

## CHAPTER 5

### CONSENT TO SURRENDERS

A number of people in the Department of Indian Affairs were involved when decisions had to be made about the authorization for a surrender, for subdivisions, and for sales. Those who routinely reviewed and had access to the files were Secretary J.D. McLean, W.A. Orr of the Lands and Timber Branch, and the Deputy Superintendent General of Indian Affairs (DSGIA). On some occasions/issues the question of authorization would be referred to the Minister. The chief surveyor and his staff might also be consulted. Issues requiring an advance or loan of money would be referred to accountant Duncan Campbell Scott.

The Commissioner's Office might be asked to report on the need for a surrender, or on a band's response, or on sales possibilities. These reports would sometimes be prepared in conjunction with the Indian agents and/or inspectors, and sometimes by the Commissioner's Office alone. The Commissioner's Office was not always kept informed of events surrounding surrenders, however.

The summaries below are taken from data available to me. Little original research was undertaken for this project. Therefore, gaps in information will be apparent, as will inconsistencies in presentation from one surrender to the next. To some extent, these irregularities reflect the various approaches taken by different writers to the historical and economic research on land surrenders.

#### **PASSPASSCHASE IR 136**

##### **Surrender of 1888**

More than half the Passpasschase Band had taken scrip in 1886, and settlers in Edmonton were pressing for the release of the reserve base. Proposals had been made by the Department of the Interior, by the local settlers, and purportedly by some band members to amalgamate the remaining members with Enoch.

In 1887 Assistant Indian Commissioner Hayter Reed met with the remaining band members on the reserve to discuss their removal to, and amalgamation with, Enoch. They apparently agreed, but a surrender was not discussed. One of the Department's priorities was to persuade Chief Passpasschase and those who had taken scrip to leave the reserve (Tyler 1978, 124). The move took place in August, and in October the people were paid annuities with the bands they had joined.

Many questions are raised by this amalgamation. Was there still a band in existence? Who would be entitled to vote in a surrender? Would the people who had moved to other reserves in 1887 be entitled to vote, or any former member who had left since treaty signing? Departmental policy on these points was relatively unformed.

Commissioner Edgar Dewdney was authorized by the DSGIA to take a formal surrender, and this task was delegated to the new agent, Major de Balinhard. These actions took place in September 1887, after the removal. Note the wording of the instructions from DSGIA Vankoughnet to de Balinhard on September 30, 1887:

Cause a meeting of the voting members of the said Papastayo's band to be convened in accordance with the usual custom for calling such meeting, as such time and place as may to you seem most convenient, and bring before them for consideration, the question of surrendering the land within the said Reserve to be disposed of for their benefit . . . . Should a majority of the voting members of the Papastayo's Band be in favour of the surrender of the same on the above terms, you may take a formal surrender thereof from them. (NA, RG 10, vol. 3786, file 42010; quoted in Tyler 1978,127-28)

Agent de Balinhard did not act upon these instructions for a year, citing difficulties locating band members living elsewhere; severe weather and delayed rations also apparently hampered his activities (Tyler 1978, 130). Hayter Reed informed him that he only needed to locate the band members living on or near the reserve, and thus he did not have to locate those living at a distance from the old reserve. When Inspector T.P. Wadsworth arrived in November 1888, the Inspector and the Agent approached only three men from Passpasschase who were living with Enoch's Band at Stony Plain. All other former members were ignored, even though they had been present at annuity payments that fall (Tyler 1978, 137).

The meeting on November 19, 1888, to discuss the Passpasschase surrender involved the Agent, Inspector Wadsworth, and three former band members. There may have been as many as 12 others, living in Peace Hills or Bear Hills, who were eligible to vote. None of the potential voters was in fact still living on the reserve, so the decision as to whom to consult appears to have been arbitrary (Tyler 1978, 140-41).

According to personal communication from Jim Lapotac to Ken Tyler, October 1973, one of the three band members opposed the surrender, but was told that such a small number of people could not keep a large reserve idle (Tyler 1978, 140-41). The members asked for lumber and shingles for building new houses on Stony Plain. There is no record of voting procedure, the type of notice of meeting, the amount of notice, or the specifics of the discussions. All three voters signed the surrender document, even though one individual was allegedly opposed. The affidavit was not signed until May 22, 1889. It was signed by Agent de Balinhard and Napasis before Justice Rouleau of the Supreme Court of the North-West Territories.

According to Tyler, the surrender document was hastily prepared and contained mistakes. For example, it referred to the reserve as located in the province of Alberta, although the province did not exist at the time (Tyler 1978, 138). It appears that the majority of those present at the meeting consented to the surrender.

#### **SHARPHEAD IR 141**

##### **Surrender of 1897**

Commissioner A.E. Forget was at the Edmonton Agency in September, and Agent Charles de Cazes, having been told in July to take a surrender, called a meeting at White Whale Lake on September 11, 1897. Forget, in his report written December 9, 1897, stated that the former Sharphead members who had had land allocated to them at White Whale Lake and were living there should receive no particular benefit from the surrender; he therefore told them that they would be entitled only to the difference between the size of their old reserve and what had been reserved for them at White Whale Lake, or 26 square miles. After this was explained to them, the nine voters present, whom Forget listed, voted in favour of the surrender. Three other people who were entitled to vote were absent. Forget then identified four voters who had transferred from White Whale Lake to Samson's and Ermineskin's Bands, and he considered that they had, by virtue of the double transfer, lost all rights to the Sharphead reserve (NA, RG 10, vol. 3912, file 111777-1).

Signatories to the surrender document were: the nine voters; de Cazes; Forget; Paul, headman at White Whale Lake; Henri Blanc, interpreter; and A.E. Lake, Agency clerk.

The affidavit was also sworn on September 11 before Forget, acting as justice of the peace, and certified by de Cazes and “Simon, Headman.” There is no information about a notice of meeting or any other discussion of terms of surrender. The surrender document lists the “Sharphead Band” and the affidavit identifies Simon as a headman of this band, even though the band no longer existed. The affidavit was sworn before a departmental official present at the meeting whose job it was to take the surrender, rather than an independent party.

In terms of the level of consent obtained, it might be questioned whether those members accepted into bands other than White Whale Lake had in fact lost the right to vote. Even if these individuals are considered, along with absentees, as possible voters, the vote would still have carried with a small majority, but the decision of the four other people not to attend the meeting could not have been an informed one.

## **OCEAN MAN AND PHEASANT’S RUMP IR 68 AND IR 69**

### **Surrenders of 1901**

When James Smart, the Deputy Superintendent General of Indian Affairs, began to push for a surrender of these two reserves after a visit there, Commissioner David Laird was asked to investigate the conditions under which these two bands might surrender their undivided reserves and move onto White Bear, amalgamating with that Band. Laird reported that Farming Instructor H.R. Halpin had already spoken to the bands and had found them in favour of removal, but that a definite proposal was needed. Laird asked what the Department planned to pay the Indians for the old reserve, and was told to establish the terms by which a surrender could be obtained (Tyler and Wright 1978b, 99).

A meeting was held on January 17, 1899, with the two Assiniboine bands. They informed Halpin that they expected to have agricultural assistance, new land broken for them at White Bear to replace what was lost, annual payments, and possibly an addition to White Bear if land requirements exceeded supply. Most of the opposition to the surrender came from the headmen, Halpin noted, and they could be coerced into agreement. He also suggested that the land was worth \$1 per acre en bloc. Halpin’s suggestions brought no response from the Department (Tyler and Wright 1978b, 99-100).

The demand arose again in mid-1899. In time, DSGIA Smart wrote to Secretary J.D. McLean asking for a report, subsequent to an agreement to sell the Chacastapaysin reserve to a group of Hungarians. The latter reserve had been surrendered in 1897. Smart proposed that Ocean Man and Pheasant's Rump could be sold en bloc to a group of settlers, just as the Chacastapaysin reserve had been; he suggested also that \$1 per acre was a reasonable price: "[T]hey might not be willing to sell to any one else for settlement at the same price as to the Government, but I am inclined to think that \$1.00 per acre is all the land would be valued at as it stands" (NA, RG 10, vol. 3839, file 69244-1). Laird and Halpin had also suggested \$1 per acre. In a second memo in June 1899, Smart said that "the land is not be be paid for or sold. What I want is a statement as to the terms upon which these Indians will give up any claim on the Pheasant's Rump and Ocean Man reserves and all move to White Bear reserve." He repeated that there was sufficient land at White Bear for all three bands (NA, RG 10, vol. 3898, file 69244-1). W.A. Orr of the Lands and Timber Branch prepared a memorandum on June 27 in which he advised that the Indians should be offered \$1 per acre for the land.

In the fall of 1899, Frank Pedley travelled to the U.S. Agencies, including Omaha, and then visited Saskatchewan, Alberta, and the area around Winnipeg. His trip coincided with a land-buying expedition led by Sam Clarke, an associate of his father-in-law, and it included a visit to the Moose Mountain Agency. Clarke was buying land in that area. In late fall the Omaha Immigration Agent, W.V.H. Bennett, asked to tour the west and got Pedley's endorsement. He travelled with C.W. Speers, the General Colonization Agent based in Winnipeg. The two men were looking for colonization sites, and one of their stops was at the Moose Mountain reserves. According to Speers, Bennett expressed doubt about whether the site was suitable for one of his clients, a group of Bohemians, but this fact may have had little influence over later decisions (Tyler and Wright 1978b, 109-12).

