "specific" claim.

The other kind of claims negotiated by government are referred to as "comprehensive" and are based on traditional use and occupancy of land by native groups. The government's policy on comprehensive claims was released by Munro on December 16, 1981.

The government first introduced a specific claims policy in 1973, but Munro stated that to date progress in resolving



Indian Affairs minister John Munro, "... I think that success is within reach because success in this endeavour is in the interest of both Indians and government, indeed of all Canadians."

such claims has been very limited and could not be allowed to continue.

Accordingly, said the minister, the government, in consultation with Indian groups across the country, undertook a review of the situation. That review led to the position of the government as enunciated in a booklet that Munro released at his press conference.

Entitled, "Outstanding Business," the booklet sets out the type of claims the government will accept and the manner in which they will be negotiated. Munro said the booklet is intended to ensure that the basis for negotiating specific claims is clearly stated and widely available to all Canadians.

"Outstanding Business" states that the government will recognize claims by Indian bands which disclose an outstanding lawful obligation and cites how such lawful obligation may have arisen in a number of circumstances.

A lawful obligation on the part of the federal government might arise from the non-fulfillment of a treaty or agreement between Indians and the Crown (as applies with the Saskatchewan outstanding treaty land entitlement); a breach of an obligation arising out of the Indian Act or other statutes pertaining to Indians and the regulations within such statutes; a breach of an obligation arising out of government administration of Indian funds or other assets; and from an illegal disposition of Indian land.

In addition, the booklet points out that the government is prepared to acknowledge claims which are based on failure to provide compensation for reserve lands taken or damaged by the federal government or any of its agencies under authority.

The government will also acknowledge claims which are based on fraud in connection with the acquisition or disposition of Indian reserve land by

employees or agents of the federal government in cases where the fraud can be clearly demonstrated.

"Outstanding Business" — copies of which were sent to all provincial premiers as well as to all band chiefs and Indian organizations — states that the government will negotiate each claim on the basis of the issues involved. Bands with longstanding grievances will not have their claims rejected before they are

even heard because of the technicalities provided under the statutes of limitation or under the doctrine of laches.

In other words, the government is not going to refrain from negotiating specific claims with Indian people on the basis of such statutes or the doctrine, although the government does reserve the right to use such statutes or the doctrine of laches once a claim is involved in a court case.

The Indian Affairs minister said that he is confident that the government's new measures will improve the process of specific claims settlement.

"I think that success is within reach," said Munro, "because success in this endeavour is in the interest of both Indians and government, indeed of all Canadians."

Excerpts from *Outstanding Business*

In his forward to *Outstanding Business*, *Indian Affairs minister John Munro* stated . . . "The claims referred to deal with specific actions and omissions of government as they relate to obligations undertaken under treaty, requirements spelled out in legislation and responsibilities regarding the management of Indian assets. They have represented, over a long period of our history, outstanding business between Indians and government which for the sake of justice, equity and prosperity now must be settled without further delay.

"To date progress in resolving specific claims has been very limited indeed. Claimants have felt hampered by inadequate research capabilities and insufficient funding; government lacked a clear, articulate policy. The result, too often, was frustration and anger. This could not be allowed to continue. The Government of Canada, therefore, undertook a review of the situation including consultation with Indian groups across the country. This booklet represents the outcome of this review.

"Together with this effort at meeting the concerns of the Indian people, the Government has approved a substantial increase in the funding made available to claimants for their research and negotiation activities; it has, also, reinforced the capabilities of the Office of Native Claims. The instruments for greater success are now in place . . ."

Outstanding Business provided this brief overview of the relationship between Indian treaties and the specific claims process:

"Treaties play a significant part in the heritage of Canada's Indians and are central to many of their existing claims. As far back as the Royal Proclamation of 1763, the British sovereign recognized an Indian interest in the lands occupied by various Indian tribes which could only be ceded to, or purchased by, the Crown. This policy led to the tradition of making agreements, or treaties as they were later called, with the Indians.

"As Upper Canada began to feel the effects of settlement after the American War of Independence (1775-1783), many land cession treaties were made with the Indian people for the surrender of their interest in the land. Initially these involved one-time cash payments, but in later surrenders, such as the Robinson-Huron and Robinson-Superior Treaties of 1850, the Crown undertook to set aside reserves, and to grant annuities and other considerations for the benefit of Indian people.

"Following Confederation, 13 treaties were concluded between the Indians and the Government of Canada. Eleven — the so-called numbered treaties — extend from the Quebec border, covering all of northern Ontario, and across the prairie provinces into northeastern British Columbia, southeastern Yukon and the MacKenzie Valley in the Northwest Territories. Most post-Confederation Treaties in what are now the Prairie provinces were made before the provinces came into being or provincial boundaries were finally determined.

"Features common to many of the western treaties include the provision of reserve lands; gratuities; annuities; medals and flags; clothing to chiefs and councillors; ammunition and twine; and schooling were requested. Treaty No. 6, covering central Saskatchewan and Alberta also provided for a medicine chest and for assistance during times of pestilence and famine."

In a section of *Outstanding Business* entitled "*recent history*" it is stated, ". . . over the years following the signing of the treaties, Indians concluded that the government had not fulfilled all of its commitments to them. Some Indians maintained that the government had reneged on some of its promises under treaty. Others charged that the government had deliberately disposed of their reserve lands without first securing their permission. Claims of mismanagement of band funds and other assets were presented to government.

"Faced with an increase of such claims and a growing discontent among the Indian population, the government determined to give careful consideration to each of these claims in order to determine their validity and its responsibility.

"In 1969 the Government of Canada stated as public policy that its lawful obligations to Indians, including the fulfillment of treaty entitlements, must be recognized. This was confirmed in the 1973 *Statement on Claims of Indian and Inuit People*. The 1973 statement recognized two broad classes of native claims — 'comprehensive claims'; those claims which are based on the notion of aboriginal title; and 'specific claims'; those claims which are based on lawful obligations.

"Following the issuance of the 1973 statement there was a marked increase in claims activities. Research funded by the federal government and in some cases by non-government organizations and band councils, was

accelerated.

"In July 1974 the Office of Native Claims was created and located within the Department of Indian Affairs and Northern Development to review claims and represent the Minister and the Government of Canada in claims assessment and negotiation with Native groups.

"Between 1970 and the end of fiscal year 1981-82, a total of \$16.7 million in accountable contributions had been provided by the federal government for the research and development of specific claims; most of that has

been used by provincial Indian organizations on behalf of Indian bands.

"Approximately 250 specific claims had been presented to the Department by the end of December 1981. Twelve claims had been settled involving cash payments of some \$2.3 million. Seventeen claims had been rejected and five had been suspended by the claimants. Negotiations were in progress on 73 claims and another 80 were under government review. Twelve claims had been filed in court and 55 others referred for administrative remedy (e.g. return of surrendered by unsold land). . . ."

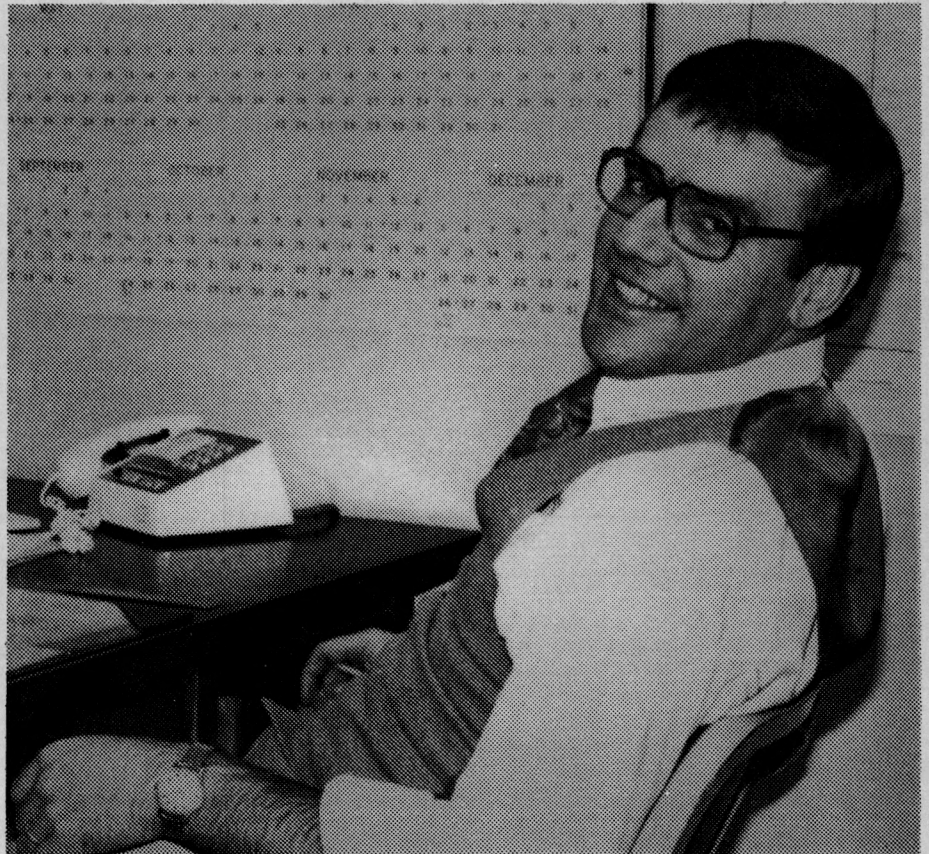
Gross reviews entitlement history

Saskatchewan's experience in moving towards the settlement of outstanding treaty land entitlement was central to many of the informal conversations held between this region's intergovernmental relations manager and his counterparts from across Canada during the recent national meeting of Indian Affairs' intergovernmental team. Al Gross, who as intergovernmental relations manager has developed and defined the region's liaison approach to both the Saskatchewan government and the Federation of Saskatchewan Indians (FSI) regarding the settlement of entitlement, was recognized by his peers as the possessor of considerable expertise in developing workable tripartite mechanisms. As well, most of the intergovernmental relation officers were extremely interested in ascertaining the present status of the entitlement process along with an accounting of the evolution of the Saskatchewan efforts.

Partially as a result of the interest shown in the Saskatchewan experience by the non-regional departmental staff, but primarily because we recognized that it had been some time since Update had devoted any coverage to the entitlement process, we asked for and received the following interview with Gross on the last day of the National Intergovernmental Affairs Conference, hosted by Saskatchewan at Waskesiu — a resort community within the Prince Albert National Park.

Update: As with all stories, there has to be a beginning. Now with the Saskatchewan treaty land entitlement it started

Gross: Let's go back to 1763 when a Royal Proclamation by the British King stated that new found land [the lands of North America] could be taken in the name of the King but added the proviso



Intergovernmental relations manager, Al Gross, "... within the next few years Canada and Saskatchewan may be able to proudly proclaim that constitutional and legal obligations concerning outstanding Indian land entitlements within the province has been fulfilled."

that treaties between the Crown and the natives of the "discovered" lands had to take place before non-Indian settlement or developments could begin.

But let me interrupt myself and point out that all I'm providing in this review . . . this historical overview . . . is a sketch. A very brief sketch. If anyone wishes more complete information they can contact me for further details.

Update: That's understood. We're just after a quick picture.

Gross: Having said that, I'll take a jump to 1867 and the British North America Act, under which the federal government assumed the responsibility for "Indians and lands reserved for Indians."

At the time of confederation in 1867, Canada consisted of Upper and Lower Canada along with two Maritime colonies. What is now prairie Canada was owned by the Hudson's Bay Company, yet was the object of considerable attention by many Americans who felt that the grasslands of

the north-west, to say nothing of the potential riches to accrue from mineral resources, could best be settled and developed by those living under a flag carrying stars and stripes.

The Canadian government was quick to perceive the very real threat of American expansion and moved with considerable speed to purchase all the lands held by the Hudson's Bay Company.

Thus, in 1870, Canada held a land bridge between Ontario in the east and the British colony [now British Columbia] on the shores of the Pacific, a colony which could be brought into confederation with the promise that a railway would be built to connect them with the rest of the country. At the same time it was recognized that the railway to the western ocean could also bring in farmers to develop the agricultural potential of the prairies both to add to the wealth of the dominion and to occupy those lands which seemed so attractive to American farmers. Considering the limitations, both human and financial of the newly created Dominion of Canada, it was an audacious undertaking . . . a bold and visionary scheme . . . probably the most important decision in our history.

Update: But . . . ?

Gross: But first the new government had the responsibility to establish treaties with the Indians of the prairies before

non-Indian settlement or development could take place and suddenly, within the space of a few short years most of the treaties of western [prairie] Canada were in place. Within the Saskatchewan context, treaty numbers four and six, signed in 1874 and 1876 respectively, extinguished most of the Indian claims in the southern agricultural belt. These treaties cleared the way for the railway to be built.

The northern part of what is now Saskatchewan was largely covered by treaty numbers eight [1899] and ten [1906]. Small portions of treaty numbers two [1871] and five [1875] made up the remaining part of the province.

The land allocation in most treaties was similar in that each family of five was to receive one square mile or 128 acres per person. The reserve lands were chosen by the band but were approved by the government.

Update: But not all bands received their full allotment, right?

Gross: Obviously not.

Update: But why didn't . . .

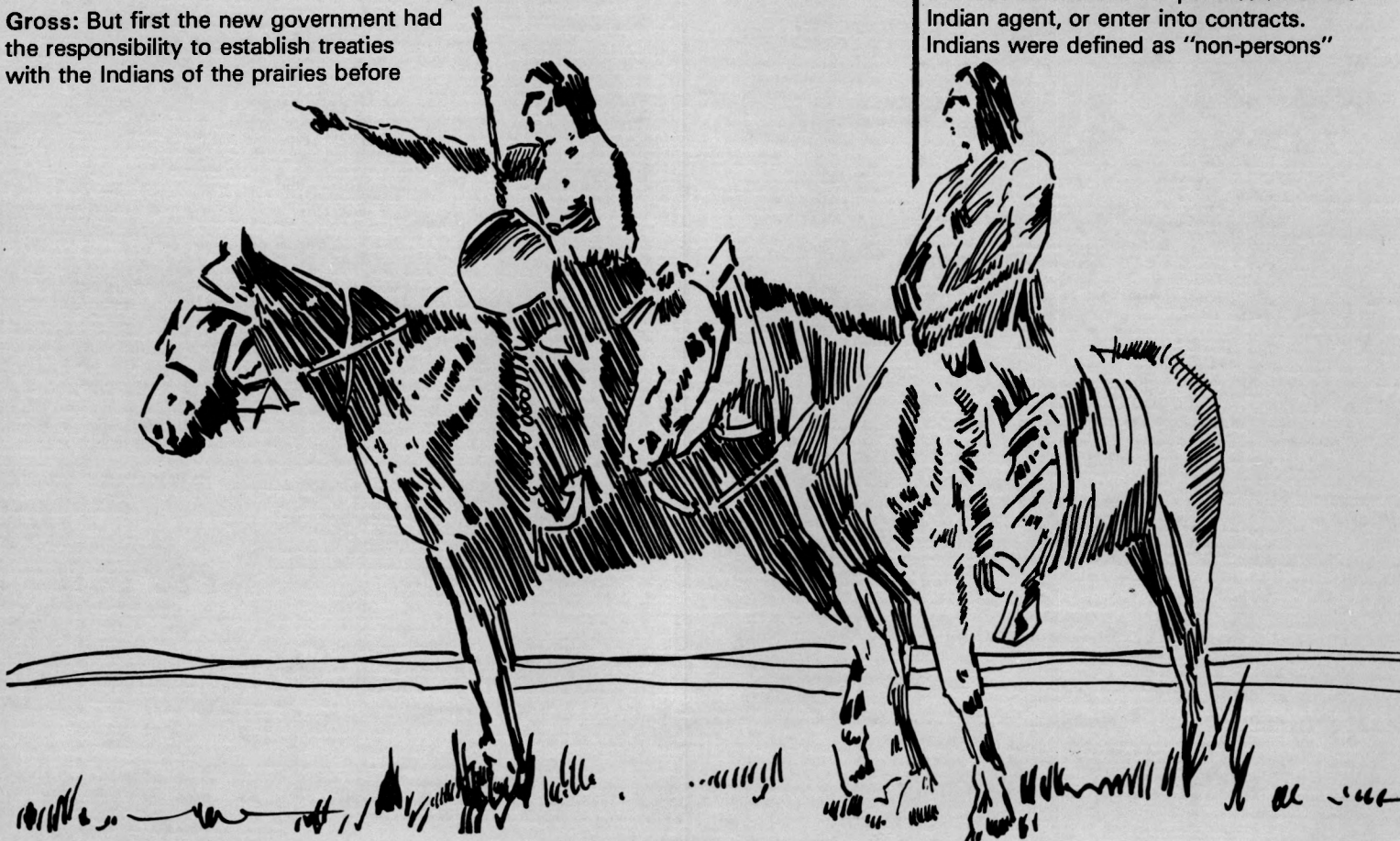
Gross: Why didn't we meet the full allotment back then? There are a number

of reasons, a number of causes. Some of them are attributable to the attitudes of the day . . . the geographical and communication constraints . . . the mobility and lifestyle of the Indian communities . . . a number of reasons and it is just a reality we have to accept. Some bands didn't receive their full allotment and it wasn't until the 1960s, following considerable research which incidently was funded by the department of Indian Affairs in the main, that the government realized the extent of outstanding treaty land entitlement in the west.

Update: But surely the Indian people of the bands involved must have known of the difference between what they should have received and what they did receive?

Gross: Undoubtably they did, in some instances. But again you have to look back in time in the context of those times. The passing of the 1876 Indian Act set up rules and procedures for government workers dealing with the Indian bands but in today's perception was not overly concerned with the human welfare, rights or customs of the Indian people. The Act made Indians "wards" of the state and denied them many rights other Canadians enjoyed.

Indians could not for example vote, leave the reserve without the permission of the Indian agent, or enter into contracts. Indians were defined as "non-persons"





who had to be controlled, monitored and directed. Needless to say the bands were not consulted on the powers or effects of the Indian Act prior to its passage in parliament. Those were indeed different times . . . different attitudes.

Anyway, to answer your question, concerns of the bands had to be expressed to the Indian agent who acted as the go-between for the bands with the rest of the world. In some instances the concerns of bands over treaty land entitlement were never heard. In other instances they were overlooked. In some cases they were just ignored.

In 1905 the province of Saskatchewan was formed. The federal government while establishing the province, retained the administration of lands and resources of the new province (likewise for Manitoba [1870] and Alberta [1905]) partially in order to ensure that the land settlement process would continue unabated across the prairies, yet also in order to continue the treaty process.

By 1930 most of the good agricultural land had been claimed by non-Indian settlers. The railway had accomplished one of the purposes envisaged by the first Canadian government.

That same year the federal government through the Resources Transfer Agreement transferred into provincial control the remaining natural resources and Crown lands. Yet section ten of that agreement stated that the three western provinces — in our case, Saskatchewan — had to make unoccupied Crown land available to Canada to assist the federal government in fulfilling any outstanding Indian land entitlement that might have been overlooked. The Canadian

government, by the exclusion of that section, obviously knew that there might well be some entitlement land due in the west, but I'm not too sure that they had any real comprehension of the variance between what was owed and what had been met.

Update: You were saying earlier that it wasn't until the '60s that any real meaningful research was initiated vis-a-vis entitlement?

Gross: Yes, and it was as a result of that treaty research that the federal

federal government agreed to negotiate the land entitlement claims.

Update: And these negotiations led to the so-called Saskatchewan agreement . . . or formula . . . or Saskatchewan position?

Update: It . . . the negotiated result . . . has been called all three at various times but let's call it the Saskatchewan position. And that position was arrived at by 1977 . . . at a time incidently when it was recognized by all parties involved in the entitlement process that there was

"But first the new government had the responsibility to establish treaties with the Indians of the prairies before non-Indian settlement or development could take place."

government in 1975 wrote to the premiers of the prairie provinces, stating that some bands were owed additional land under the agreements of the treaties. Canada said it was time that the debt was settled.

Update: What was the response from Manitoba, Alberta and Saskatchewan?

Gross: I can't speak for what happened in the other two regions, but I know that the province of Saskatchewan responded relatively quickly and through correspondence with the Federation of Saskatchewan Indians (FSI) and the

very little suitable provincial Crown lands left.

Update: O.K., but what is the Saskatchewan position?

Gross: Briefly stated, it is that both occupied and unoccupied Crown land would be made available for selection . . . and that includes both federal and provincial Crown land. Acreage for the settlement of the treaty land entitlements would be based on the band populations (of the entitlement bands) as established at December 31, 1976, and . . . and this is the part that I really try and stress and

can't stress too much, where occupied Crown lands are selected, the lessee's interest . . . the interest of the so-called third party, must be satisfactorily discharged. And must be discharged in a way that the province of Saskatchewan approves.

Update: So there is no way, whatsoever, that either level of government is riding roughshod over the rights of those with third party interest?

Gross: No way . . . in fact, where negotiations have taken place, those with third party interest have been more than satisfied.

Update: Before I ask you to spell out the details of how the selected land becomes reserve land, I'd like to get you to give me a quick rundown of the current status. How many entitlement acres have been approved by the federal government as owing to bands? How many have been selected . . . and so on?

Gross: Sure, I'll give the overview, but then I'd like to have Doug Bouck [regional surveyor, Energy Mines and Resources] answer those other questions when we get back to Regina.

Update: Fine. But where are we?

Gross: Well, of the approximate 1.1 million acres claimed, 250,000 have been committed, 60,000 have been transferred, 300,000 have not been selected and the balance is under review.

Now the nearly 800,000 acres of lands selected by the 21 entitlement bands are roughly categorized along these lines. 66,000 acres come from federal [PFRA] pastures, 145,000 acres come from provincial pastures, 11,000 acres come from federal school lands, 141 acres of Crown lands suitable for agricultural purposes have been chosen and the balance of nearly 430,000 acres is land which might have application for forestry, mineral, or recreational development.

Update: Thanks, Al, but after I talk with Doug Bouck, I'll want a final comment from you.

Gross: Anytime.



Doug Bouck, regional surveyor, Energy, Mines and Resources, "... the regional surveyor reviews the selection made by the band for obvious survey requirements covering such things as natural and artificial boundaries, and road exclusions or closures."

Doug Bouck, next to Al Gross and Owen Anderson, is probably the most knowledgeable federal civil servant in Saskatchewan when it comes to understanding all the legal ins and outs associated with the entitlement process. He has been involved with the Saskatchewan "experience" for a number of years.

Update: You've heard what Al Gross had to say and now what I'd like from you, if I could, please, is an explanation of how land that has up to now been federal or provincial Crown land ultimately is turned into lands "owned" by the various entitlement bands?

Bouck: Funds and human resources are made available to the bands from the federal government to aid in their search for acceptable lands. Having chosen a site, the band sends to the Department of Indian & Inuit Affairs [I&IA] a Band Council Resolution [BCR] requesting that these lands be negotiated for. The regional surveyor [RS], heading the Saskatchewan regional office legal surveys division, of the federal department of Energy, Mines & Resources prepares a sketch of the selection according to the original BCR.

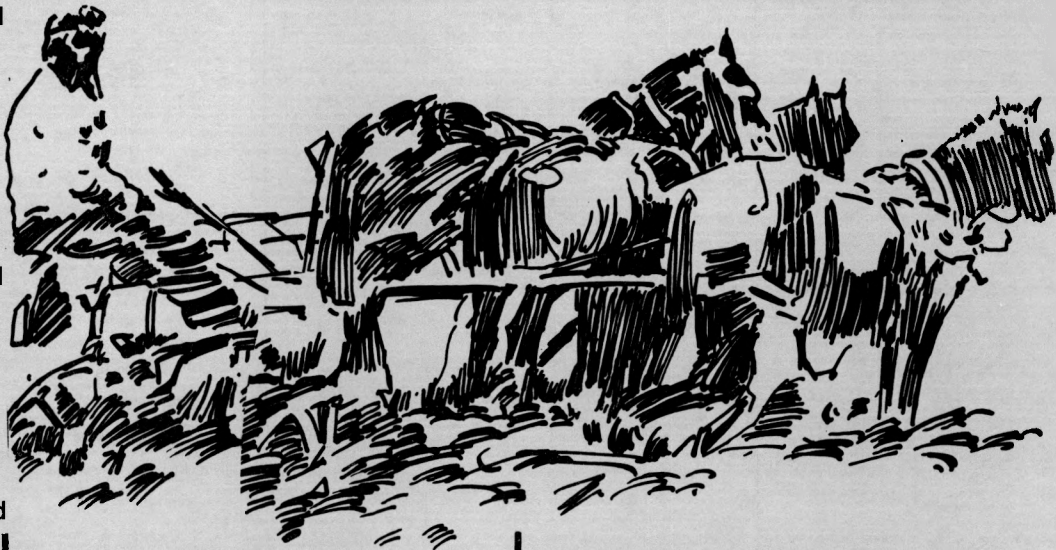
This is then included in the "desk book" prepared and maintained by the I&IA regional office. This desk book reflects the current status of all new land entitlement claims. The RS reviews the selection for obvious survey requirements covering such things as natural and artificial boundaries, and road exclusions or closures.

Update: And the Saskatchewan government . . . ?

Bouck: The Saskatchewan government through the provincial Indian lands coordinator [PILC] is then informed of the selection request. That office then seeks comments from both provincial departments and rural municipalities potentially affected by the selection. This is a critical stage in the life of the land transaction. Should the selection or some aspect of the negotiations be unacceptable to any of those contacted by the PILC then a renegotiation stage is implemented. The cycle continues until all parties are in agreement or the band chooses to discontinue the pursuit of those lands.

Update: Let's assume a site has been selected.

Bouck: Assuming a site has been agreed upon, the RS prepares a preliminary plan composed of a line map and photo coverage of the land chosen. In addition, there is provided in the legend, space for confirmation by the chief and band council, the provincial government and the federal government stating that the lands negotiated for are those portrayed on the plan. This signed plan is then filed in the regional surveyor's office. The Canadian Affairs' "desk book" sketch is then amended, if necessary, to conform to the final selection.



The provincial minister responsible for new land entitlements then commits the lands chosen to be utilized for Indian land claim purposes. The minister of I&IA is informed of this commitment along with the director and controller of surveys [D&CS] who is responsible for surveys on Crown provincial lands. The Indian Affairs minister then accepts the provincial offer, on behalf of Crown Canada. At this time, the band designates a name for the new selection.

Update: And then . . .

Bouck: The I&IA regional office informs the RS that the survey work may begin. This request acts as a commitment of

according to provincial acts and regulations. The RS issues complementary administrative instructions covering such things as deadlines, negotiated survey costs and specific items like the employment of Indian band members on the survey crew. Surveys affecting Crown Canada lands only have instructions issued by the RS under section 43 of the Canada Lands Surveys Act and the provincial acts and regulations are not involved.

The field survey is concluded and the

Update: And then it's on to Ottawa?

Bouck: Once the plan is suitable for approval the original is forwarded to the Surveyor General [SG] of Canada Lands for his signature. Then it is sent to the D&CS for his confirmation and approval. The next approval of the plan comes from the provincial minister who administers the lands from which the selection will be taken. The signed plan and mylar copies are then forwarded to the land titles office in the Land Registration District where the selection is located. The plan is registered or filed under section 109 of the Land Titles Act. The survey plan is now official. The mylar copies are distributed to the Chief Surveyor at Land Titles, the D&CS and to the SG for recording in the Canada Lands Survey Records. The iron posts placed by the surveyor now officially mark out the limits of the selected lands but a new Indian reserve has not been created yet.

Update: How much more?

Bouck: By referring to the above registered plan the provincial government prepares an Order in Council transferring administration and control of the subject lands (including mineral rights) to Crown Canada for Indian reserve purposes. The federal government in a subsequent Order in Council sets aside those lands described in the provincial OC for a specific Saskatchewan Indian band. This federal OC is the last link in the chain of events required to create a new Indian reserve.

Al Gross was asked to review Bouck's comments and make any additional statements he'd like if clarification was required.

"The federal government in 1975 wrote to the premiers of the prairie provinces, stating that some bands were owed additional land under the agreements of the treaties. Canada said it was time that the debt was settled."

funds from Indian Affairs to cover all survey costs. The RS reviews the final selection and identifies all the survey and land consolidation problems which could prohibit the orderly execution of the survey. The D&CS is consulted on survey matters affecting Crown provincial lands. Problems to be resolved by I&IA are then forwarded to that office by the regional surveyor. Depending on the type of problem, the PILC may also be involved. Once all matters have been settled the RS begins the contract survey procedure.

If the land to be surveyed is provincial Crown land then the regional surveyor requests survey instructions from the D&CS. The plan will then be prepared

appropriate survey plan is prepared by the contract land surveyors. The survey returns are submitted to the RS where, for provincial lands, a preliminary examination is made to ensure the completeness of the survey and the fulfillment of administrative instructions. The plan is forwarded to the D&CS for the official examination of the survey returns. Concurrently, a provisional plan is sent to the bands seeking their approval. The band, via a BCR confirms that the limits of the survey shown on the plan satisfies their original request. The regional surveyor, upon being informed by the province of any irregularities on the survey plan, contacts the contract surveyor and requests the plan be amended.

Gross: No, all of Doug's comments are right on. As you can perhaps infer from this whole process, a great deal of time, effort and money goes into this entitlement settlement. There are safeguards for all parties. There is room for consultation, negotiation.

Update: Perhaps this is a good place to end this review, but I would like to hear from you your feeling of how long this entitlement process will continue before a final settlement is concluded? And I'd like your comments regarding what impact the new provincial government in Saskatchewan might have on the process?