Shortly after Bennett's return to Omaha, he sent a covering letter to DSGIA Clifford Sifton enclosing a letter dated December 4, 1899, from George West and Joseph Armstrong. West was a local passenger and ticket agent who frequently acted as subagent for Bennett. Armstrong was a banker from Nebraska, but later investigations would show that his signature to the letter was forged. The letter was an offer to purchase the two reserves for settlement purposes, and specified a payment of 90 cents per acre plus resettlement expenses for the Indians (resulting in an actual cost to the

buyers of 99 cents per acre). In return, the agents would place settlers on up to 10 per cent of the land. The letter did not name Bennett as part of the scheme, but it implied that an associate had spoken to the bands and had found them agreeable. The letter also implied that the bands were already part of White Bear Band. The proposal included similarities to assertions made by others over the previous year or so.

The covering letter, dated December 13, mentioned Bennett's brother-in-law McElhinny and a Mr T. Ringwalt as also being potential backers. Bennett met with William White, Inspector of U.S. Immigration Agencies, in Chicago on December 22 (Tyler and Wright 1978b, 113-15).

Meanwhile, the proposal went through the system in Ottawa. Surveyor A.W. Ponton was asked to give an opinion, and he supported the proposition. He also commented, however, on the means necessary to take a surrender. The bands would not be induced to surrender by being told that the moneys would be funded to their trust account; they would want to see immediate benefits. Ponton also pointed out that the number of settlers the syndicate proposed to put on the land was low and should be raised to one settler per section; he noted that anyone not intending to place settlers on the land should be asked a much higher price per acre. Sifton's secretary J.A.J. McKenna supported this assertion in a memorandum, and he recommended immediate steps to secure a surrender (Tyler and Wright 1978b, 119-22).

Commissioner Laird was asked by J.D. McLean, Secretary of Indian Affairs, whether a surrender of land should be taken from the White Bear Band for the land needed for Ocean Man and Pheasant's Rump. This would remove any difficulty entailed in sharing proceeds, McLean said. He also asked Laird to comment on the selling price. Laird replied that nearby CPR lands were selling for \$3 per acre, and that farmer Halpin had warned that Canadians would be upset if the land was sold privately to outsiders without their having had a chance to purchase. Laird stated that the best idea would be to survey the land and sell it to actual settlers at \$2 to \$3 per acre as an upset price. Still, Laird would endorse the sale to the syndicate at \$1.10 per acre, paid in five instalments at 6 per cent, but he went so far as to suggest that one settler be placed on every half-section. Laird also suggested a per capita distribution at the time of surrender, part of which would be moving expenses, and he asserted that the White Bear people should get some of the proceeds. The rest would gather interest for the Assiniboine people.

The Indians need not be troubled with a full explanation of this division - they would doubtless be satisfied to be told that the Government would fund the money received for lands, over the \$5000 advance, to be given them as they required help. (NA, RG 10, vol. 3839, file 69244-1).

The \$1.10 per acre price was endorsed by McLean, in a reply to Laird, but he recommended that the syndicate not be pressured to increase the number of settlers, lest the proposal be withdrawn. He believed that the move and amalgamation would be in the interest of the Indians, enabling them to “secure employment” working on the farms of others (Tyler and Wright 1978b, 123-28).

A Brandon newspaper, the *Independent*, published a story on February 22, 1900 – before Laird had even made his report – saying that the two Assiniboine reserves were to be sold to an American syndicate at a very low price. Someone, perhaps from the Commissioner’s Office, had leaked the information after the proposal arrived at the office. Halpin had also seen the proposal. The story sparked a question in the House of Commons from Nicholas Flood Davin, the Conservative Member of Parliament from West Assiniboia; in answer, James Sutherland, acting Superintendent General (while Sifton was away), said only that the sale was under consideration. At the same time, Halpin wrote to headquarters in support of the surrenders as money-saving opportunities, and the Liberal *Moosomin Spectator* ran an article on April 5 defending the wisdom of the sale and the concurrence of the bands in the scheme. Bennett, according to telegrams, was holding meetings with White, with West and company, and possibly with Smart and Pedley; he also visited the region again in April with C.W. Speers (Tyler and Wright 1978b, 129-35).

Meanwhile, the sale of the Chacastapaysin reserve to the Hungarians fell through when no payments were made, and a new proposal arrived from Council Bluffs, Iowa, just across the river from Omaha, to buy that reserve under conditions almost identical to those agreed to by the Hungarians. These conditions had not previously been published. The proposal came from a duo identified as J.W. Mitchell and John C. Neeley. Tyler and Wright have speculated that the information was supplied by Smart and Pedley, and the proposal concocted by Bennett and White. John C. “Neely” was in fact a clerk in one of the offices where George F. West was a railway agent. J.W. Mitchell has not been identified. Two letters were sent in late November to Smart: one was from Mitchell and Neely, and one was from West; one was about Chacastapaysin, and the other was about

Moose Mountain. Both inquired about federal response, and both were typed by the same person on the same typewriter (Tyler and Wright 1978b, 142-43).

Smart replied to West immediately, suggesting that the funds for removal expenses were not adequate. In a letter of the same day, December 7, 1900, he said that the advance for removal expenses should be more like \$12,000 or \$15,000. This would put a larger amount of the purchase price in the hands of the Assiniboine, but the price per acre would remain the same. This suggestion would violate the terms of the *Indian Act* of the time, which allowed only 10 per cent to be advanced. Laird was asked to take the proposal to the two bands. He abandoned the idea of a surrender from White Bear, and simply recommended that the proceeds, minus the removal expenses, be funded jointly to all the bands living at White Bear. Smart asked Laird, finally, to consult the closest Homestead Inspector regarding land values (Tyler and Wright 1978b, 148-49).

The Homestead Inspector confirmed the earlier \$1 per acre valuation, even though some lands in the district were selling for \$3 per acre. Laird told West and Armstrong in January 1901 that he thought their offer was insufficient, being even less than \$1 per acre; the advance payment was also inadequate. He suggested a deposit of \$1000 be given to him, as evidence of good faith, before he negotiated with the Indians. When the surrender was taken and accepted, he would require \$6000 from the buyers for removal expenses, plus \$1 per acre on top of that. As soon as Laird sent this counter-proposal back to the buyers, a letter arrived from McLean suggesting that local settlers be allowed to purchase the land at not more than \$2.50 per acre, and that this possibility be written into the arrangement. This letter may have reflected local awareness of the proposal and pressure on the Department to allow others to be involved (Tyler and Wright 1978b, 150-51).

West responded just after a visit by Bennett to Ottawa, and \$1000 was wired from an unknown source to his bank. He made a counter-offer, accepting most of Laird's terms, but he wanted to apply \$4000 of the \$6000 advance to the purchase price of \$1 per acre, and he asked for a patent of three sections once the advance was paid. West also suggested paying the balance in four instalments at 4 per cent interest. He said in a later letter that they would not agree to sell land to local settlers at \$2.50 per acre, but would sell at \$3 per acre, the usual rate for government lands, the offer to be open for six months only. Laird then made yet another counter-offer, raising interest rates to 5 per cent, and setting conditions of advance payment that would effectively raise the purchase

price to \$1.11 per acre. He asked for two settlers on each alternate section of land, until a maximum of 25 was reached. Patent would be issued when all conditions were met and payments made. The prospective buyers agreed to this, with the insertion of their “six month” limited offer to local settlers (Tyler and Wright 1978b, 155-56).

Smart drafted a memo to the Minister recommending the sale, stating that the Indians were anxious for the sale and removal to take place. He also said that the Assiniboine and the White Bear people were all one band, and that the surrender cash would put them in a better economic position. Smart gave the financial arrangement a strong endorsement. Laird got the support he sought from Sifton, and on March 14, 1901, Laird received authorization to take the surrender (Tyler and Wright 1978b, 157-60).

Finally, the bands themselves were involved in brief negotiations. On March 27, 1901, Laird returned surrenders from the two bands, as well as an amalgamation agreement, to Ottawa. He stated that he had met the Indians of all three bands, over two days. On the first day he explained the terms; on the morning of the second, the bands made counter-demands, which he refused. On the afternoon of the second day, March 21, they signed the agreements. There was no mention of a vote (Tyler and Wright 1978, 160).

Interpreter McArthur gave his version of events in a 1972 affidavit:

McArthur was called in because he could speak both Assiniboine and English; his father was the first farm instructor on the reserves, and had previously been with the North West Mounted Police at Wood Mountain.

McArthur translated for Laird.

The men were called in by Laird but not told what the meeting was about until they arrived.

They were told that Laird wanted to buy their land.

Laird offered Ocean Man \$50,000, to be put in their hands, half of which would go to White Bear.

Laird was told by Pheasant’s Rump members that they did not want to leave their loved ones, buried there. They refused to agree. Laird offered them more land at White Bear. They refused, for four days of negotiations. Laird then threatened to have them driven out by police.

“I am through here [said Laird]. Striped Blanket sold their land to me, but Pheasant’s Rumps’ won’t sell, but when it is time for Striped Blanket to move Pheasant Rump’s band will be driven out by the police.”