Gross: In both questions you're asking me to be a sage, and I'm not paid for that particular ability. But I will say this about both questions:

As far as the new provincial government is concerned, I see no evidence that there will be any negative change. In fact, there is considerable indication — starting right from the new premier's statements to the federation [Federation of Saskatchewan Indians] that he wants to see the entitlement issue settled quickly and equitably — that the process might even be speeded up.

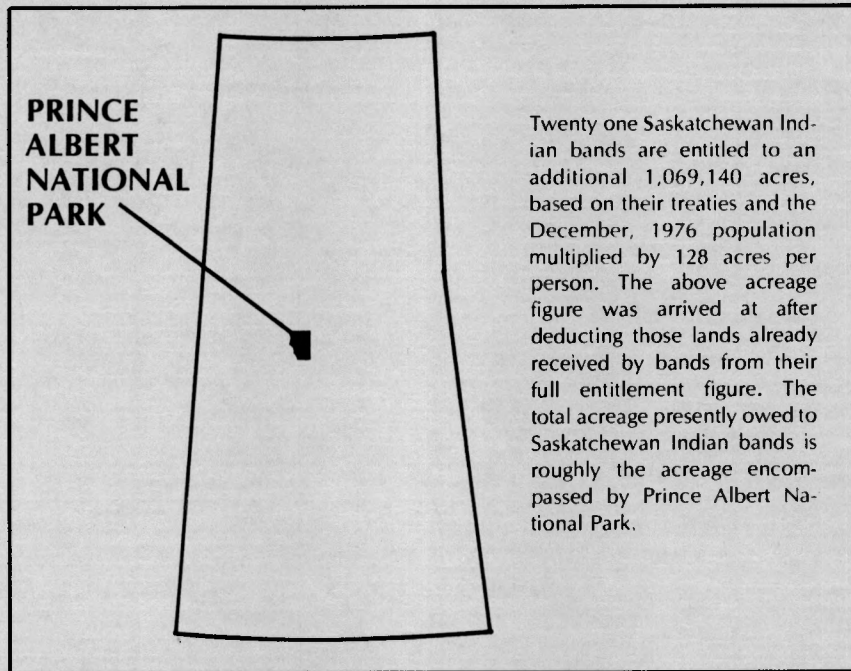
Naturally, I'm sure the new government

will want to review the whole matter in order to obtain a good handling of it, but then I'm confident that the process will continue.

Update: And as for the time frame?

Gross: All I can say on that is within the next few years, Canada and Saskatchewan may be able to proudly proclaim that it has fulfilled constitutional and legal obligations concerning outstanding Indian land entitlements.

Update: Thanks, Al.



1,069,140 ACRES OWED SASKATCHEWAN INDIANS	<p>MULTIPLE RESOURCES (prov. Crown land) 461,916 ACRES 43.2%</p> <p>NOTE: Multiple Resources Use refers to land containing forest, recreation, minerals, trapping, fishing, etc. It has not been selected for a specific resource potential in one given area.</p>	<p>AGRICULTURE (prov. Crown land) 83,461 ACRES 7.81%</p>	<p>PROVINCIAL PASTURES 148,365 ACRES 13.88%</p>	<p>FEDERAL PASTURES 67,200 ACRES 6.2%</p>	<p>FEDERAL SCHOOL LANDS 10,579 ACRES .99%</p>	<p>NOT SELECTED TO DATE 297,619 ACRES 27.84%</p>

A historical background on treaty land entitlement rights

Intergovernmental Relations manager Al Gross also provided the following overview of the historical background on:

Treaty Land Entitlement Rights

In 1867, the federal government of Canada assumed the responsibility for "Indians and lands reserved for Indians" through the British North America Act. At that time Canada consisted only of Upper and Lower Canada and two Maritime colonies. The government felt it was critical to Canada's future to prevent American encroachment into the rich mineral and fur trading area of what is now western Canada. Moving quickly, the government claimed all land west and north of Ontario. In 1870, Canada purchased all land then held by the Hudson's Bay Company. This acquisition connected the British Colony, now British Columbia, to the rest of Canada and created a nation that stretched from the Atlantic to the Pacific. To protect its vast territory the government underwent the construction of a transcontinental railway. It was also felt the railway would provide European settlers with access to western Canada's fertile belt, and the resulting development would provide a new source of trade for eastern goods.

A 1763 Royal Proclamation by the British Sovereign stated new found land could be taken in the name of the King, but recognized native rights to use the land. Treaties between the Crown and the natives were required before non-Indian settlement or developments such as the railway could begin. The Canadian government, assuming sole responsibility for extinguishing Indian treaty land entitlements, began to settle the treaties in 1871. Treaty numbers 4 and 16, signed in 1874 and 1876 respectively, extinguished most Indian claims in the southern agricultural belt. These treaties cleared the way for the railway to be built. The northern part of what is now Saskatchewan was largely covered by treaty numbers 8 (1899) and 10 (1906). Small portions of treaties 2 (1871) and 5 (1875) made up the remaining part of the province.

In most treaties the land allocation was the same: each family of five was to receive one square mile or 128 acres per person. Reserve lands were to be chosen by the band but approved by the government.

The 1876 Indian Act established the rules and procedures for government workers to interact with Indian bands. The act made Indians "wards" of the state and withdrew many rights. Indian people could not: vote, leave the reserve without permission, or enter into contracts. Indians were defined as "non-persons" who were to be controlled, monitored and directed.

Indian agents were appointed to liaise on behalf of the bands. Band concerns relating to treaty land entitlement, were often ignored or overlooked.

When the Province of Saskatchewan was formed in 1905 the federal government retained the administration of lands and resources. This was done for several reasons including the assurance that land settlements would not be interrupted. By 1930, when the federal government transferred the remaining natural resources and land to the provincial government through the Resources Transfer Agreement, the majority of the province's good agricultural land had been claimed by non-Indian settlers. Section (10) of the Agreement instructed the province to make unoccupied Crown land available to Canada in order to assist the federal government in fulfilling any outstanding Indian land entitlements.

Outstanding land entitlement rights were not realized until research was made into the treaties during the 1960s. The federal government wrote to the premiers of the prairie provinces in 1975 stating some Indian bands were still owed additional land under the original treaties. Under Section (10) of the Resources Transfer Agreement, Canada was requesting the provinces' cooperation to settle all outstanding treaty commitments. Through correspondence with the Federation of Saskatchewan Indians and the federal government, the Government of Saskatchewan agreed to negotiate the land entitlement claims. These negotiations resulted in the 1977 "Saskatchewan Formula" which made available all Crown lands for the purpose of treaty land entitlement rights settlements. It is under the conditions of the "Saskatchewan Formula" that land settlement has been made.

To date, twenty-one bands have been validated. This validation entitles them to additional lands in excess of one million acres. Several other bands are presently seeking validation. The combined acreage owed to all bands as settlement for outstanding land entitlements will equal less than 1% of the province's total agricultural acreage.

But how will the resolution of outstanding entitlement land impact on Saskatchewan Region? Al Gross indicated to Update readers that steps have been initiated for dealing with the post-entitlement period.

Entitled Land Development Service Demand on DIAND Saskatchewan Region

Introduction

The process of treaty land entitlement fulfillment in Saskatchewan has been proceeding since 1975. The last phase of the actual process is that of selecting lands to fulfil outstanding entitlements. To date, twenty bands have selected 896,088.0 acres out of a total of 1,054,944.4 acres of entitled land.

1. Needs

Once the transfers of these lands into reserve ownership are complete, a new process will start. This process will involve integration of new lands into the existing reserve land base. This integration will place demands on the developmental resources of the region. In order to avoid an ad hoc service demand, it is necessary to initiate a land development resource requirements study. The information is required for a special submission to the Central Agencies for additional resources to meet the service needs of entitled bands.

2. Objectives

- To design and develop information on strategic implications of the entitled land development process to the regional program.
- To ascertain the degrees and categories of the demands which will result from the entitlement fulfillment process that DIAND is able to plan the implementation in such a way that they may meet those future demands.

This will involve the following:

1. Identification of categories and amounts of lands selected in specific administrative/geographic sectors. Service demands for development, operations and maintenance of selected lands.
Resource requirements: financial, organizational and human.
2. The phasing of the demands within the realms of availability of resources.
3. Developing a mechanism by which Bands can participate and help schedule demands.
Strategies for coordination of the land resource development program, involving Bands, DIAND and other funding agencies.
Implications if services are not provided for the development of newly acquired lands on entitled reserve communities.
A strategy for prioritizing the need and criteria for allocation of resources based on:
 - A more consistent information base regarding quality, capabilities and potentials of the land.
 - Identification of all the relevant physical, social and economic factors (internal and external) affecting long-range land resource planning.

3. Approach

A four (4) phased approach is suggested over an approximate time frame of five months as follows:

- Phase I Inventory and analysis of entire data base.
Phase II Development of criteria for:
- resource requirements
 - prioritizing
 - allocation/utilization of the land
 - resource allocation process

- information system (a standardized format for information gathering, up-dating and maintenance system).

Phase III Strategy options.

Phase IV Skill development requirements.

- Phase V Strategies for resource procurements, organization development and implementation.
- program planning and development
 - delivery process to include capital, O & M, training, organizational requirements and logistics
 - coordination mechanism
 - evaluation.

4. Targets

Minimum development/planning period: ten years (1982-1992). Programming at yearly intervals.

5. Project Management

The management of the study will be conducted through an inter-disciplinary technical committee which will also act as a steering committee. It will be composed of:

- FSI representative and delegated members of entitled bands
- Provincial delegate
- DIAND headquarters and regional delegate.

6. Methodology

- A. Analysis of existing documentation (Band development plans, FSI policy statements, relevant DIAND materials, Energy, Mines and Resources, provincial and corporate information as appropriate).
- B. Discussions with Indian Governmental and private sector participants (including potential ones) concerning ways in which the criteria identified can be brought to bear upon the fulfillment of Treaty obligations on entitled land development process.
- C. Quantify the demands for service. This involves a number of variables:
 - total lands obtained through entitlement
 - capability/potential of land
 - desired uses of these lands
 - percentage of the total to be put to the different categories of use
 - current status of entitlement parcels, i.e. developed or undeveloped.
- D. Understanding of these variables will lead to a clearer specification of service needs and will thus lead to a knowledge of capital demands, as well as technical, educational and advisory service demands.
- E. The demands may be allotted to various branches of DIAND. Alternative service supplies should be specified.
- F. To accomplish this, there must be a study of the total land package of each band to determine intended use of land resource.
- G. Delivery process:
 - assessment of impact of entitled land development on DIAND
 - criteria for prioritizing allocations
 - financing process (inter-departmental)
 - quality control
 - operations and maintenance (development schedule and phasing).

The Saskatchewan Formula

**A Federal - Provincial Agreement
on the Fulfillment of Outstanding
Treaty Land Entitlements**

Introduction:

In the 1960's the Government of Canada undertook an extensive research program to examine outstanding Indian Treaty Land Entitlement Rights. As a result of this research the federal government wrote to the premiers of the prairie provinces stating the need for immediate action to address this outstanding debt.

The following text has been reproduced verbatim from the provincial government's letter of response to the federal request for negotiation action and those letters which comprise the actual "Saskatchewan Formula". Concluding the package is a copy of the official news release, "Agreement Fulfills Land Entitlements Under Treaty for Saskatchewan Indians", issued August 24, 1977.

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Letter of August 23, 1976
Hon. Ted Bowerman, Minister
Department of Northern Saskatchewan

to

Hon. Judd Buchanan, Minister
Department of Indian Affairs
and Northern Development

**RE: Outstanding Treaty Indian Land Claims
in the Province of Saskatchewan.**

On August 18, 1975 you addressed a letter to the Hon. A.E. Blakeney, Premier of Saskatchewan, in which you requested the co-operation of the Province under *The Resources Transfer Agreement, 1930* so that at least 12 Bands in Saskatchewan could begin to get sufficient land set aside to meet their needs as outlined in the Treaties. As well, you requested the Province to designate officials to work with your Department, the Federation of Saskatchewan Indians, and various Bands toward the ultimate settlement of these obligations.

As a result of your letter, I was designated the Minister Responsible under Section 10 of the *Transfer Agreement*. I subsequently appointed a full time official on October 14, 1975 to co-ordinate these matters.

As a result of the continuing work by the Province, I am pleased to forward to you a photocopy of a letter which I have sent today to Chief David Ahenakew of the Federation of Saskatchewan Indians outlining our position on these matters. I think the contents of the letter clearly indicate our positive determination to resolve these matters.

If you are in agreement with the contents of the letter, may I then suggest that a meeting be held in Saskatchewan with yourself, Chief David Ahenakew, myself and officials from our respective Departments and the Federation of Saskatchewan Indians to work out an agreement so that Bands may begin to select and receive lands.

I shall look forward to receiving your comments.

Letter of August 23, 1976
Hon. Ted Bowerman, Minister
Department of Northern Saskatchewan

to

Chief David Ahenakew,
Federation of Saskatchewan Indians

RE: Unfulfilled Treaty Indian Land Claims.

The position of the province of Saskatchewan on the above subject is as follows:

- (1) The Province is prepared to negotiate with the Federation of Saskatchewan Indians (subject to written confirmation that the Federation can bind all Bands pursuing a land claim) and Canada on settlement of outstanding Treaty Indian land claims based on the Treaties, 1930 commitments in *The Natural Resources Transfer Agreement*, and using the F.S.I. formula.

This formula would take “present population” x 128 (acres per person) less land already received. “Present population” means that the population is permanently fixed as at December 31, 1976.

I appreciate the F.S.I. position that there may be a maximum of two minor exceptions to this formula based on historical curiosities.

- (2) That attempts be made to satisfy claims of northern lands as expeditiously as possible on the foregoing basis. The Province is prepared to consider all reasonable requests for land, including a request that Elizabeth Falls and area be transferred subject to existing encumbrances to the Black Lake/Stony Rapids Band.

Since Elizabeth Falls and area is occupied Crown land, satisfactory arrangements must be concluded with the occupants.

- (3) That to satisfy claims in the South the following principles receive endorsement:
 - (i) land be sought by attempts to secure federal and provincial unoccupied Crown land and, where it can be arranged, federal and provincial Crown land where the Province can satisfy the occupants:
 - (ii) any Band unhappy with this must look solely to Canada for satisfaction since Canada alienated almost all the land in the south prior to *The Resources Transfer Agreement, 1930*.

I am not unmindful of Canada’s role in the so-called “James Bay Agreement” in spite of the fact that the Province of Quebec had complete responsibility to bear and satisfy all charges and expenditures in connection with or arising out of surrenders of land from native peoples as detailed in *The Quebec Boundaries Extension Act, 1912*. In Saskatchewan — and indeed the Prairie Provinces — there is a much stronger and more direct role for Canada to play as outlined in the Treaties and in *The Resources Transfer Agreement, 1930*.

- (4) That, at some future time, the Province may give some consideration to Band requests through the Federal trustee to surrender land claims in exchange for revenue sharing in resources and the joint development of currently disposed-of land.

I will now turn to a matter which came to my attention after our meeting in Prince Albert on Monday, June 7, 1976. At that time we discussed what we thought were all matters pertaining to unfulfilled Treaty Indian land claims. Subsequent to that meeting it was brought to my attention that Section 11 of *The Resources*

Transfer Agreement, 1930 incorporates by reference a 1924 Agreement between Canada and Ontario and further incorporates its application to Saskatchewan. In fact, this particular Agreement applies to all the Prairie Provinces. One particular provision provides that one-half the royalties, etc. from the development of mineral rights on Reserves shall be returned to the Province. On this point our position is as follows:

- (5) That the Province do not agree to renounce any rights it has to one-half of the royalties, etc. from the development of the mineral rights pursuant to *The Natural Resources Transfer Agreement, 1930*, but do not assert that right. The province is prepared to conclude agreements in the course of arriving at a settlement (i.e. The Province is prepared to bargain this right away as part of a final settlement).

I attach a copy of Section 11 and of the 1924 Agreement.¹

- (6) Canada is solely responsible for satisfaction of all land claims for which the Province has been previously advised by Canada that the claim for land has been extinguished.

I should point out that unless you have any objections I am now prepared to appoint Mr. Rob Milen to a permanent position on my staff to negotiate these land claims for the Province. I had not done so previously in order for the Federation to determine if Mr. Milen would be acceptable to the Federation.

I shall look forward to receiving your comments.

¹ *The Resources Transfer Agreement, 1930*, Section 11 provides that:

“The provisions of paragraphs one to six inclusive and of paragraph eight of the agreement made between the Government of the Dominion of Canada and the Government of the province of Ontario on the 24th day of March, 1924, which said agreement was confirmed by statute of Canada, fourteen and fifteen George the Fifth chapter forty-eight, shall (except so far as they relate to the *Bed of Navigable Waters Act*) apply to the lands included in such Indian reserves as may hereafter be set aside under the last preceding clause as if the said agreement had been made between the parties hereto, and the provisions of the said paragraphs shall likewise apply to the lands included in the reserves heretofore selected and surveyed, except that neither the said lands nor the proceeds of the disposition thereof shall in any circumstances become administrable by or be paid to the Province.”

Letter of August 23, 1976
Chief David Ahenakew
Federation of Saskatchewan Indians

to

Hon. Ted Bowerman, Minister
Department of Northern Saskatchewan

RE: Unfulfilled Treaty Indian Land Entitlement.

Please accept this Letter of Confirmation of our acceptance that the formula to decide the amount of entitlement of the Bands concerned will be the population of the Band concerned as of December 31, 1976 x 128 acres. You have asked for confirmation that the Federation can bind all Bands concerning decisions relevant to these claims, and accordingly we attach for your information two resolutions passed at recent assemblies of all Saskatchewan Chiefs. These resolutions appoint the Executive of the Federation of Saskatchewan Indians as agents of the Bands concerned for the purposes of transacting this business.

We are pleased that you intend to satisfy claims of Northern Bands as expeditiously as possible, and we do note that the Black Lake Band intends to promptly request the Minister of Department of Indian Affairs and Northern Development to request of you, on behalf of the Band, that land including and surrounding Elizabeth Falls be transferred (subject to existing encumbrances) and established as a reserve for the use and benefit of that Band. You are also aware that the Peter Ballantyne Band is currently discussing a similar proposal with your office, and we expect that negotiation to continue.

The Federation of Saskatchewan Indians is anxious to assist Bands in Southern Saskatchewan in an attempt to secure Federal and Provincial unoccupied Crown Land as Indian reserve land, in those cases where such a selection is acceptable to the Bands concerned. We hope also to assist Southern Bands in their request for occupied Federal and Provincial Crown land in those cases where the occupants can be satisfied. We do hope that lands may be transferred and established as reserves, for example, subject to existing grazing or timber permits; that revenue from those permits may be diverted to Band funds, and that at the time of termination of those interests the land will become unencumbered Indian reserve land. We are grateful that such a solution may be a matter of future negotiation.

We also find acceptable the notion that the Province will consider the possible future request of a Band, made on their behalf by the Minister of the Department of Indian Affairs and Northern Development, which may ask that claim to some or all of future entitlement will be surrendered in exchange for revenue sharing in resource development of currently disposed-of-land. Such negotiation, however, will only occur at the instance of a particular Band who may have this concern.

Be advised that the Federation of Saskatchewan Indians approves of your appointment of Mr. Rob Milen to a permanent position on your staff, with responsibility to negotiate for the Province those claims of Bands who have received only partially their entitlement of land pursuant to Treaty.

Your submission that the Federal Government is solely responsible for satisfaction of claims for which the Province has been previously advised by Canada as having been extinguished will receive our due consideration and future response.

I wish finally to state our appreciation of the good faith and commitment your Government and office have demonstrated in your consideration of these matters over the past year. We look forward to continued discussion and resolution of these issues.

RESOLUTION NUMBER 1

WHEREAS the Chiefs of Saskatchewan have adopted, in principle, a process to be used to negotiate specific Band claims and an Umbrella claim;

AND WHEREAS many of these claims will be presented to the government in the very near future;

AND WHEREAS there is a need for Bands to be aware of the nature of claims similar to their own and a need for co-ordination, both at the district and regional level, of *all* claims.

THEREFORE BE IT RESOLVED that the Executive of the Federation of Saskatchewan Indians be recognized as the Negotiating Committee responsible to present, at times which are appropriate, the Umbrella Claims;

AND BE IT FURTHER RESOLVED that the Executive of the Federation of Saskatchewan Indians be recognized as the Negotiating Committee responsible to assist bands in the presentation of specific Band claims as they are negotiated from time to time;

AND BE IT FURTHER RESOLVED that the Treaty Research Program select and employ, at the earliest possible time, 6 District Claims Officers, in order to assign one to each district;

AND FURTHER BE IT RESOLVED that a Review Committee be established to independently monitor and advise on the merits of each statement of claim presented by the respective bands or the Federation of Saskatchewan Indians;

AND BE IT FURTHER RESOLVED that the executive of the Federation of Saskatchewan Indian promptly address the Federal Government to assure that the office of Indian Claims Commissioner be continued and that Dr. Lloyd Barber continue to hold that office subject to his present terms of reference.

WHEREAS the Federation of Saskatchewan Indians has presented a structure for a Claims Development process for consideration by the Chiefs and Delegates at our General Assembly:

THEREFORE BE IT RESOLVED that the General Assembly of Chiefs and Delegates adopt the proposed structure in principal.

MOVED: Chief Solomon Mosquito

SECONDED: Chief Victor Sparvier

PASSED UNANIMOUSLY by the General Assembly, NOVEMBER 6, 1974.

Letter of April 7, 1977
Hon. Warren Allmand, Minister
Department of Indian Affairs
and Northern Development

to

Chief David Ahenakew,
Federation of Saskatchewan Indians

**RE: Outstanding Treaty Indian Land Entitlements
in the Province of Saskatchewan.**

You are, of course, well aware of the consultations and discussions that have followed the Honourable Mr. Bowerman's offer of August 23, 1976, to settle the treaty entitlements of Saskatchewan Bands to land. Cabinet consideration of the Saskatchewan proposal is complete and I have written on this date to Mr. Bowerman to convey the federal response to his offer. I enclose a copy of this letter for your reference.

The process of determining which Bands have outstanding treaty entitlements to land has begun and I am informed that your representatives will arrange for a follow-up meeting with my officials when they have completed their review of certain details with some of the Bands. I believe we should also address the question of funding the selection process. This latter point was raised at our January 31 meeting with Mr. Bowerman at which time you undertook to submit a budget proposal for consideration. I will be pleased to receive this at your convenience.

Finally, I wish to express my appreciation for the outstanding contribution made by the Federation of Saskatchewan Indians to the resolution of this long-standing issue, as well as for your patience and understanding over the last few months while Cabinet reviewed Saskatchewan's proposals. I hope that continued progress can be made on this matter and I look forward to at least several of the Bands having acquired their additional reserve lands by the end of this year.

Letter of April 7, 1977
Hon. Warren Allmand, Minister
Department of Indian Affairs
and Northern Development

to

Hon. Ted Bowerman, Minister
Department of Northern Saskatchewan

**RE: Outstanding Treaty Indian Land Entitlements
in the Province of Saskatchewan.**

Further to our meeting of January 31, 1977, I am pleased to confirm that Cabinet has considered and generally agrees with the settlement proposal outlined in your letter of August 23, 1976. Specifically, Canada concurs in the proposition that the official population figures as at December 31, 1976 be used as the base formula for determining entitlement for those Bands that have not previously selected and received their full treaty entitlements to land.

With respect to the matter of land selections, I am hopeful that all outstanding entitlements can be settled from available provincial Crown lands or through the surrender of entitlements in exchange for resource-sharing or joint ventures as you suggested. However, notwithstanding the provisions of Section 10 of the *Resources Transfer Agreement, 1930*, and in order to assist the process, Canada would be prepared to consider making available federal lands where possible. Canada is also prepared to co-operate in the sanctioning of any specific or general agreement reached between Saskatchewan and the Indian people in respect to the waiver by Saskatchewan of any rights to mineral moneys that may be derived from lands transferred to Canada for Indian Reserve purposes since 1930.

I hope you can agree that the way is now clear for the several Bands involved to begin the actual selection of land. The task of determining which Bands have outstanding entitlements has begun and no doubt Mr. Rob Milen will have informed you of progress to date.

I would like to express my personal appreciation for the initiative and leadership you and your government have taken in this area.

AGREEMENT FULFILLS LAND ENTITLEMENTS UNDER TREATY FOR SASKATCHEWAN INDIANS

Regina — (August 24, 1977) — The Federation of Saskatchewan Indians (F.S.I.), the Province of Saskatchewan and the Federal Government have reached official agreement on the means of fulfilling outstanding Treaty land entitlements of Bands in that Province, Indian Affairs Minister Warren Allmand and F.S.I. President Chief David Ahenakew announced today.

In making the announcement, Mr. Allmand expressed his satisfaction that unfulfilled historic obligations to Indian people were being met. "Only through the co-operation and participation of both the Federal and Provincial Governments can we deal with the broad range of issues involved in these claims and arrive at a solution satisfactory to all parties," he said. "The initiative which the Province of Saskatchewan has displayed in this area is exemplary of the positive action open to the provinces in dealing with Indian citizens. At the same time I would like to draw attention to the outstanding contribution made by the Federation of Saskatchewan Indians which has worked long and hard during more than two years of negotiations which have led to the resolution of this longstanding issue".

The question of outstanding Treaty land entitlements is an old one in all three Prairie provinces. Under the provisions of the Treaties signed between Canada and the Indian people in Manitoba, Saskatchewan and Alberta between 1871 and 1906, reserve lands were to be set aside for the Indian Bands who were signatories. Although some Bands did receive their full land entitlement under Treaty, many others did not.

This situation was recognized in the terms of the Natural Resources Transfer Agreements of 1930 between Canada and the Prairie Provinces. At that time, the Provinces assumed an obligation to set aside, out of unoccupied Crown lands which had been transferred by Canada to the Provinces, such lands as would enable the Federal Government to fulfill its obligations under the Treaties.

The process, however, was never completed. At the request of Bands in Saskatchewan, and in view of Federal Government policy to discharge its responsibilities flowing from Indian legislation and Treaties with the Indian people, the Minister of Indian and Northern Affairs in 1975 approached the three Prairie Provinces, requesting their co-operation in settling this situation. It is intended that settlement will contribute positively to a lasting solution of the cultural, social and economic problems that for too long have kept the Indian people in a disadvantaged position within the larger Canadian society.

Saskatchewan complied with the request and, after consultation with the Federation of Saskatchewan Indians, a proposal was presented to the Federal Government for consideration. As a result of close collaboration between the three parties concerned and the unceasing efforts of the Honourable Ted Bowerman, Minister of Northern Saskatchewan, and Chief David Ahenakew of the F.S.I., agreement has now been reached on the processes for resolving this longstanding obligation on terms favourable to the Indian Bands involved.

The agreement puts forward a formula for settlement which uses present population figures for a Band with an outstanding entitlement, multiplied by the per capita acreage as set out in the applicable Treaty. In Saskatchewan, this is 128 acres per person. In cases where Bands have received some land, the area already allocated is subtracted from the above total. In Saskatchewan, the population figure has been fixed as of December 31, 1976.

Under the agreement, the Province will be providing Crown lands under their administration. Where Provincial Crown lands are occupied, the occupants must be satisfied before lands can be transferred to the Federal Government for Treaty entitlement purposes. Saskatchewan is also prepared to fulfill entitlement to the Bands concerned by providing, instead of lands, opportunities to Bands for revenue sharing in resource development or participation in joint ventures.

There are 68 Bands in Saskatchewan. The F.S.I. has advanced land entitlement claims for 25 Bands. Thus far there is agreement concerning 15 Bands. The total acreage involved could be in the range of one million acres. The 15 Bands confirmed as having an entitlement are the Canoe Lake, English River, Witchehan Lake, Peter Ballantyne, Fond du Lac, Stony Rapids, One Arrow, Red Pheasant, Keeseekoose, Muskowekwan, Piapot, Lucky Man, Nicaneet, Thunderchild and Little Pine Bands.

An interdepartmental working group of provincial government officials will ensure a co-ordinated response in land selection discussions and negotiations. The F.S.I. has indicated its willingness to provide advice in the land selection process to any Band that asks and has drafted a two-part proposal to assist Bands in this regard. Technical advice will also be provided by the Department of Indian and Northern Affairs.

"The details of the arrangements may differ, but I am hopeful that the principles embodied in this agreement will also prove to be useful in future discussions with Manitoba and Alberta where an historical land entitlement obligation to some Indian Bands in these Provinces still exists," Mr. Allmand said.



Munro renews, strengthens gov't. commitment to settle specific claims

In an Ottawa press conference Indian Affairs minister John Munro announced that the federal government has reaffirmed and strengthened its commitment to meeting its lawful obligations to Indians through the resolution of specific claims. The announcement was made some five months after Munro had announced the government's policy regarding comprehensive land claims.

Munro stated that the revised policy clearly establishes the basis for specific claims, provides guidelines for compensation and commits the government not to apply statutes of limitation or the doctrine of laches (in Law, the failure to do a thing at the right time; inexcusable negligence) to the process of negotiation.

The minister also announced that the government has also substantially increased funding to Indian associations from \$2.2 million last fiscal year to \$3.7 million in 1982-83. As well, he said, the loan fund to support the development and negotiation of accepted claims has been raised to \$1.5 million annually, beginning with the present fiscal year. For the past three years \$300,000 has been allocated annually for such purpose.

Munro pointed out that the loans provided by the government are repayable from the proceeds of claims settlements.

Specific claims result from the actions of government in the administration of the Indian Act and treaties, and usually involve the management of band assets or the fulfillment of treaty obligations.

In Saskatchewan region the process by the government to meet outstanding treaty land entitlement due to a number of bands is labelled as a "specific" claim.

The other kind of claims negotiated by government are referred to as "comprehensive" and are based on

traditional use and occupancy of land by native groups. The government's policy on comprehensive claims was released by Munro on December 16, 1981.