Pheasant’s Rump people never agreed, and threatened a violent refusal to move, until McArthur told them it was useless. The white men would kill them. (Tyler and Wright 1978b, 164-66)

Tyler and Wright (1978b, 168-71) analyzed the record of Laird’s correspondence and concluded that he must have left Winnipeg midday on March 20. He apparently was back in the office on March 23, but was absent on March 24-26 before the surrenders were mailed from Winnipeg on the 27th. They suggest that he might have returned to Pheasant’s Rump for more negotiations. It also appears that the interpreter, McArthur, was paid for four days.

Both surrenders were dated March 21, and both were witnessed by H.R. Halpin, interpreter for the Cree, and W. Murison and Xavier James McArthur, interpreters for the Assiniboine. The Ocean Man surrender was signed by one headman; the Pheasant’s Rump surrender was signed by two men, neither of them the headmen. No chief signed for any of the three bands. The affidavits were taken the same day, in the Agency office, before John George Hardy, JP. In neither document did Laird fill in his name beside the clause saying that assent had been given at a properly called meeting, as was the usual practice. Hardy also witnessed the amalgamation agreement, as did Murison and Halpin. The headmen of all three bands signed it (Tyler and Wright 1978b, 161-63).

## **ENOCH/STONY PLAIN IR 135**

### **Surrender of 1902**

See Chapter 4, Demands Leading to Surrenders, for earlier discussions with Enoch over a surrender.

Agent Charles de Cazes was authorized in March 1898 to take a surrender at Stony Plain. He met with band representatives on April 12, told them of the proposal to take a surrender of 14 square miles on the northern edge of the reserve, and suggested that they meet among themselves. They did so and delivered a written statement, with 25 signatures, to the effect that they did not want to release any of the reserve to white settlers, nor did they want any grave sites disturbed. De Cazes then met again with them. Most of the band members then proposed a sale at \$3.50 per acre, with the proceeds to be divided among band members. In his report on the meeting, de Cazes told the Department that

he did not believe such a surrender was necessary to secure a right of way. McLean, taking this advice, told Superintendent General Frank Oliver that no surrender was taken, and he told Ponton to look into the right of way issue (Tyler and Wright 1978c, 124-27; see also NA, RG 10, vol. 7542, file 29110-6).

Agent de Cazes died of a prolonged illness in July 1898. Oliver immediately began to press to have James Gibbons, president of the Edmonton Liberal Association and liquor merchant, appointed as agent. Gibbons was appointed, just at the time of the 1898 territorial elections.

Matthew McCauley was re-elected to the territorial assembly from the Edmonton district and, soon after the election, he sponsored a petition from Spruce Grove and Stony Plain asking for a road to be built across Stony Plain reserve as a more direct route to Edmonton than the existing road on the northern boundary of the reserve. The issue reached Agent Gibbons, via Commissioner David Laird, and both endorsed it, even though the proposed right of way through the reserve was not connected to a road survey on either side of the reserve. Unlike his predecessor, Gibbons believed that the Indians were in favour of placing a right of way through the reserve. Plans proceeded to have land for the right of way expropriated once a survey plan was received from the territorial government. The right of way was surveyed in the summer of 1899, but no road was built. Instead, the original highway on the northern boundary of the resource was improved and used by the same settlers who had once complained that it was not a good route (Tyler and Wright 1978c, 151-54).

Oliver and local businessmen in the Edmonton, Calgary, and Cardston boards of trade began to push again for land surrenders; in 1899 a plea was made directly to Minister of the Interior Clifford Sifton on his visit to Edmonton to have the Stony Plain reserve surrendered. In November 1901, J.A.J. McKenna, newly appointed Assistant Indian Commissioner, was in Edmonton doing his work for the Half-Breed Commission. He evidently met with Agent Gibbons on December 20, 1901. In a discussion of the need to have fencing around all or part of the reserve, Gibbons raised the possibility that, since the Indians were dying off, the reserve might be surrendered, the Indians moved to the foothills of the Rockies, and the reserve sold -- thus eliminating the need for fencing. Or, he suggested, the 14 square miles located north of the right of way could be sold, and the rest of the reserve fenced with the money. Gibbons then reported on the decline of agriculture on the reserve

in the years since he had become agent (NA, RG 10, vol. 4001, file 209109; see also Tyler and Wright 1978c, 169-70).

Commissioner Laird endorsed the idea of a surrender of the 14 square miles rather than the whole of the reserve, and McKenna prepared a memorandum on the topic for the Minister. According to McKenna, if the reserve was fenced without a surrender, the right of way would need a separate fence, which the North-West Territories government would not pay for. Therefore, if the 14 square miles north of the right of way were to be surrendered, there would be no need for a separate right-of-way fence, because the remainder of the reserve could be fenced with the proceeds of the sale. Thus the fencing of the right of way was the Indians' responsibility, he suggested. He also suggested that the terms of the surrender should include the promise of outfits for the Indians and a discontinuance of rations.

As a result of McKenna's memo, McLean authorized Agent Gibbons to take the surrender (Tyler and Wright 1978c, 173-76).

The meeting for the surrender was held on January 20, 1902. Gibbons reported that the all-day meeting was successful, but he did not explain what was proposed or explained, or who voted. It is obvious that various conditions to the surrender must have been discussed, and the Band asked that the surrender not be submitted to authorities until their additional conditions were agreed to. Gibbons also reported that he had explained to them that all rations, except to the old and destitute, would be dropped, after two years at the outside. The Band voted to use the proceeds from sales to build a fence, even though they had \$42,000 in the capital account from the Passpasschase surrender. They also agreed to an expenditure of over \$9000 for outfits (Gibbons to McLean, January 23, 1902, NA, RG 10, vol. 7542, file 29110-6).

It is not evident from Gibbon's writing whether his ultimatum concerning rations was a promise of what would happen if they did – or did not – sign the surrender. He may have said that the rations would simply stop, and perhaps the surrender was their only way to raise cash.

Fourteen voters signed the surrender document. There appear to have been between 35 and 38 eligible voters (Claim submission). Witnesses included Henry A. Carruthers, Agency Clerk, who clearly filled in the blanks on the document, and interpreter John Foley. The affidavit was sworn before S. LaRue, JP, of Edmonton. James Gibbons and Mista Jim, Chief, signed it on February 14,

1902. Presumably a majority of those attending consented to the surrender, but it is not likely they were a majority of voters. If, however, more than fourteen were present at the meeting, there could have been a majority of a majority. No information was uncovered regarding the substance, notice, and location of the surrender meeting.

## **ROSEAU RIVER IR 2**

### **Surrender of 1903**

In 1895 Ebenezer McColl, Inspector of Indian Agencies in Manitoba, was asked by the Department of Indian Affairs to report on the potential surrender of the reserve, given the demands by residents of Emerson and Dominion City for reserve land. McColl reported June 3, 1895, that he had met with the chief and headmen, and that they were opposed to surrendering the reserve under any condition (NA, RG 10, vol. 3730, file 26306-1). The residents of Emerson again petitioned on January 15, 1898, asking for 1300 acres of reserve land. At the same time, band members living at each of the two reserves wrote letters, expressing fear that they were going to be asked to leave their reserves. They also requested additional land between the two reserves, as promised at treaty (NA, RG 10, vol. 3565).

On April 21, 1898, the new Inspector of Indian Agencies for the district, S.R. Marlatt, wrote to Indian Commissioner Forget suggesting that the band be “induced” to abandon their large reserve near the mouth of the river for a new reserve east of the Rapids. Much of the land available for exchange was, however, already occupied by others. On June 2, Secretary McLean, in a letter to Forget, echoed this idea, stating that with the Band’s reduced population, band members actually had a surplus of 9 square miles, and that an effort should be made to get them to surrender a large part of their larger reserve, IR 2 (NA, RG 10, vol. 3730, file 26306-1).

In April 1900, the residents of Emerson and Franklin sent petitions, via real estate agent Michael Scott, to Member of Parliament J.A. Macdonnell. James Smart wrote to Macdonnell on June 23 promising to send the matter to the Commissioner for a report, but reminding the parliamentarian that the government would have to “pay a reasonable value for the land” to the Indians. To justify the expenditure, he wrote, it would be necessary to determine whether there was really a need for the land (NA, RG 10, vol. 3730, file 26306-1). Another petition from Franklin followed in July.

In 1899 the Band had an Order in Council passed authorizing them to use capital funds to fence the entire reserve, to keep cattle on reserve. The Indians were having trouble with settlers impounding the Band's cattle (Memo to Governor General in Council, April 5, 1899, NA, RG 10, vol. 1122).

In response to pressures from the Department, Inspector Marlatt promised on December 21, 1900, to meet with the Indians at their next annuity payments, to see whether they would surrender, and on what terms. Marlatt expressed doubt as to whether the Band would move, although he thought it in their best interests to be farther from white settlements. He also suggested that the lands should not be sold until good prices could be realized; the land values would increase over the next five years since the reserve was located between two railways, and within three miles of two stations. "I cannot see that the Department should consider the petitioners of the Municipality of Franklin, as their motive, as shown by the resolution of their Council, is a purely selfish one in which the interests of the Indians is not taken into consideration" (Marlatt to Laird, NA, RG 10, vol. 3565).

Conservative MP A.A.C. LaRivière again raised the question of the removal of the Indians to some more "convenient" and "profitable" place (Canada, House of Commons, *Debates*, February 21, 1901, 82-83).