The government first introduced a specific claims policy in 1973, but Munro stated that to date progress in resolving such claims has been very limited and could not be allowed to continue.

Accordingly, said the minister, the government, in consultation with Indian groups across the country, undertook a review of the situation. That review led to the position of the government as enunciated in a booklet that Munro released at his press conference.

Entitled, "Outstanding Business," the booklet sets out the type of claims the government will accept and the manner in which they will be negotiated. Munro said the booklet is intended to ensure that the basis for negotiating specific claims is clearly stated and widely available to all Canadians.

The Indian Affairs minister said that he is confident that the government's new measures will improve the process of specific claims settlement. "I think that success is within reach," said Munro, "because success in this endeavour is in the interest of both Indians and government, indeed of all Canadians."



Indian Affairs minister John Munro, "... I think that success is within reach because success in this endeavour is in the interest of both Indians and government, indeed of all Canadians."

Gross reviews entitlement history

Saskatchewan's experience in moving towards the settlement of outstanding treaty land entitlement is central to many of the informal conversations held by many citizens of Saskatchewan who are aware of the entitlement process. Al Gross, who as intergovernmental relations manager for Indian Affairs has developed and defined the region's liaison approach to both the Saskatchewan government and the Federation of Saskatchewan Indians (FSI) regarding the settlement of entitlement, is the possessor of considerable expertise in developing workable tripartite mechanisms.

Partially as a result of the interest shown in the Saskatchewan experience, we asked for and received the following interview with Gross.

Update: As with all stories, there has to be a beginning. Now with the Saskatchewan treaty land entitlement it started

Gross: Let's go back to 1763 when a Royal Proclamation by the British King stated that new found land [the lands of North America] could be taken in the name of the King but added the proviso that treaties between the Crown and the natives of the "discovered" lands had to take place before non-Indian settlement or developments could begin.

But let me interrupt myself and point out that all I'm providing in this review . . . this historical overview . . . is a sketch. A very brief sketch. If anyone wishes more complete information they can contact me for further details.

Update: That's understood. We're just after a quick picture.

Gross: Having said that, I'll take a jump to 1867 and the British North America Act, under which the federal government assumed the responsibility for "Indians and lands reserved for Indians."

At the time of confederation in 1867, Canada consisted of Upper and Lower Canada along with two Maritime colonies. What is now prairie Canada was owned by the Hudson's Bay Company, yet was the object of considerable attention by many Americans who felt that the grasslands of the north-west, to say nothing of the potential riches to accrue from mineral resources, could best be settled and developed by those living under a flag carrying stars and stripes.

The Canadian government was quick to perceive the very real threat of American

expansion and moved with considerable speed to purchase all the lands held by the Hudson's Bay Company.

Thus, in 1870, Canada held a land bridge between Ontario in the east and the British colony [now British Columbia] on the shores of the Pacific, a colony which could be brought into confederation with the promise that a railway would be built to connect them with the rest of the country. At the same time it was recognized that the railway to the western ocean could also bring in farmers to develop the agricultural potential of the prairies both to add to the wealth of the dominion and to occupy those lands which seemed so attractive to American farmers. Considering the limitations, both human and financial of the newly created Dominion of Canada, it was an audacious undertaking . . . a bold and visionary scheme . . . probably the most important decision in our history.

Update: But . . . ?

Gross: But first the new government had the responsibility to establish treaties with the Indians of the prairies before non-Indian settlement or development could take place and suddenly, within the space of a few short years most of the treaties of western [prairie] Canada were in place. Within the Saskatchewan context, treaty numbers four and six, signed in 1874 and 1876 respectively, extinguished most of the Indian claims in the southern agricultural belt. These treaties cleared the way for the railway to be built.

The northern part of what is now Saskatchewan was largely covered by treaty numbers eight [1899] and ten [1906]. Small portions of treaty numbers two [1871] and five [1875] made up the remaining part of the province.

The land allocation in most treaties was similar in that each family of five was to receive one square mile or 128 acres per person. The reserve lands were chosen by the band but were approved by the government.

Update: But not all bands received their full allotment, right?

Gross: Obviously not.

Update: But why didn't . . .

Gross: Why didn't we meet the full allotment back then? There are a number of reasons, a number of causes. Some of them are attributable to the attitudes of the day . . . the geographical and

communication constraints . . . the mobility and lifestyle of the Indian communities . . . a number of reasons and it is just a reality we have to accept. Some bands didn't receive their full allotment and it wasn't until the 1960s, following considerable research which incidentally was funded by the department of Indian Affairs in the main, that the government realized the extent of outstanding treaty land entitlement in the west.

Update: But surely the Indian people of the bands involved must have known of the difference between what they should have received and what they did receive?

Gross: Undoubtedly they did, in some instances. But again you have to look back in time in the context of those times. The passing of the 1876 Indian Act set up rules and procedures for government workers dealing with the Indian bands but in today's perception was not overly concerned with the human welfare, rights or customs of the Indian people. The Act made Indians "wards" of the state and denied them many rights other Canadians enjoyed.

Indians could not for example vote, leave the reserve without the permission of the Indian agent, or enter into contracts. Indians were defined as "non-persons" who had to be controlled, monitored and directed. Needless to say the bands were not consulted on the powers or effects of the Indian Act prior to its passage in parliament. Those were indeed different times . . . different attitudes.

Anyway, to answer your question, concerns of the bands had to be expressed to the Indian agent who acted as the go-between for the bands with the rest of the world. In some instances the concerns of bands over treaty land entitlement were never heard. In other instances they were overlooked. In some cases they were just ignored.

In 1905 the province of Saskatchewan was formed. The federal government while establishing the province, retained the administration of lands and resources of the new province (likewise for Manitoba [1870] and Alberta [1905]) partially in order to ensure that the land settlement process would continue unabated across the prairies, yet also in order to continue the treaty process.

By 1930 most of the good agricultural land had been claimed by non-Indian settlers. The railway had accomplished one of the purposes envisaged by the first Canadian government.



That same year the federal government through the Resources Transfer Agreement transferred into provincial control the remaining natural resources and Crown lands. Yet section ten of that agreement stated that the three western provinces — in our case, Saskatchewan — had to make unoccupied Crown land available to Canada to assist the federal government in fulfilling any outstanding Indian land entitlement that might have been overlooked. The Canadian government, by the inclusion of that section, obviously knew that there might well be some entitlement land due in the west, but I'm not too sure that they had any real comprehension of the variance between what was owed and what had been met.

Update: You were saying earlier that it wasn't until the '60s that any real meaningful research was initiated vis-a-vis entitlement?

Gross: Yes, and it was as a result of that treaty research that the federal government in 1975 wrote to the premiers of the prairie provinces, stating that some bands were owed additional land under the agreements of the treaties. Canada said it was time that the debt was settled.

Update: What was the response from Manitoba, Alberta and Saskatchewan?

Gross: I can't speak for what happened in the other two regions, but I know that the province of Saskatchewan responded relatively quickly and through correspondence with the Federation of Saskatchewan Indians (FSI) and the federal government agreed to negotiate the land entitlement claims.

Update: And these negotiations led to the so-called Saskatchewan agreement . . . or formula . . . or Saskatchewan position?

Update: It . . . the negotiated result . . . has been called all three at various times but let's call it the Saskatchewan position. And that position was arrived at by 1977 . . . at a time incidently when it was recognized by all parties involved in the entitlement process that there was very little suitable provincial Crown lands left.

Update: O.K., but what is the Saskatchewan position?

Gross: Briefly stated, it is that both occupied and unoccupied Crown land would be made available for selection . . . and that includes both federal and

provincial Crown land. Acreage for the settlement of the treaty land entitlements would be based on the band populations (of the entitlement bands) as established at December 31, 1976, and . . . and this is the part that I really try and stress and can't stress too much, where occupied Crown lands are selected, the lessee's interest . . . the interest of the so-called third party, must be satisfactorily discharged. And must be discharged in a way that the province of Saskatchewan approves.

Update: So there is no way, whatsoever, that either level of government is riding roughshod over the rights of those with third party interest?

Gross: No way . . . in fact, where negotiations have taken place, those with third party interest have been more than satisfied.

Update: How many entitlement acres have been approved by the federal government as owing to bands? How many have been selected . . . and so on?

Gross: Well, of the approximate 1.1 million acres claimed, 250,000 have been committed, 60,000 have been transferred, 300,000 have not been selected and the balance is under review.

Now the nearly 800,000 acres of lands selected by the 21 entitlement bands are roughly categorized along these lines. 66,000 acres come from federal [PFRA] pastures, 145,000 acres come from provincial pastures, 11,000 acres come from federal school lands, 141 acres of Crown lands suitable for agricultural purposes have been chosen and the balance of nearly 430,000 acres is land which might have application for forestry, mineral, or recreational development.

Gross: As you can perhaps infer from this whole process, a great deal of time, effort and money goes into this entitlement settlement. There are safeguards for all parties. There is room for consultation, negotiation.

Update: Perhaps this is a good place to end this review, but I would like to hear from you your feeling of how long this entitlement process will continue before a final settlement is concluded?

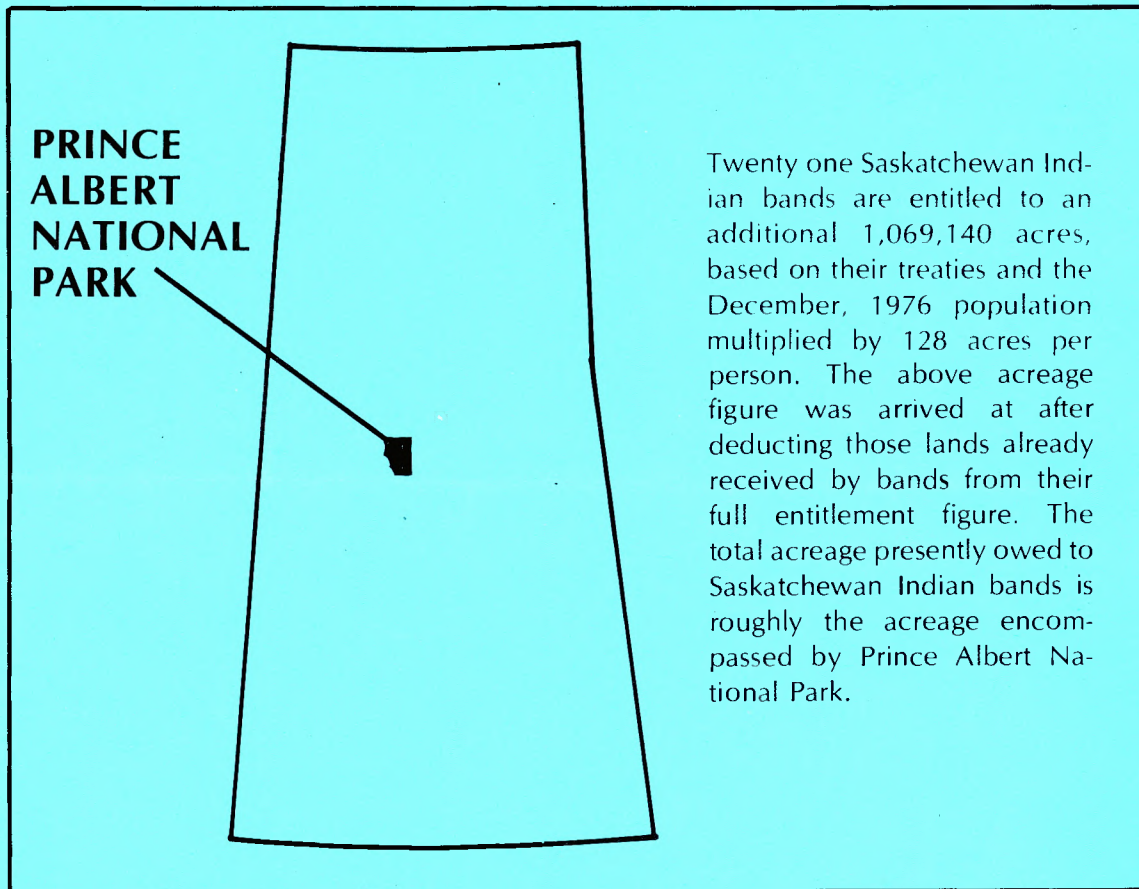
Gross: All I can say on that is within the next few years, Canada and Saskatchewan may be able to proudly proclaim that it has fulfilled constitutional and legal obligations concerning outstanding Indian land entitlements.

Update: Thanks, Al.

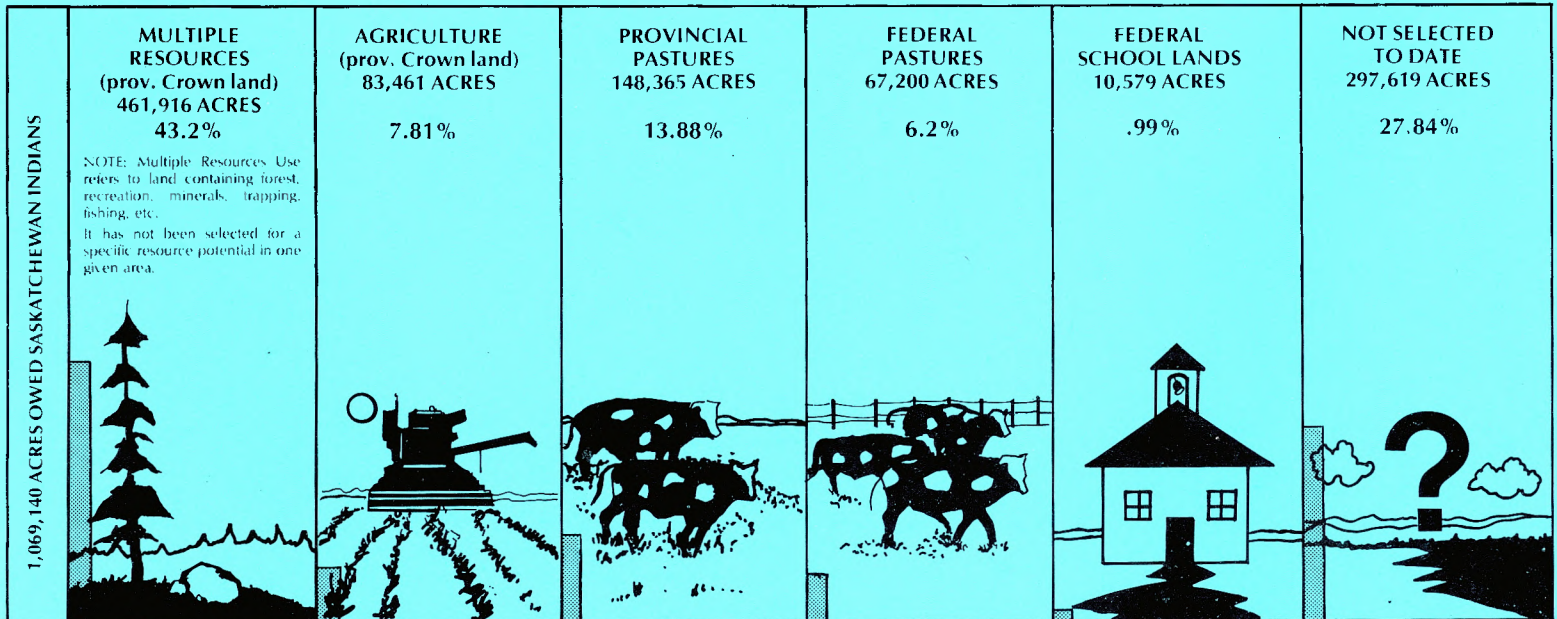


Intergovernmental relations manager, Al Gross, "... within the next few years Canada and Saskatchewan may be able to proudly proclaim that constitutional and legal obligations concerning outstanding Indian land entitlements within the province has been fulfilled."