Marlatt advised March 21, 1901, in a letter to Commissioner Laird, that he had met with the Band on February 26, and had explained the matter of capital and interest funds, but had not advised them to sell. The Indians of the "lower Reserve" were willing to sell, but those living at the Rapids were not; the latter believed that the government had already cheated them once (NA, RG 10, vol. 3565). This was reported on February 24, 1902, to LaRivière, in the House, in answer to yet another plea (House of Commons, *Debates*, February 24, 1902, 247).

John Howard of Winnipeg wrote two letters to Minister of the Interior Clifford Sifton in June 1901 asking to have the reserve surrendered, and asking to have first right to purchase the land for colonization purposes. Deputy Minister Smart, in a letter to McLean on June 14, 1901, thought the scheme itself was absurd, but he continued to press for the surrender of the land.

The following year an article appeared in the Dominion City *Echo*, on February 2, 1902, urging that the reserve be opened, as it was occupied by only a few "indolent" Indians. It would be better for the Indians to have less land and more money in the bank, the article said (NA, RG 10, vol.

3730, file 26306-1). Soon after LaRivière again raised the question in the House. Sifton replied that the consent of the Indians was necessary, and that the Indians did not want to sell (House of Commons, *Debates*, February 24, 1902, 247).

Secretary McLean reminded Indian Commissioner Laird that the Band, in his opinion, had a surplus of land and that, although a land exchange was not desirable, it might be necessary to get them to surrender (NA, RG 10, vol. 3730, file 26306-1).

Marlatt again met with the Band in October 1902. He reported that the older men were opposed to the surrender, and the younger men more favourable, and that they would discuss it among themselves and get back to him by Christmas. He reported that he had had an offer of \$10 per acre for the eastern sections, and believed that the land would get between \$8 and \$18 per acre at auction. Attendance was scant at the meeting (Marlatt to Laird, October 25, 1902, Laird to McLean, October 28, 1902, NA, RG 10, vol. 3565, file 82/29). On December 23, the three chiefs and councillors reported that they had decided not to sell. After Laird informed them that they would be better off selling the land they did not use, they explained their reasons. They needed the land in the eastern part of the reserve because it was higher and less prone to flooding. The chiefs proposed to use the entire reserve for crops and cattle. Laird persisted in arguing that the settlers would put the land to better use than the Band had, and that the diminishing Band would have more use for money than land (NA, RG 10, vol. 3563, file 82/29).

Clifford Sifton's private secretary, A.P. Collier, wrote to Marlatt on January 13, 1903, and said that Sifton wanted him to go immediately to the reserve to secure a surrender (NA, Sifton Papers, MG 27, 11 D 15, vol. 250). Surrender forms were sent from Laird's office. According to an article in the *Echo* on January 24, 1903, Marlatt met with the Band on January 20 to ask for a surrender and was turned down. The article reported that the gathering was large. "Let us hope they will come to their senses soon."

An article in the *Echo* of February 19, 1903, reported on the surrender taken on January 30, and suggested that a deputation led by George Walton to Sifton during the latter's last visit to Manitoba had been persuasive, and that Marlatt had been allowed to "offer the Indians tempting inducements to sell their right to the land." Marlatt had apparently met Walton, on Sifton's advice, the day before his January 20 meeting with the Band.

Marlatt wrote to Secretary McLean on March 25, 1903, about the taking of the surrender; he enclosed some accounts with local merchants in Dominion City. He explained that he had had “very considerable difficulty” in taking the surrender, and only was successful after promising to advance \$500 as soon as the document was signed. He suggested borrowing money from the Band’s capital accounts to pay the debts, and then reimbursing the capital funds from the proceeds of the sale. It is not clear from his letter whether the accounts pertained to further promises made at the time of the surrender (NA, RG 10, vol. 3731, file 26306-2).

A meeting held on January 30, 1903, resulted in a surrender to the Crown of a 12-square-mile piece of IR 2. Marlatt took the surrender, but did not record the discussions or the vote. Twelve men signed the document. [Number of voters not recorded]

The affidavit was signed by Marlatt and by Chief Antoine, before O. Bellanauve, JP, on January 31, 1903.

For more discussion about what the Band thought it was agreeing to, see Chapter 6.

## **MICHEL IR 132**

### **Surrender of 1903**

See Chapter 4 for prior discussions with the Band, including letters of request for the surrender.

Agent James Gibbons, as authorized by Frank Pedley, took the surrender from the voters of the Michel Band on July 20, 1903. The surrender encompassed 7800 acres, a strip of one and a half miles along the western side of the reserve. The surrender document was signed by the Chief and Headman and six other men, eight voters in all. There is no documentation on the number of voters in the Band, on the number of voters present, or on the circumstances of the meeting. Nineteen male band members had been listed in the letter of June 8, 1903. Twelve had signed the letter of request of January 19. (No research was done on eligible voters.) The first affidavit was sworn before a notary public eight days after the surrender, and it was rejected. The second was sworn before S. Lakey, JP, dated August 18. Chief Calihoo also signed it with Gibbons (Tyler and Wright 1978a, 129-30).

It is assumed that the level of consent obtained at the meeting included a majority of voters present, but the documentation is not complete.

## **COTE IR 64**

### **Surrender of 1904**

When the Canadian Northern Railway first proposed to acquire station grounds and a townsite amounting to 574.46 acres from the Cote reserve, Assistant Indian Commissioner J.A.J. McKenna wrote to Munson and Allan, the company's solicitors, on October 29 and stated that this was too much land for an expropriation and it might require a surrender. Because of this possibility, McKenna had already met with Chief Joseph Cote and the Band, who were not enthusiastic about a townsite and thought that the amount specified for a station ground (99 acres) was excessive. They would be willing to sell a smaller amount for \$25 per acre, but if the company desired more, they would sell at \$50 per acre; townsite land would be \$100 per acre. Alternately, they would agree to a down payment of \$25 per acre for a townsite, provided that they could share equally in the proceeds of the sale of town lots (minus the advance) (NA, RG 10, vol. 7668, file 22117-2).

McKenna, who was to become the primary departmental negotiator, forwarded a copy of his letter to Secretary J.D. McLean on November 4. He outlined to McKenna what the Indians wanted to do with the funds generated. They wanted control over expenditures, which would probably include the loan of funds to band farmers, and per capita payments to non-farmers. The Chief stipulated that there should be no deduction for land management, as this was a departmental responsibility. Similarly, provisions for the destitute was a departmental responsibility and was not to derive from the funds from land sales (NA, RG 10, vol. 7668, file 22117-2). Agent Henry Carruthers received a copy of the letter and reported November 10 that he had read the contents to Chief Cote and had gotten his approval. He noted that the company was planning to start laying sidings, although permission was not in place (NA, RG 10, vol. 3561, file 81/8).

On December 11, 1903, Munson and Allan wrote to Laird on behalf of the Canadian Northern. In the letter, they reduced their request to 30.06 acres for station grounds, and 55.76 acres for a townsite. They agreed to buy the townsite at \$25 per acre, to bear the expense of survey, and to share the proceeds (minus the advance) equally with the Indians, provided that they set prices and conducted sales themselves, that the station grounds were free, and that the Indians gave the company an exclusive option of acquiring an additional 50 acres over the next few years, if necessary. Laird wrote to Carruthers endorsing this proposal, recommending that Carruthers point out to band

members that the railway had increased the value of their land. Should they not agree to give up the 30.06 acres for station grounds, Laird suggested compensation at \$8 per acre, the same rate as the right of way (NA, RG 10, vol. 3561, file 81/8).

Carruthers immediately met with the Band on January 14, 1904, which was, ironically, the same day a letter was sent from McKenna informing Carruthers of Minister of the Interior Sifton's decision not to allow a townsite within three miles of a reserve. The Band had made three counter-offers, Carruthers said, any one of which they would accept:

- Selling 400 acres at \$25 per acre, with a \$10,000 cash advance; Band to share in the proceeds of sales, minus the advance; station grounds free; additional land held as option for five years.
- Selling 200 acres at \$50 per acre, cash up front, plus station grounds free.
- Selling 55.76 acres at \$100 per acre for townsite, plus the 30 acres of station grounds at \$50 per acre; 50 additional acres at \$100 per acre held for one year.

All sales were to be cash up front (NA, RG 10, vol. 3561, file 81/8).

Carruthers wrote another long letter on January 25, after he had received McKenna's letter about Sifton's decision. Carruthers said that band members were excited about the proposed sales and the infusion of cash, as they were already preparing for the spring farming season and needed horses and machinery: "They get no rations, and what little they earn, it takes to keep them and their families, how then are they to outfit themselves, to enable them to work?"

In spite of the evils of a town, Carruthers felt it was better to have the good markets with the bad, close enough to reduce travelling expenses. The agency also needed a doctor close by. A hardware store, lumber yard, and grocery had already been built on the edge of the right of way; the owners, Bigham and Nix, had been told by Theodore Burrows, MP, that they could safely build it (NA, RG 10, vol. 3561, file 81/8). Burrows was Sifton's brother-in-law and associate. Is it plausible that he could have anticipated, despite Sifton's reluctance to place a townsite on reserve, that the surrender/expropriation would take place?