Entitlement land at a glance



Twenty one Saskatchewan Indian bands are entitled to an additional 1,069,140 acres, based on their treaties and the December, 1976 population multiplied by 128 acres per person. The above acreage figure was arrived at after deducting those lands already received by bands from their full entitlement figure. The total acreage presently owed to Saskatchewan Indian bands is roughly the acreage encompassed by Prince Albert National Park.



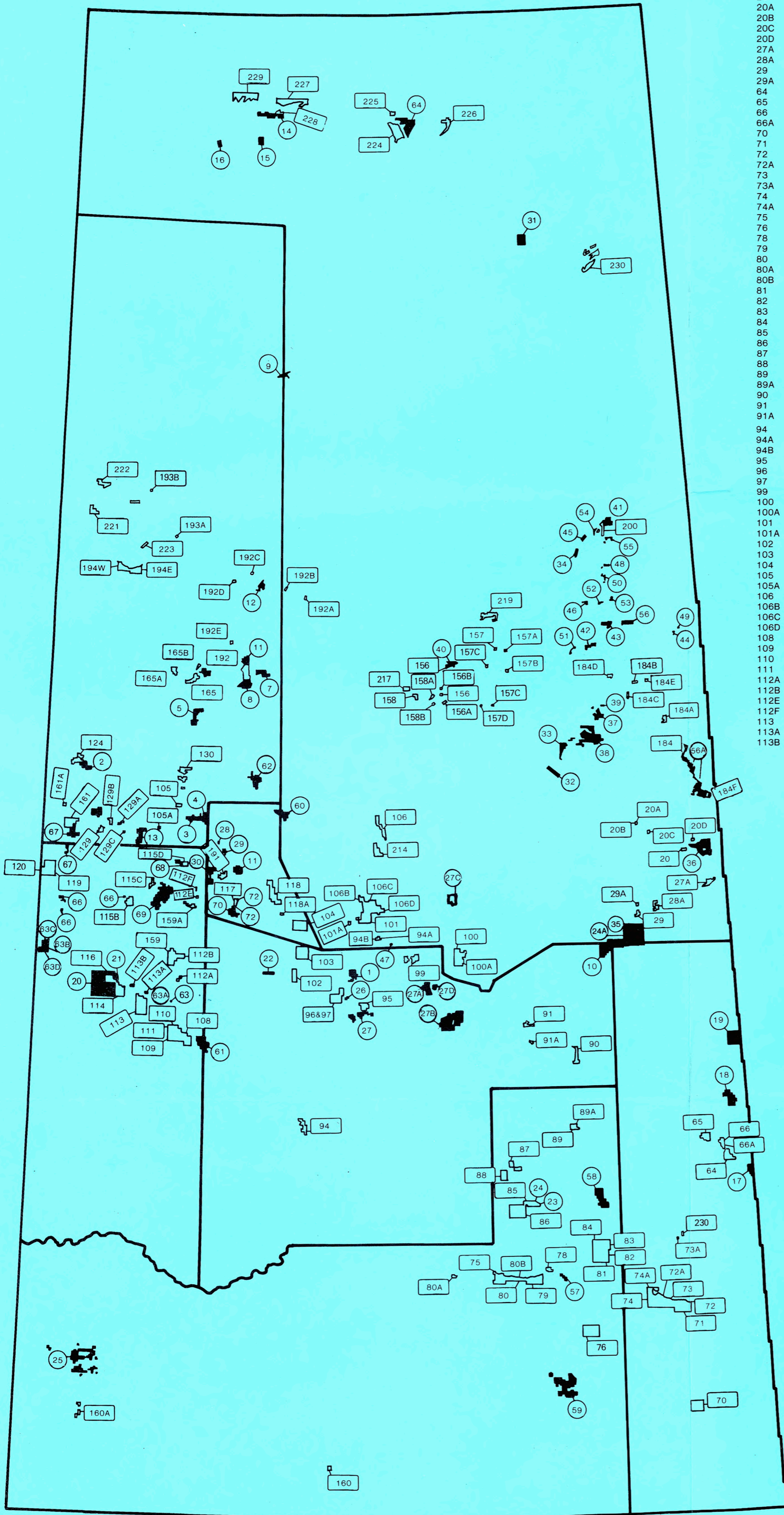
For more information about the federal government's program to settle the outstanding treaty land entitlement of Saskatchewan's Indians, contact:

Information Services
Indian Affairs
Woodbine Place
2332 - 11th Avenue
Regina, Saskatchewan
S4P 2G7, or phone:
(306) 359-6429

SASKATCHEWAN TREATY LAND ENTITLEMENT SELECTION STATUS

REVISED JULY 1981

INDIAN RESERVE INDEX

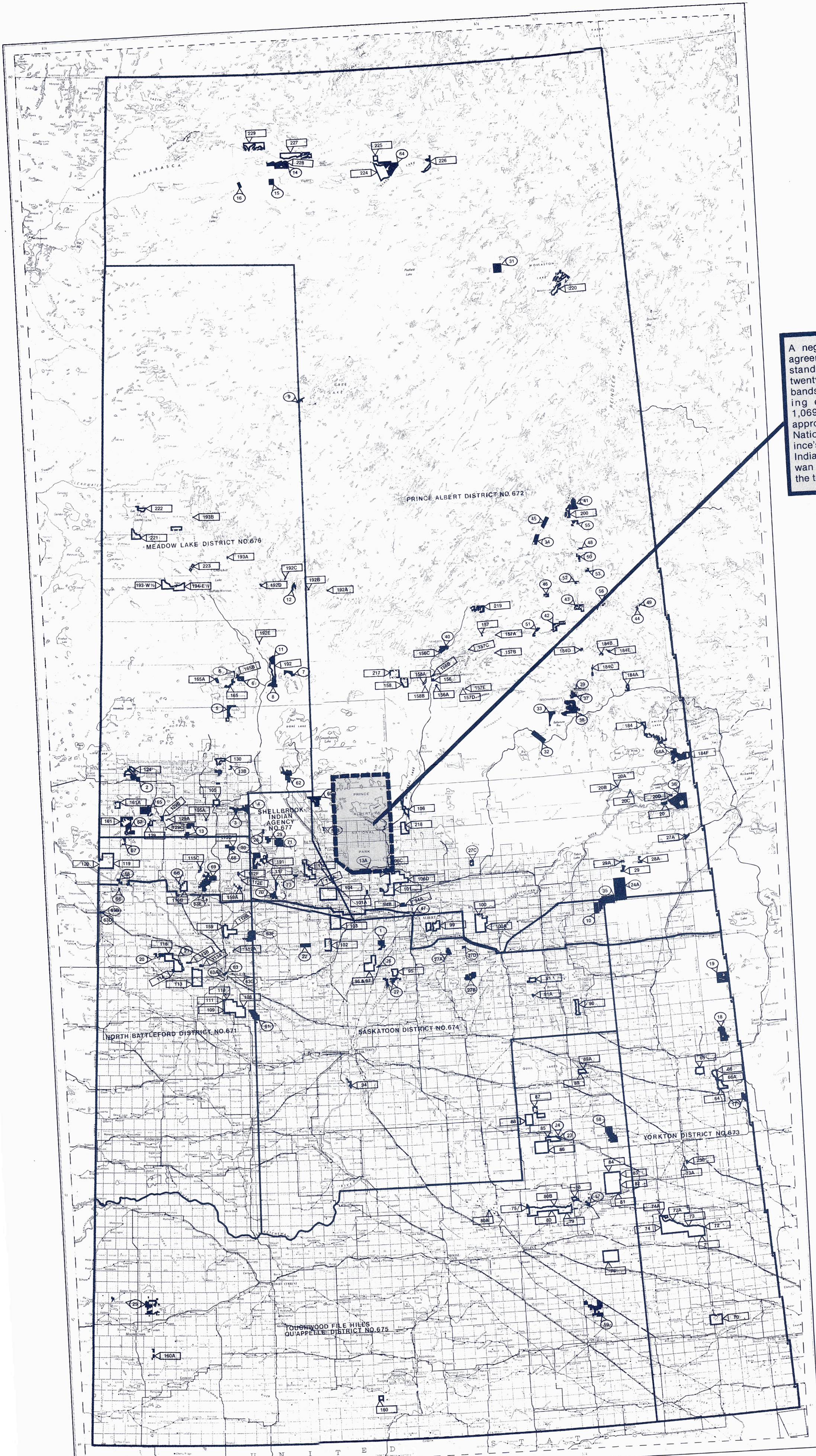


Res. No.	Name of Reserve	Band Name			
20	Cumberland	Cumberland	114	Poundmaker	Poundmaker
20A	Pine Bluff	Cumberland	115B	New Thunderchild	Thunderchild
20B	Pine Bluff	Cumberland	115C	New Thunderchild	Thunderchild
20C	Muskeg River	Cumberland	115D	Thunderchild	Thunderchild
20D	Budds Point	Cumberland	116	Little Pine & Lucky Man	Little Pine, Lucky Man
27A	Carrot River	The Pas	117	Witchehan Lake	Witchehan Lake
28A	Shoal Lake	Shoal Lake	118	Big River	Big River
28A	Shoal Lake	Shoal Lake	118A	Big River	Big River
29	Red Earth	Red Earth	119	Seekaskootch	Onion Lake
29A	Carrot River	Red Earth	120	Makao	Onion Lake
64	Cote	Cote	124	Bighead	Joseph Bighead
65	The Key	The Key	129	Makwa Lake	Makwa-Sahgalehcan
66	Keeseekoose	Keeseekoose	129A	Makwa Lake	Makwa-Sahgalehcan
66A	Keeseekoose	Keeseekoose	129B	Makwa Lake	Makwa-Sahgalehcan
70	White Bear	White Bear	129C	Makwa Lake	Makwa-Sahgalehcan
71	Ochapowace	Ochapowace	130	Waterhen	Waterhen Lake
72	Kahkewistahaw	Kahkewistahaw	156	Lac La Ronge	Lac La Ronge
72A	Kahkewistahaw	Kahkewistahaw	156A	Potatoe River	Lac La Ronge
73	Cowessess	Cowessess	156B	Kitsakie	Lac La Ronge
73A	Little Bone	Sakimay	156C	Sucker River	Lac La Ronge
74	Sakimay	Sakimay	157	Stanley	Lac La Ronge
74A	Shesheep	Sakimay	157A	Stanley	Lac La Ronge
75	Piapot	Piapot	157B	Old Fort	Lac La Ronge
76	Assiniboine	Carry the Kettle	157C	Four Portages	Lac La Ronge
78	Standing Buffalo	Standing Buffalo	157D	Fox Point	Lac La Ronge
79	Pasqua	Pasqua	157E	Fox Point	Lac La Ronge
80	Muscowpetung	Muscowpetung	158	Little Hills	Lac La Ronge
80A	Last Mountain Lake	(Commonly Held)	158A	Little Hills	Lac La Ronge
80B	Hay Lands		158B	Little Hills	Lac La Ronge
81	Peepeekisis	Peepeekisis	159	Saulteaux	Saulteaux
82	Okanese	Okanese	159A	Saulteaux	Saulteaux
83	Starblanket	Starblanket	160	Wood Mountain	Wood Mountain
84	Little Black Bear	Little Black Bear	160A	Nikaneet	Nikaneet
85	Muskowekwan	Muskowekwan	161	Ministikwan	Island Lake
86	Gordon	Gordon	161A	Ministikwan	Island Lake
87	Day Star	Day Star	165	Canoe Lake	Canoe Lake
88	Poorman	Poorman	165B	Canoe Lake	Canoe Lake
89	Fishing Lake	Fishing Lake	184	Amisk Lake	Peter Ballantyne
89A	Fishing Lake	Fishing Lake	184A	Birch Portage	Peter Ballantyne
90	Nut Lake	Nut Lake	184B	Pelican Narrows	Peter Ballantyne
91	Kinistino	Kinistino	184C	Sandy Narrows	Peter Ballantyne
91A	Kinistino	Kinistino	184D	Woody Lake	Peter Ballantyne
94	White Cap	Moose Woods	184E	Mirond Lake	Peter Ballantyne
94A	Wahpeton	Wahpeton	184F	Sturgeon Weir	Peter Ballantyne
94B	Wahpeton	Wahpeton	191	Chitek Lake	Pelican Lake
95	One Arrow	One Arrow	192	LaPlonge	English River
96	Beardy's & Okemasis	Beardy's & Okemasis	192A	Elak Dase	English River
97	Beardy's & Okemasis	Beardy's & Okemasis	192B	Knee Lake	English River
99	Muskoday	John Smith	192C	Dipper Rapids	English River
100	James Smith	James Smith	192D	Wapachewunak	English River
100A	Cumberland	James Smith	192E	He A La Crosse	English River
101	Sturgeon Lake	Sturgeon Lake	193-W/2	Peter Pond Lake	Buffalo River
101A	Sturgeon Lake	Sturgeon Lake	193A	Churchill Lake	Tumor Lake
102	Muskeg Lake	Muskeg Lake	193B	Tumor Lake	Tumor Lake
103	Mistawasis	Mistawasis	194-E/2	Tumor Lake	Tumor Lake
104	Atakokup	Sandy Lake	200	Southend	Peter Ballantyne
105	Meadow Lake	Flying Dust	217	Morin Lake	Lac La Ronge
105A	Meadow Lake	Flying Dust	218	Bittem Lake	Lac La Ronge
106	Montreal Lake	Montreal Lake	219	Grandmother's Bay	Lac La Ronge
106B	Montreal Lake	Montreal Lake	220	Lac La Hache	Lac La Hache
106C	Little Red River	Lac La Ronge	221	La Loche	Portage La Loche
106D	Little Red River	Lac La Ronge	222	La Loche	Portage La Loche
108	Red Pheasant	Red Pheasant	223	La Loche	Portage La Loche
109	Mosquito	Mosquito-Grizzly Bear's Head	224	Chicken	Stony Rapids
110	Grizzly Bear's Head & Lean Man	Mosquito-Grizzly Bear's Head	225	Chicken	Stony Rapids
111	Grizzly Bear's Head & Lean Man	Mosquito-Grizzly Bear's Head	226	Chicken	Stony Rapids
112A	Moosomin	Moosomin	227	Fond du Lac	Fond du Lac
112B	Moosomin	Moosomin	228	Fond du Lac	Fond du Lac
112C	Moosomin	Moosomin	229	Fond du Lac	Fond du Lac
112D	Moosomin	Moosomin	230	Minoachuk	Sakimay
113	Sweetgrass	Sweetgrass			
113A	Sweetgrass	Sweetgrass			
113B	Sweetgrass	Sweetgrass			

BAND SELECTION INDEX

Selection No.	Band Name	Location	
1	Beardy & Okemasis	Wingard Provincial Community Pasture	6240
2	Canoe Lake	Beacon Hill Provincial Pasture	8960
3	Canoe Lake	Cabana Provincial Pasture	4555
4	Canoe Lake	Eagles Lake	8598
5	Canoe Lake	Keeley Lake	18000
6	Canoe Lake	Kyle Lake	4500
7	English Lake	Lac La Plonge	4640
8	English River	Beauval Student Residence	9605
9	Cree Lake	Pasquia Hills	3960
10	English River	Pine River	11520
11	English River	Primeau Lake	4000
12	English River	Makwa Provincial Community Pasture	4176
13	Flying Dust	Addition to Indian Reserve No. 228	11640
14	Fond Du Lac	Otherside of River	19761
15	Fond Du Lac	Parcel A along MacFarlane River	5000
16	Fond Du Lac	PFRA Cote San Clara Pasture	6080
17	Keeseekoose	Whitebeech Provincial Community Pasture	18500
18	Keeseekoose	Woody and Spirit Lakes	19000
19	Little Pine	Adjoining Little Pine Indian Reserve	65880
20	Little Pine	PFRA Paynton Pasture	2600
21	Lucky Man	Meeting Lake Pasture	7680
22	Muskowekwan	Muskowekwan Student Residence	120.87
23	Muskowekwan	North of Muskowekwan School	0.221
24	Muskowekwan	Pasquia Hill	46080
24A	Muskowekwan	Leased and Patented Land - Nikaneet Reserve	20030
25	Nikaneet	Rosheim-St. Julien Provincial Community Pastures	681.16
26	One Arrow	Crystal Springs Provincial Community Pasture	5280
27	One Arrow	Pathlow Provincial Community Pasture	10000
27A	One Arrow	Harper Lake	2880
27B	One Arrow	Kinistino Community Pasture	1370
27C	One Arrow	Chitek River S.E. of Junor	1280
27D	One Arrow	Lac Eau Claire	5120
28	Pelican Lake	West of Pelican Lake Indian Reserve	17920
29	Pelican Lake	Asmera West of Wollaston Lake	13760
30	Pelican Lake	Ballantyne River	8960
31	Peter Ballantyne	Bear Point	1500
32	Peter Ballantyne	Brabant Lake	6400
33	Peter Ballantyne	Carrot River - Pasquia Hills Area	27000
34	Peter Ballantyne	Cumberland House Area - East of Tearing River	33000
35	Peter Ballantyne	Deschambault Lake Area	..
36	Peter Ballantyne	Deschambault Lake Area	..
37	Peter Ballantyne	Deschambault Lake Community Reserve	200
38	Peter Ballantyne	East of Nemadon Lake	10000
39	Peter Ballantyne	Eastern Extension of I.R. No. 200 'Graphite Selection'	3500
40	Peter Ballantyne	Frog Portage - Uskk Lake	..
41	Peter Ballantyne	Iskwatam Lake	..
42	Peter Ballantyne	Island Falls	1000
43	Peter Ballantyne	Junction Highway No. 102 and No. 105	7680
44	Peter Ballantyne	Laonli Lake	3200
45	Peter Ballantyne	Prince Albert Student Residence	41
46	Peter Ballantyne	Royal Lake - McDonald Creek	..
47	Peter Ballantyne	Sandy Bay Community	200
48	Peter Ballantyne	Steephill Lake Area	..
49	Peter Ballantyne	Trade Lake Area	..
50	Peter Ballantyne	Two Rivers (Nisostiquiak)	..
51	Peter Ballantyne	West of Gilbert Lake Area	..
52	Peter Ballantyne	Western Extension of I.R. No. 200	450
53	Peter Ballantyne	Whitesand Rapids - Fatard Lake	..
54	Peter Ballantyne	Witago and Pita Lakes Area	..
55	Peter Ballantyne	Amisk Lake (Sturgeon Weir)	120
56	Peter Ballantyne	Lebre's Metis Farm	3407
56A	Piapot	PFRA Ituna Bon Accord Pasture	24180
57	Piapot	PFRA Wellington Pasture	25680
58	Piapot	Delaronde Lake	18000
59	Red Pheasant	Lizard Lake	14800
60	Red Pheasant	Sled Lake	12200
61	Red Pheasant	Remote Trans. Side-Crown Properties WES/96 D.O.T.	5.68
62	Saulteaux	Old Indian Hospital - North Battleford	120
63	Saulteaux	Old Post Office Lloydminster	333
63A	Saulteaux	Dept. of Highways weigh scales Lloydminster	3
63B	Saulteaux	Old R.C.M.P. property Lloydminster	333
63C	Saulteaux	Elizabeth Falls near Black Lake	31494
63D	Saulteaux	Makwa Lake	17280
64	Stony Rapids	Fort Pitt - Thunderchild	3840
65	Thunderchild	Ministikwan Worthington and Bronson Lakes	16000
66	Thunderchild	Timber Reserve	5120
67	Thunderchild	Turtle Lake (includes Fairholme Pasture)	27520
68	Thunderchild	Bapaume Provincial Pasture	7054
69	Thunderchild	Northern Shell and Moosuk Lakes 'Prov. Forest'	14185
70	Witchehan Lake	Private Land	1660
71	Witchehan Lake		
72	Witchehan Lake		

* Portion of 35000 acres on Churchill and Reindeer River
 ** Portion of 32000 acres - Forestry Selection 2A
 T - Transferred to Reserve Status
 C - Committed but subject to Satisfactory 3rd party interest



A negotiated federal-provincial agreement recognizes the outstanding treaty land rights of twenty-one Saskatchewan Indian bands. The bands' total outstanding entitlement acreage is 1,069,140 acres, an area the approximate size of Prince Albert National Park or 2% of the province's land mass. The current Indian population of Saskatchewan accounts for less than 5% of the total population.

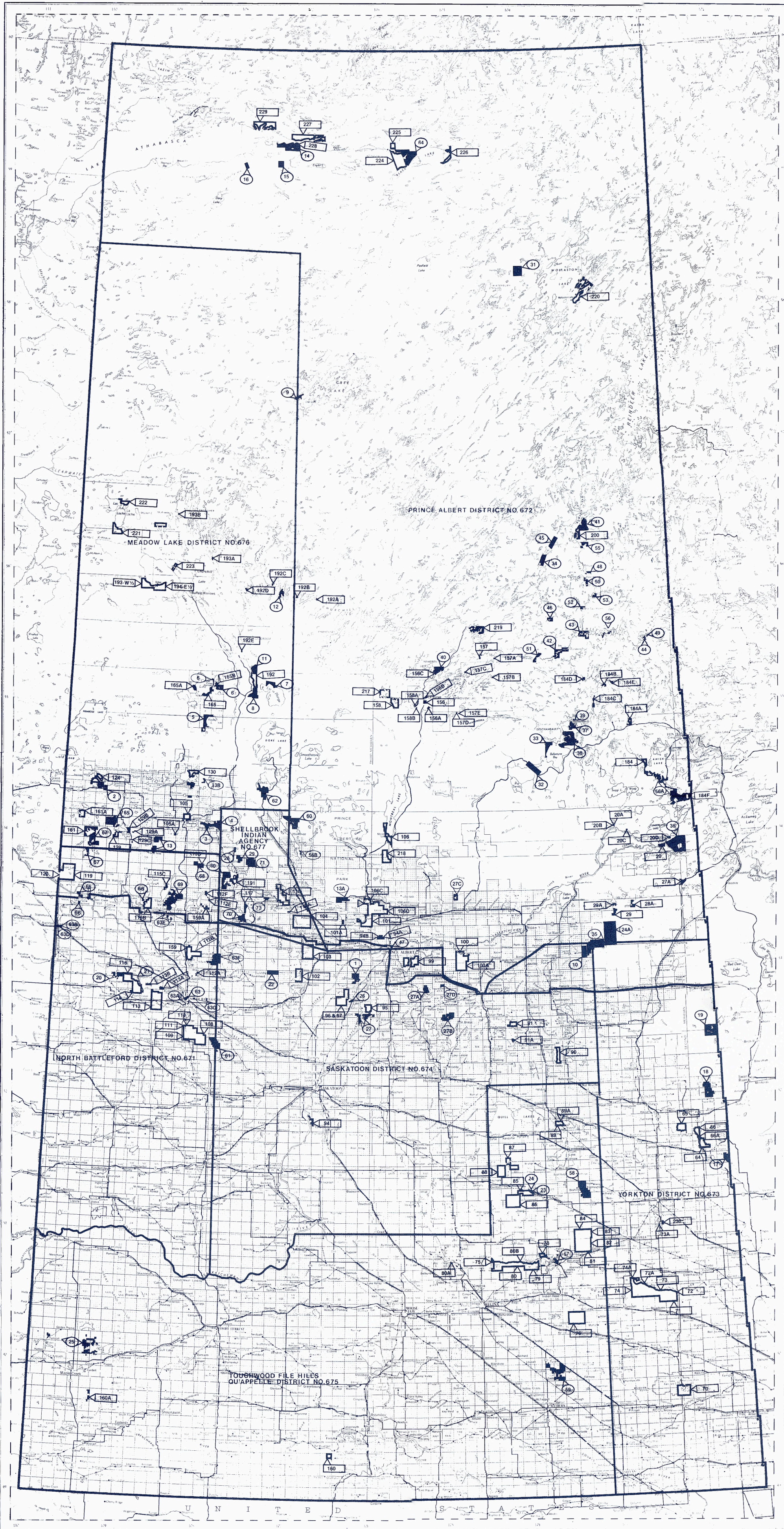
GENERAL LOCATION OF INDIAN RESERVES
 RESERVE NAME AND NUMBER
 BAND NAME WHEN DIFFERENT FROM RESERVE NAME
 STURGEON LAKE

SASKATCHEWAN
 SCALE 1:1,000,000

AGENCY BOUNDARY
 DISTRICT BOUNDARY
 BAND SELECTIONS
 INDIAN RESERVE



SASKATCHEWAN TREATY LAND ENTITLEMENT SELECTION STATUS REVISED FEBRUARY 1982



INDIAN RESERVE INDEX

Res. No.	Name of Reserve	Band Name	Res. No.	Name of Reserve	Band Name
23	Cumberland	Cumberland	113B	Sweetgrass	Sweetgrass
20A	Pine Bluff	Cumberland	114	Poundmaker	Poundmaker
20B	Pine Bluff	Cumberland	115B	New Thunderchild	Thunderchild
20C	Muskeg River	Cumberland	115C	New Thunderchild	Thunderchild
20D	Budd's Point	Cumberland	115D	Thunderchild	Thunderchild
27A	Carrot River	The Pas	116	Little Pine & Lucky Man	Little Pine, Lucky Man
28A	Shoal Lake	Shoal Lake	117	Witchehan Lake	Witchehan Lake
29	Red Earth	Red Earth	118	Big River	Big River
29A	Carrot River	Red Earth	118A	Big River	Big River
64	Cote	The Key	119	Seekaskooteh	Onion Lake
65	The Key	The Key	120	Makico	Onion Lake
66	Keeseekoosewa	Keeseekoosewa	124	Fox Point	Joseph Elginhead
66A	Keeseekoosewa	Keeseekoosewa	129	Makwa Lake	Makwa-Sahgaiehan
70	White Bear	White Bear	129A	Makwa Lake	Makwa-Sahgaiehan
71	Ochapowaca	Ochapowaca	129B	Makwa Lake	Makwa-Sahgaiehan
72	Kahkewistahaw	Kahkewistahaw	129C	Makwa Lake	Makwa-Sahgaiehan
72A	Kahkewistahaw	Kahkewistahaw	130	Waterhen	Waterhen Lake
73	Cowessess	Cowessess	136	Lac La Ronge	Lac La Ronge
73A	Little Bone	Saskimay	156A	Polatoe River	Lac La Ronge
74	Saskimay	Saskimay	156B	Saskimay	Lac La Ronge
74A	Saskimay	Saskimay	156C	Suckler River	Lac La Ronge
75	Pisapot	Saskimay	157	Canary	Lac La Ronge
76	Assiniboine	Carry the Kettle	157A	Stenley	Lac La Ronge
78	Standing Buffalo	Standing Buffalo	157B	Old Fort	Lac La Ronge
79	Pasqua	Pasqua	157C	Four Portages	Lac La Ronge
80	Muskowapung	Muskowapung	157D	Fox Point	Lac La Ronge
80A	Last Mountain Lake	(Commonly Held)	157E	Fox Point	Lac La Ronge
80B	Hay Lands	Pepeekeiss	158	Little Hills	Lac La Ronge
81	Pepeekeiss	Pepeekeiss	158A	Little Hills	Lac La Ronge
82	Okanese	Okanese	158B	Little Hills	Lac La Ronge
83	Starblanket	Starblanket	159	Saulteaux	Saulteaux
84	Little Black Bear	Little Black Bear	159A	Saulteaux	Saulteaux
85	Muskowekwan	Muskowekwan	160	Wood Mountain	Wood Mountain
86	Gordon	Gordon	160A	Nikaneet	Nikaneet
87	Day Star	Day Star	161	Ministkwan	Island Lake
88	Pooman	Pooman	161A	Ministkwan	Island Lake
89	Fishing Lake	Fishing Lake	165	Canoe Lake	Canoe Lake
89A	Fishing Lake	Fishing Lake	165A	Canoe Lake	Canoe Lake
90	Nut Lake	Nut Lake	165B	Canoe Lake	Canoe Lake
91	Kinistino	Kinistino	164	Amisk Lake	Peter Ballantyne
91A	Kinistino	Kinistino	164A	Birch Portage	Peter Ballantyne
94	White Cap	Moose Woods	164B	Pelican Narrows	Peter Ballantyne
94A	Wahpeton	Wahpeton	164C	Sandy Narrows	Peter Ballantyne
94B	Wahpeton	Wahpeton	164D	Woody Lake	Peter Ballantyne
95	One Arrow	One Arrow	164E	Miron Lake	Peter Ballantyne
96	Beardy's & Okemasis	Beardy's & Okemasis	164F	Sturgeon Weir	Peter Ballantyne
97	Beardy's & Okemasis	Beardy's & Okemasis	191	Chik Lake	Pelican Lake
99	Muskoday	John Smith	192	LaPlonge	English River
100	James Smith	James Smith	192A	Elak Dase	English River
100A	Cumberland	James Smith	192B	Knee Lake	English River
101	Sturgeon Lake	Sturgeon Lake	192C	Diaper Rapids	English River
101A	Sturgeon Lake	Sturgeon Lake	192D	Wapachewanak	English River
102	Muskeg Lake	Muskeg Lake	192E	Ile A La Croix	English River
103	Mistawis	Mistawis	193-W	Peter Pond Lake	Buffalo River
104	Awakap	Awakap	193A	Churchill Lake	Turnor Lake
105	Meadow Lake	Flying Dust	193B	Turnor Lake	Turnor Lake
105A	Meadow Lake	Flying Dust	194-E	Turnor Lake	Turnor Lake
106	Montreal Lake	Montreal Lake	200	Southend	Peter Ballantyne
106B	Montreal Lake	Montreal Lake	217	Marion Lake	Lac La Ronge
106C	Little Red River	Lac La Ronge	218	Blumen Lake	Lac La Ronge
106D	Little Red River	Lac La Ronge	219	Grandmother's Bay	Lac La Ronge
108	Red Pheasant	Red Pheasant	220	Lac La Hache	Lac La Hache
109	Mosquito	Mosquito-Grizzly Bear's Head	221	LaLoche	Portage LaLoche
110	Grizzly Bear's Head & Loan Man	Mosquito-Grizzly Bear's Head	222	LaLoche	Portage LaLoche
111	Grizzly Bear's Head & Loan Man	Mosquito-Grizzly Bear's Head	223	LaLoche	Portage LaLoche
112A	Moosomin	Moosomin	224	Chicken	Stony Rapids
112B	Moosomin	Moosomin	225	Chicken	Stony Rapids
112E	Moosomin	Moosomin	226	Chicken	Stony Rapids
112F	Moosomin	Moosomin	227	Fond du Lac	Fond du Lac
113	Sweetgrass	Sweetgrass	228	Fond du Lac	Fond du Lac
113A	Sweetgrass	Sweetgrass	229	Fond du Lac	Fond du Lac
113B	Sweetgrass	Sweetgrass	230	Minoachuk	Saskimay