McKenna replied to Carruthers that he felt the Minister's mind was made up. Although Sifton did not want the Department to establish townsites on reserve, he did want to see the bands become agriculturally self-sufficient, as they had in the Qu'Appelle Agency. For that reason, he had appointed

Graham as Acting Inspector. When McLean received Carruthers's letter, he directed McKenna to investigate the issues and report on them, and to advise whether the Minister should adhere to his ruling (McLean to McKenna, February 5, 1904, NA, RG 10, vol. 3561, file 81/8).

On March 11, 1904, Munson and Allan wrote to Laird with what was to be the determining offer. They would pay Cote \$10 per acre for 272 acres; after the sum of \$5000 had been realized from sales, deducting the costs of registration and surveys, the Indians would receive a half interest in subsequent sales. The company was making a final offer for a townsite; if the Indians did not accept it, then Canadian Northern would offer to compensate a station grounds expropriation at \$10 per acre. According to a letter from McKenna to Carruthers, dated March 19, this proposal had come out of a meeting McKenna had instigated (NA, RG 10, vol. 3561, file 81/8). McKenna had been negotiating with the company while he was supposed to be reporting on the advisability of a townsite.

Carruthers reported to Laird on March 29 that he had gone ahead and taken the new proposal to the Band. They had agreed to the new conditions, with one exception: the division of proceeds should begin subsequent to the \$10 per acre, or \$2720, advance. They also submitted a list of purchases they wished to make as soon as possible with the cash, including 10 yokes of oxen, 10 ploughs, 10 sets of harness, 10 harrows, one binder, and one seeder.

McKenna wrote to Carruthers a few days later saying that he would take the revision back to the company, and he completed his report to McLean, submitted April 13, 1904. In this letter he reported that the Company had rejected the Band's counter-offer, on the basis that the moneys expended up to \$5000 were expenses to the company, and that the Band would receive half only after the advance and expenses were paid for by sales. McKenna argued that the site chosen was the best place to put a townsite, given the water supply from the Assiniboine, and of great advantage to the settlers; he said the settlers would not leave even if the site were not developed, so that the Indians might as well take advantage of the circumstances. "The West cannot attain its proper development without the passage of railways through Indian reserves" (NA, RG 10, vol. 3561, file 81/8).

Upon receipt of the report, Sifton gave approval for the proposed townsite development, and Pedley instructed Laird to follow through. In his letter of May 20, 1904, he laid down the conditions he expected to see in the surrender:

- The surrender would be unconditional, not burdened with management deductions, or conditions as to how the proceeds should be spent.
- The Canadian Northern Railway Company was to pay cash at a rate of \$10 per acre for 272 acres.
- The Canadian Northern would, when it had received \$5000 from the sale of the property, share equally with the Indians in the “gross succeeding revenue free of all expenses of management.”
- That the upset price or valuation of lots be subject to departmental approval.

On June 7, Pedley forwarded forms and a letter authorizing Carruthers (rather than McKenna or Laird) to take the surrender. The conditions were also sent to Munson and Allan for approval (NA, RG 10, vol. 3561, file 81/8). There was no mention of station grounds.

Before Munson and Allan could respond, however, the surrender was taken at Cote on June 21, 1904. Carruthers and his clerk, Fred Fischer, witnessed the surrender. The Chief and 14 other men signed the surrender document, which, in its original, contained none of the four conditions above. (Presumably they were inserted later.) There were 55 potential voters. Carruthers did not report on the meeting or the vote, other than to say, in a letter of June 29, that the form and conditions were fully explained to the Band. In correspondence from 1908, the chief at the time, Joseph Cote, alleged that Assistant Commissioner McKenna was present and made representations on behalf of the government (NA, RG 10, vol. 3561, file 82/1).

The affidavit was signed June 29 at the Indian Agency office, before Commissioner of Oaths J. C. Murray. Clerk Fred Fischer witnessed the mark of the Chief. McLean instructed Carruthers to have the affidavit signed before the proper authorities. Carruthers corrected the date to July 18, crossed out Murray's name, and had the JP add his name.

## **COTE IR 64**

### **Surrender of 1905**

When Frank Oliver acceded to Canadian Northern's request for a surrender of the southern part of the Cote reserve, he and Pedley sent the Reverend John McDougall to the scene. McDougall was authorized by Pedley to negotiate but not actually to take the surrender. McDougall went to the

reserve in early September 1905 to meet with Agent Henry Carruthers, laying the groundwork, and went again on October 7, 1905, to meet with the Band. The question of surrender was discussed, and a further meeting set for October 11. At that time, in the presence of Carruthers and Fred Fischer, Agency clerk, the Band made a detailed proposal for

- 1 An exchange of 6000 acres for the haylands to the west
- 2 Additional land to be sold at a \$10 per acre minimum
- 3 5 percent, or half of the equity, be paid within 30 days of surrender
- 4 5 percent, or the remaining half of the equity, to be paid within six months
- 5 This total 10 percent to be distributed per capita; ensuing interest on the balance to be paid per capita
- 6 All moneys to be paid, with the Department withholding funds only for orphans
- 7 Compensation for improvements (NA, RG 10, vol. 3561, file 82/1)

The original seems to have had one-fifth instead of 5 per cent, but the wording was corrected by someone.

McDougall sent the proposal to Oliver on October 11. He told Oliver that both he and the Agent tried to persuade the Indians to set a \$7 per acre minimum, but that the Indians deliberated several days and stayed with \$10 per acre, influenced probably by the sales of nearby lands. McDougall acknowledged that the land was fertile and well wooded, and he had come to agree with them. McDougall had an opportunity to meet with Oliver soon afterwards in Edmonton, and as a result Oliver told Pedley to authorize Commissioner Laird to take the surrender, after assisting McDougall in final negotiations. A draft surrender was prepared by W.A. Orr on November 2, 1905, but with one change: the first 5 percent would not be payable until 30 days after the sale. This meant that the Department would not have to find money for an advance (NA, RG 10, vol. 3561, file 82/1). When news of the changed term reached McDougall by letter, he immediately contacted Oliver and Laird and said that he believed this change would “block” the surrender. Laird supported this opinion in a letter to Pedley on November 14, 1905 (NA, RG 10, vol. 3561, file 82/1; see also file 82/1).

To advance the money for the surrender from the Land Management Fund, Oliver and Pedley had to get an Order in Council. On December 2, 1905, Pedley wired McDougall with permission to go ahead and make a second approach to Cote, on the Band’s terms. Pedley sent Laird a cheque on

December 4 for \$8000. Laird instructed Carruthers on December 7 to call a meeting for 2:00 p.m. on December 14.

According to Laird, a “good representation” was present, although 73 people, including presumably some voters, were away hunting. There were at least 50 potential voters, and it is not known how many were in attendance, and Laird reported on December 26 that only two people voted against the proposal. The document was signed by 10 people, and witnessed by Carruthers and Fred Fischer, clerk/interpreter. McDougall did not sign as witness.

The terms of the surrender document were almost exactly as discussed and presented at the October 11 meeting, except that the second payment was now to issue 30 days after the sale, rather than in six months. This change was made at Pedley’s request.

On February 17, 1907, McDougall reported on a meeting he had had with the Chief and Council in Cote. The Band was concerned that the Department was breaking its promise to make a second payment six months after the surrender. McDougall reminded the Department that it had accepted these conditions. D.C. Scott wrote to Pedley informing him that McDougall was wrong. The Department had not accepted the Band’s original terms, but had changed the date for the second payment to 30 days after the sale. A request was made by the Band 30 days after the sale, as specified, for the money (NA, RG 10, vol. 3561, file 82/1).

The affidavit was signed the same day, by Laird and Chief Joseph Cote, before J.D. Wallace, JP.

A majority of those at the meeting consented; however, the nature of the meeting is not known.

## **MOSQUITO/GRIZZLY BEAR’S HEAD/LEAN MAN IR 110 AND IR 111**

### **Surrender of 1905**

Frank Pedley authorized Agent J.P.G. Day to take the surrender on April 4, 1905 (NA, RG 10, vol. 4013, file 271245). There is nothing on record about the calling of the meeting. The meeting itself was held on May 19, 1905. Apparently, individuals from all three bands were present, although the land to be surrendered was in the interests of Grizzly Bear’s Head and Lean Man people. It is not known how many people were present in relation to the total number of voters. It is not known how

many people voted in favour of the surrender, only that it was carried by a majority of those in attendance. Ten individuals from the “Stony” Band signed the surrender, six from Mosquito, one from Lean Man, and three from Grizzly Bear’s Head. According to Tyler (nd(b), 19), the total number of voters from all three bands combined was between 22 and 25, at least six of whom were from Grizzly Bear’s Head or Lean Man. Agent Day, farmer R. Jefferson, teacher M. Leffler, and the interpreter, W. Venne, signed as witnesses.

The affidavit certifying the surrender was signed by Day alone before L.P.O. Noel, JP, on June 6, 1905. Day certified that there was no chief. Commissioner Laird sent a new affidavit form and asked Day to have it sworn by “one of the more intelligent” members of the Band (NA, RG 10, vol. 3563, file 82/11). The new affidavit, dated July 25, 1905, was sworn by Day and no. 80 of Grizzly Bear’s Head.

At least a majority of those present at the meeting consented to the surrender. Since there is a question of who was eligible to vote, and also a question as to who actually voted in favour, it is difficult to determine whether the level of consent was higher than this. It is not known whether the individuals who signed the document represented those who voted in favour, or those who were at the meeting.