BAND CROWN LAND SELECTIONS

Selection No.	Band Name	Location	Area (Acres)
1	Beardy & Okemasis	Wingard Provincial Community Pasture	6240
2	Canoe Lake	Beacon Hill Provincial Pasture	8960
3	Canoe Lake	C Cabana Provincial Pasture	4555
4	Canoe Lake	T Eagles Lake	8598
5	Canoe Lake	C Kesley Lake	18000
6	Canoe Lake	C Kyle Lake	4500
7	English River	C Lac La Plonge	4640
8	English River	T Beauval Student Residence	9605
9	English River	C Cree Lake	3260
10	English River	C Pasqua Hills	11520
11	English River	C Pine River	4000
12	English River	T Primeau Lake	4176
13	Flying Dust	Makwa Provincial Community Pasture	9880
13A	Flying Dust	Cookson Community Pasture	10240
13B	Flying Dust	Jarvis Lake	215
14	Fond Du Lac	C Addition to Indian Reserve No. 228	19781
15	Fond Du Lac	C Oldside of River - Community Pasture	5000
16	Fond Du Lac	C Parcel A along MacFarlane River	5000
17	Keeseekoosewa	PFRA Cote San Clara Pasture	6080
18	Keeseekoosewa	C Whitebeech Provincial Community Pasture	18500
19	Keeseekoosewa	C Woody and Spirit Lakes	19000
20	Little Pine	C Adjoining Little Pine Indian Reserve	4235
21	Little Pine	PFRA Paynton Pasture	2830
22	Lucky Man	Meeting Lake Pasture	7680
23	Muskowekwan	T Muskowekwan Student Residence	12087
24	Muskowekwan	T North of Muskowekwan School	6221
24A	Muskowekwan	Pasqua Hill	46080
25	Nikanet	Leased and Patented Land - Nikanet Reserve	20030
26	One Arrow	Duck Lake Student Residence	8116
27	One Arrow	C Rosthorn-St. Julien Prov. Community Pasture	10460
27A	One Arrow	C Crystal Springs Provincial Community Pasture	5280
27B	One Arrow	Pathlow Provincial Community Pasture	12000
27C	One Arrow	Harper Lake	3980
27D	One Arrow	Kinistino Community Pasture	1370
28	Pelican Lake	C Chikik River S.E. of Junor	1600
29	Pelican Lake	C Lac Eau Claire	5120
30	Pelican Lake	C West of Pelican Lake Indian Reserve	16000
31	Peter Ballantyne	Asmera West of Wollaston Lake	13760
32	Peter Ballantyne	Ballantyne River	15000
33	Peter Ballantyne	Bear Point	2650
34	Peter Ballantyne	Brabant Lake	6400
35	Peter Ballantyne	Carrot River - Pasqua Hills Area	26880
36	Peter Ballantyne	Cumberland Lake Area - E. of Teardrop River	33000
37	Peter Ballantyne	Deschambault Lake Area	**
38	Peter Ballantyne	Deschambault Lake Area	**
39	Peter Ballantyne	Deschambault Lake Community Reserve	**
40	Peter Ballantyne	East of Nemesis Lake	200
41	Peter Ballantyne	C Eastern ext. of I.R. No. 200 "Graphite Section"	3500
42	Peter Ballantyne	Frog Portage - Uskik Lake	**
43	Peter Ballantyne	Iskwatam Lake	**
44	Peter Ballantyne	Island Falls	1800
45	Peter Ballantyne	Junction Highway No. 102	7880
46	Peter Ballantyne	Laonli Lake	3200
47	Peter Ballantyne	C Prince Albert Student Residence	41
48	Peter Ballantyne	Royal Lake - McDonald Creek	**
49	Peter Ballantyne	Sandy Bay Community	200
50	Peter Ballantyne	Steephill Lake Area	**
51	Peter Ballantyne	Trade Lake Area	**
52	Peter Ballantyne	Two Rivers (Moosequik)	**
53	Peter Ballantyne	West of Gilbert Lake Area	**
54	Peter Ballantyne	Whitesand Rapids - Fafard Lake	**
55	Peter Ballantyne	Wintego and Pita Lakes Area	**
56	Peter Ballantyne	Amisk Lake (Sturgeon Weir)	120
56A	Peter Ballantyne	Secs. 11, 12, 13, 14 T.p. 57, R. 50M	8900
56B	Peter Ballantyne	Lebert Melis Farm	3407
57	Pisapot	PFRA Iuna Bon Accord Pasture	24160
58	Pisapot	PFRA Wellington Pasture	25680
59	Red Pheasant	Delarande Lake	18000
60	Red Pheasant	C Lizard Lake	14800
61	Red Pheasant	C Sled Lake	12200
62	Red Pheasant	Remota Trans. Site-Crown Prop. WES-96 D.O.T.	5.68
63	Saulteaux	Old Indian Hospital - North Battleford	120
63A	Saulteaux	Old Post Office - Lloydminster	333
63B	Saulteaux	Old R.C.M.P. property - Lloydminster	333
63C	Saulteaux	Fairholme Area	1440
63D	Saulteaux	Hatherleigh Prov. Community Pasture	17000
63E	Saulteaux	North Battleford Provincial Crown	27500
63F	Saulteaux	Melville Monitoring Station	160
63G	Saulteaux	Fort Qu'Appelle Indian Hospital	1
63H	Saulteaux	Various Lots in Regime	5
63I	Saulteaux	Lebert Student Residence	55,087
63J	Saulteaux	Various Parcels Vacant Prov. Crown Land	9040
64	Stony Rapids	T Elizabeth Falls near Black Lake (added to Chicken IR, #224)	31494
65	Thunderchild	Makwa Lake	17280
66	Thunderchild	Fort Pitt - Thunderchild	3840
67	Thunderchild	C Ministkwan Worthington and Bronson Lakes	16000
68	Thunderchild	C Timbar Reserve	5120
69	Thunderchild	C Turtle Lake (includes Fairholme Pasture)	27500
70	Witchehan Lake	C Bapaune Provincial Pasture	7054
71	Witchehan Lake	C Northern Shell & Moosuk Lakes "Prov. Forest"	13670
72	Witchehan Lake	Tp 53, R9 & 10, W3M	1280

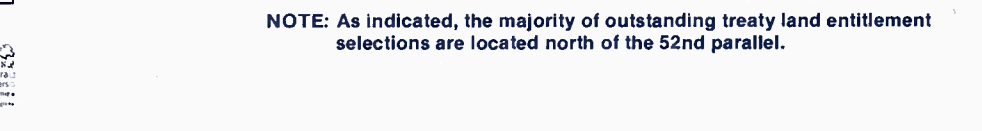
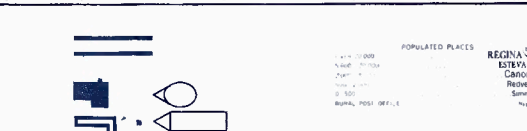
* Portion of 35000 acres on Churchill and Raindaar Rivers
 ** Portion of 32000 acres - Forestry Selection 2A

T - Transferred to Reserve Status
 C - Committed but subject to Satisfactory 3rd party interest

NOTE: As indicated, the majority of outstanding treaty land entitlement selections are located north of the 52nd parallel.

GENERAL LOCATION OF INDIAN RESERVES
 RESERVE NAME AND NUMBER LA LOCHE 223
 BAND NAME WHEN DIFFERENT FROM RESERVE NAME STURGEON LAKE

SASKATCHEWAN
 SCALE 1:1,000,000

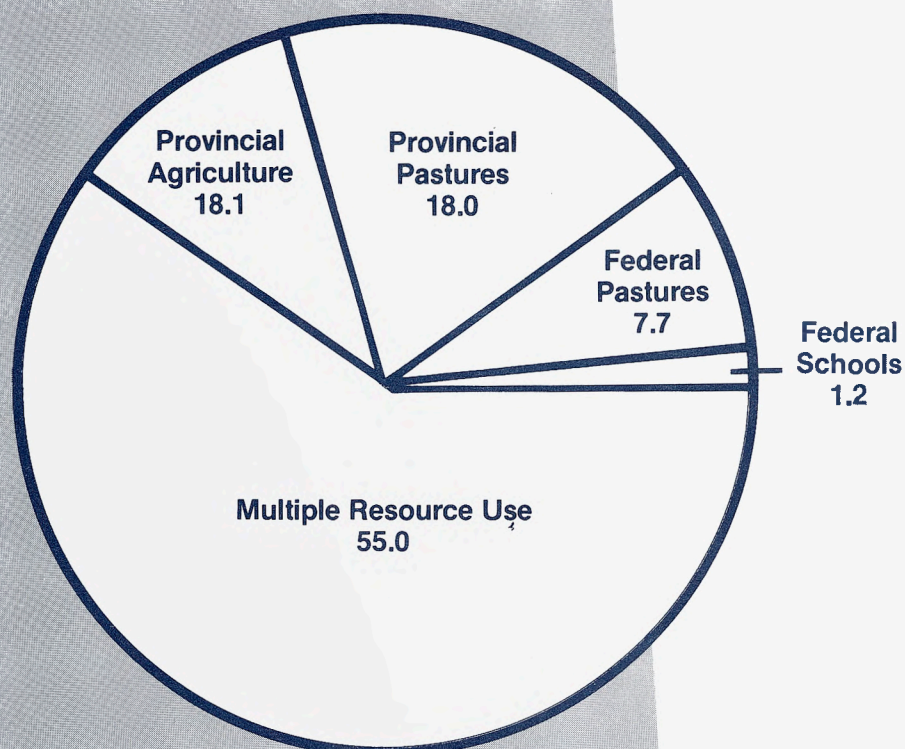
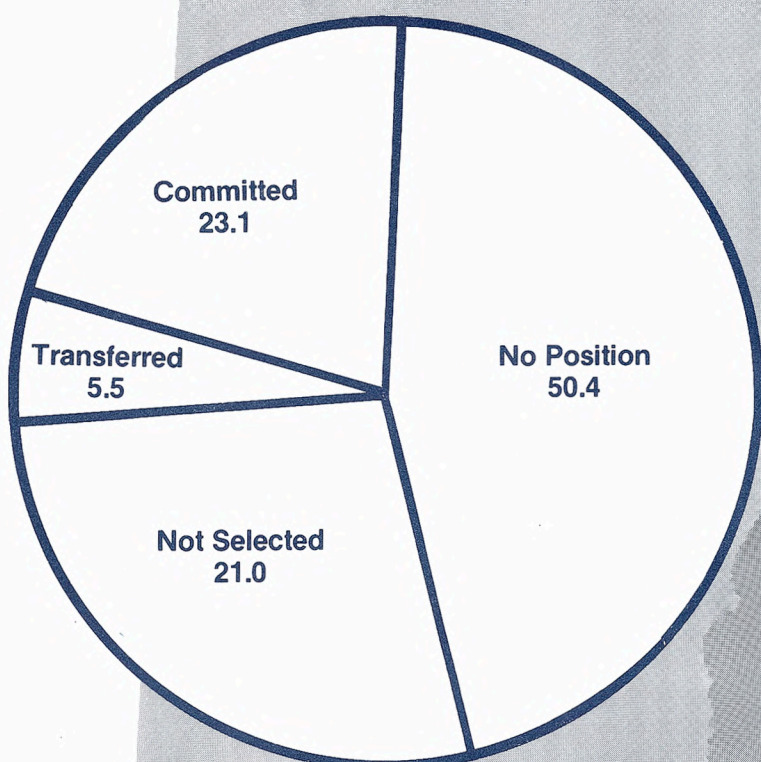


SASKATCHEWAN INDIAN BAND LAND ENTITLEMENTS

Fond du Lac
29,761 ac.

Stony Rapids

Stony Rapids
29,924 ac.
(claim fulfilled)



Total Entitlement Acreage		1,069,140
Committed	Crown lands officially committed for entitlement subject to satisfactory negotiation of all outstanding third party interests.	247,014
Transferred	Crown Lands officially designated as reserve land for the use and benefit of a specific Indian band.	58,494
Not Selected	Treaty Land Entitlement selections not made to date.	224,993
No Position	Specific land entitlement selections made by an Indian band on which the respective Crown has not stated a position.	538,639

Acreage Selected to Date	859,611
Federal Pastures	66,430
Provincial Pastures	154,320
Federal Schools	10,502
Multiple Resource	472,366
Agriculture	155,993

Canoe Lake
44,773 ac.

English River
44,401 ac.

Prince Albert

Peter Ballantyne
229,284.36 ac.

Flying Dust
30,084 ac.

Pelican Lake
22,285 ac.

Thunderchild
88,384 ac.

Witcheakan Lake
23,027 ac.

Saulteaux
44,238 ac.

Little Pine 77,696 ac.

Beardy & Okemasis
46,080 ac.

Lucky Man
7,680 ac.
(85,376 ac.)

One Arrow
55,936 ac.

Saskatoon

Red Pheasant
63,616 ac.

Keeseekoose
83,200 ac.

Muskowekwan
49,408 ac.

Starblanket
10,816 ac.

Okanese
11,572 ac.

Piapot
60,495 ac.

Regina

Nikaneet
15,136 ac.

FLOW CHART FOR NEW LAND ENTITLEMENT SURVEYS