## **CARRY THE KETTLE IR 76**

### **Surrender of 1905**

Inspector W.M. Graham called a meeting March 30, 1905, on the reserve to discuss the proposal to surrender nine sections. Graham reported that the Band was anxious to sell, providing that certain conditions were met. The sum of \$1200 was to be used to pay off the thresher; lumber was to be purchased to build a shed to house it; a new engine was to be bought; Indians farming that area were to be compensated; and the elderly were to be looked after. The balance was to be funded and managed as the Department saw fit. Graham reported that he had explained that the Department would manage the funds; there was no other option (Graham to McLean, March 30, 1905, NA, RG 10, vol. 4001, file 208590-1). Upon receiving Graham’s letter, the Department set in motion the usual chain of events. W.A. Orr endorsed the surrender. The proposal went to the DSGIA, and he in turn

authorized Thomas Aspdin, Indian Agent, to take the surrender (Pedley to Graham, April 12, 1905, NA, RG 10, vol. 4001, file 208590-1).

According to Aspdin's account, he hired Archie Thompson to go around the reserve and notify people of the meeting, and he brought in Dan Kennedy as interpreter. Aspdin did not record much of what was discussed at the April 26 meeting. He reported that a majority had voted in favour of the surrender, but he did not include a list of voters, nor did he record the number of people present. He commented that a number of people were absent, but he believed their votes would have been favourable. Only the chief and three headmen signed the surrender document.

The terms (see Chapter 6) were almost exactly as Graham had outlined. Aspdin also reported that a new matter was raised at the meeting — that of recompense for Indians who did not farm, but were self-supporting, and would not benefit from the money dedicated to the pasture improvement or threshing machine debt. Aspdin reported – and supported – their request for a prorated distribution of proceeds (NA, RG 10, vol. 4001, file 208590-1). The affidavit was signed before A. Ferguson, JP, on May 3, 1905, with Aspdin and Chief Carry the Kettle signing; Aspdin witnessed the mark of the Chief. The affidavit was dated the same day as Aspdin's report to Graham about the surrender.

J.A.J. McKenna wrote to McLean on July 27 to protest that he had heard of the surrender only during a visit to the Agency. He complained that Graham had taken too much power, and that the Commissioner's Office should have been informed.

The fact that these terms are identical to those noted by Graham in his report of the March 30 meeting indicates that the real discussion of terms took place at that time, not at the formal surrender meeting. At present, it would appear there is no way of determining who was present at that meeting.

## **ALEXANDER IR 134**

### **Surrender of 1905**

The request for a surrender from the Alexander Band was repeated in October 1905, via Inspector J.A. Markle, to Commissioner David Laird. The request was for a surrender of 11,700 acres of unused pasture land in exchange for a fence, gates, 50 mares, 2 Clyde stallions, a planer, and a shingle mill. Markle assessed the land at a price between \$6 and \$10 an acre, and in a letter dated October

12 promised no resistance to the surrender (NA, RG 10, vol. 6666, file 110A-3-1). The Assistant Commissioner, J.A.J. McKenna, recommended the surrender to Secretary J.D. McLean on October 20. He endorsed the requests forwarded by Markle, and added that provision should be made for the old and disabled, since the Indians would be interested in present, not future, benefits (NA, RG 10, vol. 6666, file 110A-3-1).

Negotiations continued within the Department. It is not clear what Markle or Agent Gibbons was discussing with the Indians. William Orr of the Lands and Timber Branch wrote to Deputy Minister Pedley on October 24 about the terms of the surrender, including the fence, the livestock, the planer and mill, and the controversial suggestion that “out of the proceeds of sale there may be paid to old and disabled Indians, who are not in a position to benefit by systems of improvement, whatever sum or sums may be considered fair and reasonable.” This wording was rephrased by departmental accountant D.C. Scott on October 31, 1905, as follows: “[O]ut of the proceeds of the sale and the investment thereof a reasonable proportion of the cost of maintaining the sick, old and disabled members of the Band should be paid, as well as the cost of maintaining the horse ranch and repairing and keeping the fence and machinery in a good state of preservation.” At this time the amount of land to be surrendered had been reduced to 9518 acres.

Inspector Markle was authorized by the Deputy Superintendent General, via Commissioner Laird, to take the surrender on November 6, 1905. Presumably these were the terms taken to the Band when the meeting was held December 29. Nothing is recorded about the notice of meeting, the number and names of those attending, the substance of discussions, or the number assenting.

A funeral was held on the reserve the same day.

Since additional agricultural assistance was included in the text of the surrender, there presumably was some negotiation at the time of the surrender, although the additional items were added in a marginal note by Markle. Some of the items may have been added by Markle himself and not discussed at the meeting. Oral testimony from one elder suggests that the men agreed to the surrender because they believed it was the only way they could get agricultural equipment (Specific Claims Branch [SCB] 1992, 21, 26).

Seven male members signed the surrender document. Using census and payroll records, there seem to have been from 42 to 44 male band members eligible to vote (Band submission, 9; SCB 1992,

19). Deposed Chief Alexander also signed the document (SCB 1992, 14). The affidavit was signed the same day by Markle and sworn before G. Poirier, JP. It states that a majority of the male members present assented to the surrender. However, the people who signed the surrender document may or may not be those who voted in favour. Nothing is recorded about notice of meeting, location, or substance of discussions. Chief Alexander was reinstated after the surrender was taken, and this fact has led some to assert that Markle may have promised the Chief that he would recommend reinstatement if the surrender was successful.

## **MICHEL IR 132**

### **Surrender of 1906**

The Band's proposal for a surrender, made in early January 1906 and in response to outside demand, was discussed within the Department, and on January 16, Agent James Gibbons met with the Band's "representative" men. He reported that they were willing to surrender the eastern tier, but only on condition that they got 11 outfits by July 1. Gibbons recommended to Secretary J.D. McLean that land values were high enough to warrant immediate sales. In a separate letter to Inspector J.A. Markle, he remarked upon an earlier discussion between them that all members with 20 or more head of cattle be allowed to sell without permits (Tyler and Wright 1978a, 157-58).

On January 22, Inspector Markle wrote to Gibbons enclosing a letter to the Band which he asked Gibbons to read to the Chief. In the letter, he argued that the eastern part of the reserve was better land than that on the west, which had been surrendered in 1903, and would sell better. He did not believe it would be possible to get 11 outfits before July, however, and would not make promises he could not meet. Therefore he did not care, he stated, whether the surrender was carried out, or whether the outfits were provided. There is no record of response to this letter (Tyler and Wright 1978a, 159-60). In May, however, the Band's conditions appear to have changed, according to a report from Markle obtained in turn from Gibbons. The Band agreed to surrender at a minimum purchase price of \$10 per acre, with the outfits to be purchased as soon as possible. Based on this report to the Department, DSGIA Frank Pedley authorized Gibbons on May 22, 1906, to take the new surrender (Tyler and Wright 1978a, 160-61).

On June 4 Gibbons reported that he had met the Band on June 2 and taken a vote on the surrender. The majority were opposed on the basis that the land surrendered in 1903 had not been sold and that they had therefore gotten no returns. The Band asked for an accounting of the 6084 unsold acres. Markle visited the Band on June 22 and took the surrender forms with him, although he was not the one authorized to take the surrender. His impression was that the band members' reluctance to surrender arose from their anxiety about being reimbursed for improvements. He promised the reimbursement and, in the course of discussions, items were added to the original list of needs prepared by Markle in 1904. In his report on the negotiations, Markle estimated the value of the purchases at \$5000, or 20 per cent of the value of the land to be surrendered - an amount higher than the *Indian Act* in force allowed as a down payment, and far less than what would eventually be spent out of the capital. Meanwhile, however, Oliver had already tabled the amendment to the *Indian Act*, which would allow up to 50 per cent as an advance. In fact, the amendment became law just days before the acceptance of the surrender (Tyler and Wright 1978a, 163-66).

An affidavit was taken on June 23 and signed by Chief Michel. The level of consent obtained is unknown. There is no report on the number of eligible voters, the voters present, or the voters in favour. Therefore, presumably, this surrender met the minimum level of a majority of those present. There is no indication that the meeting was called for the purpose of a surrender with notice given.

## **THE PAS IR 21A**

### **Surrender of 1906**

The request for a surrender came from Inspector S.R. Marlatt, in the midst of some confusion about an application from the Canadian Northern Railway for right of way and station grounds. Although the Department at the time was asking for the right-of-way plan (which had not been received), Marlatt had already considered the issue of the value of the site proposed for the station grounds south of the river. He had written to Commissioner David Laird on May 31, 1906, that local residents had applied to him to purchase land on the reserve. "The point named is likely to become quite an important place in the district; it is the only desirable spot on the south side of the river for many miles . . . . I have the honor to recommend that the Indians be asked to surrender five hundred acres off the north end of Block A." Marlatt described this as excluding the lands occupied by the Hudson's Bay

Company and the Anglicans, but including the portion occupied by the Indians. Marlatt also proposed that

- each family get \$50 to remove its house
- the land be laid out immediately as a town site
- the lots be sold by the Agent, who would fix the prices
- the terms of sale be one-third cash, with the balance in 1 or 2 years at 6 per cent
- the remainder of the money, minus advance for removal, be capitalized to the Band
- actual settlers in the area, rather than speculators, be given special considerations as to price and location, provided they do not apply for more two acres
- ten acres of the surrendered portion be retained by the Department for the agency and school

Marlatt recommended moving quickly to take the surrender at annuity time. Laird sent the letter to Secretary J.D. McLean with his endorsement. The surrender would allow the Indians to be removed from a close proximity to the station, which would not be good for them, “as the price they would obtain for the land if surrendered would be far more advantageous to the Indians of the Band, than any use they could make of it by occupying same.” Laird also raised the issue of the missing plan: Would the surrender exclude the proposed station grounds? (letter of June 1, 1906, NA, RG 10, vol. 3561, file 82/31).

Apparently DSGIA Frank Pedley sent the surrender forms to Laird, with an authorization for Marlatt to take the surrender; he asked that the land belonging to “Mr. Gordon” be exempted from the surrender. Laird sent these forms to Marlatt on June 28, asking for any comments or amendments vis-à-vis the instructions. On June 29 Marlatt replied that he did not believe the Band would surrender on such vague terms, and he anticipated that their primary concern would be reimbursement for buildings and improvements. He asked for an advance of \$1500 for this purpose. “From information I have received lately from the Pas, it is going to be a difficult matter to secure the surrender unless they receive very liberal treatment.” Marlatt also referred to the recent misunderstandings at Roseau River, and suggested that the surrender document should set out clearly what the Band would receive. In forwarding this letter to Pedley, Laird recommended that Marlatt be given discretion to distribute more than 10 per cent (NA, RG 10, vol. 3566, file 82/31). Laird’s recommendation just preceded the July 31, 1906, legislative change authorizing a distribution of more than 10 per cent, and up to 50 per cent.

Pedley asked for more details of Marlatt's proposal. Marlatt wrote to Laird on July 19, 1906, that he had still not discussed the surrender with the Band, but he again recommended an advance of \$1500, from which each resident could be paid on vacating his or her holding. He asked that a reply be sent to him at Winnipegosis, care of the North West Fish Company. He also advised Laird that he would be in Winnipeg on August 20 and could discuss conditions with him. Pedley agreed with this proposal on July 25, endorsing the meeting he assumed would take place on August 20. On July 20, however, Laird wired Pedley that the meeting had taken place on that day, and he advised Pedley to forward the surrender forms immediately. The terms and conditions discussed with Marlatt were not mentioned. Pedley again authorized Marlatt to take the surrender to the Band, after filling in the description of the lands and the terms and conditions on the enclosed forms. The \$1500 was also enclosed (NA, RG 10, vol. 3566, file 82/31).

Presumably Marlatt took the conditions discussed with Laird to the Band, for the surrender forms were signed on August 21, 1906. On September 25 Marlatt finally sent the forms to Laird. The 500 acres surrendered excluded the right of way (but not the station grounds), and they may have excluded any right claimed by the HBC or the Church of England. Marlatt did not describe a meeting, only the terms (see Chapter 6). The terms included authorizations and sale prices of preauthorized sales to several named local purchasers, as well as a free deed to the Chief: "[I]t is the intention of the Band that he shall have a deed free of all charges without any restrictions further than to guard his interests as a Treaty Indian and ward of the Government." Marlatt said that the Band wished the land to be sold as soon as possible. He had changed his mind about having the land sold by the Agent and recommended sale by tender, to the advantage of the Indians. Marlatt still called for a three-year payment schedule, at 6 per cent, and for the Band to be given one-third of projected sales to be distributed pro rata, minus the sum of \$1308 advanced to pay for improvements and the usual land management fee. "The Band are very progressive, and with the advice of the Agent, Fischer, will make good use of the money in the construction of new buildings, etc. In conclusion, I may say that I had considerable trouble in securing this surrender, and it was only after stipulating that I would personally look after their interests, as noted in the provisions of the surrender, that they consented to the agreement" (NA, RG 10, vol. 3566, file 82/31).

Marlatt had recommended that the Band be paid for improvements when members vacated their residences. The surrender document, however, specified that the Band had until August 1, 1907, to vacate, and clearly the distribution of the advance was made when the surrender was signed or soon after. The payment list enclosed by Marlatt is dated “September, 1906,” and it notes reimbursements ranging from \$6 to \$135 (the latter going to the Chief, along with the free deed to the half acre). The document was witnessed by Fred Fischer, Agent, and was signed by 10 men. Twenty-four men were listed on the payment schedule; three of the men who signed the surrender, however, were not listed as being paid for improvements. (Thus there were 27 men listed, who may or may not have been eligible voters.) Neither Marlatt nor the Band described the meeting. There was no indication of the vote. The affidavit was signed by Marlatt and Chief Constant. The Chief’s signature was witnessed by Agent Fischer. The justice of the peace was Gideon Halcrow, one of those named in the surrender as entitled to purchase land from the surrendered portion. When Laird forwarded the surrender forms to McLean, he added that he did not approve of all of the conditions in the surrender document. Correspondence between Assistant Commissioner McKenna and McLean in December 1907 reveals that Chief Constant believed that the band members were promised one-half of the proceeds to be distributed pro rata (NA, RG 10, vol. 3566, file 82/31).

The documents raise questions about inducements used to get the Band to surrender. When the correspondence is read with the terms of the surrender, it would appear that Marlatt consulted with would-be purchasers before taking the terms to the Band. The level of consent obtained is impossible to determine. If a surrender meeting was held, consent may have been given by a majority of those present, but it probably did not represent a majority of voters.

## **COTE IR 64**

### **Surrender of 1907**

Inspector W.M. Graham was authorized on April 10, 1907, by DSGIA Frank Pedley to take a third surrender at Cote. The new surrender would put 6613 acres back into the reserve, and would take 10,740 acres for sale. “You will be good enough to have inserted in the forms inclosed any of the conditions in the previous surrender, which may be agreed upon. I may say that the old surrender cannot be cancelled, as it must stand as a basis for sale of the lands which have already been disposed

of, but if the Indians grant surrender in question, an Order-in-Council will be applied for, re-constituting the portion shown on the plan as part of the Cote Indian Reserve” (NA, RG 10, vol. 4011, file 260260-2).

Graham wrote to the Department on April 22 asking to be allowed to make a cash payment of at least one-fifth of the value of the land, calculated on the basis of \$10 per acre. “I would suggest that if the surrender goes through that the Department recoup itself for the money already advanced the Indians on the first surrender, from proceeds of lands that have already been sold, from which ample has been realized. The balance of this money could be added to the principal resulting from the new sale.” Graham went on to say that the Indians may be reluctant to be separated from Kamsack, therefore a cash inducement would be necessary. McLean responded a month later by saying that, if the Indians did not agree, then the second payment should be advanced to them, and the unsold lands put up for sale (NA, RG 10, vol. 4011, file 260260-2).

On May 14, 1907, the Chief and some band members wrote the Department about a meeting they had had about how to pursue the second payment from the 1905 surrender, to fulfil the promises made by the Reverend Mr McDougall. They also expected to get the yearly interest. The reply is not recorded, but Graham soon proceeded to the reserve to talk about a third surrender.

On June 20, 1907, the surrender document was signed. Graham reported on July 4 that a meeting was held on the reserve. The gathering was “very representative,” and nearly every male resident was present. The vote stood at 26 for, and 5 against. “Most of the Indians of Cote’s Band who were farming are cut off by this new surrender, and before I left they were moving back to that section of the reserve that is to be re-allotted to the Band.” The Band had also asked that the church and graveyard not be sold (NA, RG 10, vol. 4011, file 260260-2). According to paylists, there were approximately 52 voters at the time. Payments of \$87 per person were made to 233 people. The document was witnessed by E.D. Sworder, who acted as paying clerk, and was signed by 27 men, including the Chief. The affidavit, dated June 27 at Kamsack, was signed by Graham and by James Singuish, headman, before J.I. Wallace, JP.

A majority of those at the surrender meeting, and possibly a majority of those eligible to vote, consented to the surrender. No details of the meeting have been uncovered.

**COWESSESS IR 73****Surrender of 1907**

Commissioner David Laird met with the Crooked Lakes Indians in 1902 about a possible land surrender, and encountered strong objections. John Lash of the Commissioner's Office discussed surrenders with the bands while paying annuities in 1904. According to a report from Laird on September 30, 1904, Lash could not make any specific offers, but suggested that the bands could fence the reserves from the proceeds. Apparently Chief LeRat of Cowessess requested that the entire proceeds from sales be given to the Band to spend at its discretion, but Lash rejected the plan. Overall, he suggested to the Department that the matter not be pushed too quickly (NA, RG 10, vol. 3732, file 26623). (See also Chapter 4).

The surrender was therefore not pushed forward until after Frank Oliver had replaced Clifford Sifton as Superintendent General of Indian Affairs. Surrenders had been taken at Carry the Kettle, Cote, and, most recently, at Pasqua. Inspector W.M. Graham was instructed by Oliver in March 1906 to check into the possibility of taking the Crooked Lakes surrenders. He visited the Agency in June 1906 and believed that word of the recent Pasqua surrender, including the cash advance, had reached the Crooked Lakes bands. He reported personally to Oliver on June 19, 1906, that, in his opinion, if he had had the money and forms, he could have taken the surrender. As it was, he had spent three days discussing the surrenders with them. Graham recommended a surrender proposal along the lines of what had worked with Pasqua: a payment of one-twentieth at the time of surrender, with another one-twentieth after the sale of lands. He estimated the land to be worth \$5 per acre. He also recommended that the Department conduct itself quietly, to prevent outsiders from causing problems; that the terms be worked out in advance, to save going back with a second proposal; and that the officer taking the surrender have some discretion to meet small demands raised at the time of surrender (NA, RG 10, vol. 3732, file 26623).

Internal departmental discussions among Frank Pedley, W.A. Orr, and J.D. McLean followed to prepare a surrender proposal. Although there was some suggestion that the band members would be asked to surrender their entire reserves, on July 6, 1906, the Department asked Graham by wire for proposed acreages. Graham's suggestion of taking the Township 17 lands prevailed; in the case of Cowessess, this involved 26,480 acres. Graham predicted that Kahkewistahaw and Ochapowace

would surrender, and Cowessess would follow. "I am of the opinion however that it [the surrender] can be obtained if handled judiciously. The money for the first payment should be on hand the day the meeting asking for the surrender is held, and the whole matter should be handled with dispatch." This money, he proposed, should be estimated for Cowessess at the rate of \$6 per acre, although the land might be worth \$8 to \$11 per acre. Graham went on in his September 24, 1906, letter to McLean to say that the land he suggested be taken was, in fact, little used by the Indians.

Acting DSGIA McLean authorized Graham by letter on October 3 to proceed with the surrender. The forms were included, as were instructions to follow the model from Pasqua. Only 20,704 acres were to be requested from Cowessess, less than the 26,480 acres Graham had recommended in September. A cheque for one-twentieth of the projected results, based on an estimate of \$5 per acre, was included, prior to discussions with the Band about this as a term of surrender. Graham advised McLean on October 9, 1906, that he would be delayed in reaching the bands, but that this delay would probably benefit the Department. He asked for authorization to include the same terms as those that were successful at Pasqua. He not only got this authorization from McLean, but was also authorized to estimate the value of improvements (NA, RG 10, vol. 3732, file 26623). Graham further suggested to McLean on December 7 that a second payment be made to Pasqua, on the assumption that when the Crooked Lakes people heard about it, they might have more incentive to surrender. This tactic was approved (NA, RG 10, vol. 2389, file 79921).

Graham arrived at Crooked Lakes in January 1907. His first meeting with Cowessess took place on January 21 at the Agency buildings. The new Agent, Matthew Millar, a former merchant and prominent Liberal from Moosomin (where the surrender request had originated), was present, and Peter Hourie was interpreter. Minutes were kept. According to the minutes, notice had been given though Chief Joe LeRat and Headman Ambroise Delorme. After the roll was called, Graham addressed them "at length" and submitted the proposition for a vote. It is not clear from the minutes whether a vote was held; a partially erased word in the margin of the minutes might have read "refused" or "reject." At that point, according to the minutes, the Chief said that they understood the terms, and Graham suggested they take time to consider the issue. It was recommended that they reconvene on January 29 (Broadview Area Minute Book, private collection. It was never sent to Ottawa). In his official report on the meetings, dated February 12, 1907, Graham said he merely

explained the surrender on January 21 and arranged for a voting meeting on January 29 (NA, RG 10, vol. 3732, files 26623).

After the January 21 meeting, the following day, Graham went to Ochapowace, where the Band refused to surrender. (A second meeting on February 9 resulted in another “no” vote.) He continued on to Kahkewistahaw, where he took the surrender after two meetings, with votes on January 23 and 28, respectively.

Graham returned to Cowessess on January 29. This time he was joined by clerk Horatio Nichol, blacksmith J.A. Sutherland, teamster Harry Cameron, E.D. Sworder, and the Agent. Alex Gaddie from the Band acted as interpreter. When the roll was called, 29 voters answered out of a potential 32 to 34 voters. (In the minutes the number 29 appears to have been marked over the number 30.) Graham again explained the terms, and a vote was held. Fifteen voters were listed as being in favour, with 14 against, making a total of 29. One of those noted as being in favour, Nap Delorme, is not on any extant list of band members from that period and he did not sign the document.

According to the minutes, the agreement was signed. Twenty-two individuals signed the surrender document. Some of those who had voted against the surrender then signed the document, and some did not. Three individuals signed the agreement who were not on the list of voters recorded in the minutes: Francis Delorme, Norbert Delorme, and William Sparvier (Minute Book). Even assuming that one of these three was mistakenly listed among the voters as Nap Delorme, there may have been more than 29 people present at the meeting, if, as the minutes suggested, payments were made immediately after the signing. Graham’s account on February 12, 1907, stated that “twenty-two of the twenty-nine Indians at the meeting signed. I began paying these Indians their approximate one-tenth which was \$66.00. This payment continued well into the night and for several days following.” There is little information on the terms discussed, but Graham noted in his letter to McLean that the Indians wanted assurances that the land would be sold at public auction, and that the sale would be advertised in local papers (NA, RG 10, vol. 3732, file 26623).

After the surrender, there was a controversy over whether Alex Gaddie had been promised compensation by Graham for improvements made to a hay slough. In bringing the issue to the Department’s attention, Gaddie said that he had cast the deciding vote, based on this promise.

Graham and the other officials at the meeting attested in 1907 and 1908 that no promises had been made to Gaddie. W.C. Thorburn, a dealer in lumber, grain, and cattle (and one of those who pushed the surrender and bought land at auction), was apparently asked in June 1908 to place a value on Gaddie's improvements, which he did not do. He corroborated the information about the "deciding vote" in a letter to Laird dated June 24:

I might also say that Mr. Gaddie was the one man on the reserve who could have blocked the sale; had he said "don't sell," the land could not have been surrendered. We were informed at the time the surrender was made that it was Gaddie's vote that decided for the surrender. Had he said "No sale," hardly a man would have voted for it, and I have reason to believe that had Mr. Gaddie not thought that he would be paid for his work on this meadow, he would have refused to part with his share in the land. I talked with Mr. Gaddie several times while the question of the surrender was before the Indians, and the losing [sic] of this hay meadow was the question that Gaddie did not like, and the only reason that he gave for not wishing to sell the land. Afterwards, but before the final meeting when the surrender was made, Gaddie told me that everyone who had made improvements on land was to be paid for improvements, and said, "If the Government will pay me for the work I did on that hay meadow they can have the land, but I want to be paid for my work if I am not to have the hay." (NA, RG 10, vol. 3732, file 26623)

Graham disputed this account, in a letter of July 27, 1908. He described Gaddie as an "obstinate man" and "a man who has always a grievance." Graham said he told Gaddie before "he signed the surrender" he would not be paid, so "that his not getting compensation did not influence his vote." Graham avowed that, if he had told the meeting that Gaddie would be compensated, the vote would not have carried.

On July 13, 1908, a letter was sent from Crooked Lakes Agency; those signing it said that they were present at the surrender of Cowessess reserve on January 29, 1907, and that Gaddie was not told he would not receive compensation. Two of the individuals on the document cannot be matched exactly with the voters' list: Joseph Spormer (probably Sparvier) and Paul Pelletier. Joseph Sparvier was not listed among those paid, although a Mrs Joseph Sparvier was paid; Paul Peltier may have been Edward Peltier's son, and was listed on the pay sheets on January 29 as having been only 18 in 1907. Gaddie was eventually offered \$250 in compensation, rather than the \$700 he requested.

The surrender document was witnessed by Millar, Sworder, and Nichol. The affidavit was signed on February 2, 1906, in front of Justice E.L. Whitmore, by Graham and by Alex Gaddie, who had interpreted at the meeting, but who was not a chief or headman as recognized by the Department. Instead of the usual procedure of simply inserting the name of the representative, this document has the wording “Alex Gaddie for himself.” The Kahkewistahaw affidavit was signed on the same day.

Graham had enough cash on hand to pay only one-twentieth at the time of surrender. The surrender document, however, specified a down payment of one-tenth, based on an estimate of \$6 per acre; the Band would receive the difference between the projected one-tenth and the actual one-tenth after the sale. Graham had been forwarded only \$22,046 for all three bands. When Ochapowace did not surrender, Graham had enough money to pay one-tenth to Cowessess members, but did not have authority to do so. He sent a telegram to McLean late in the day on January 29 asking for authorization to pay one-tenth, or \$66 per capita. This authorization reached him on February 1. Graham forwarded two pay lists, indicating that two payments for \$33 per capita had been made — the second one, dated February 4, after the February 1 authorization. Although the minutes state that the payments began immediately, it is conceivable that the 22 signatures were added at the later payments, after February 1. Indeed, Alex Tanner is listed as one of the voters, but he did not receive his payment until April; a memo from Graham to McLean lists him as one of those “who were absent at the time the land surrender money was paid.” If Tanner was present at the vote, he would have left before any of the paying began. He did not sign the surrender document, and had voted against it (*ibid.*; see also, Tyler *nd(a)*, 112-13).

Thus there were two payments of \$33 per person, one on January 29 and a second on February 4. If Graham did begin paying just after the surrender, there were other voters who came to be paid who had not, apparently, been present at the vote. And there were voters who did not sign the surrender papers, but who received payment on the 29th (Cowessess Interest Distribution lists, January 29 and February 4, 1907, NA, RG 10, vol. 3732, file 26, 623).

It has been suggested that the surrender document might not have been signed until the time of actual payment, since Graham did not have authorization for payment of one-tenth. It is also possible that

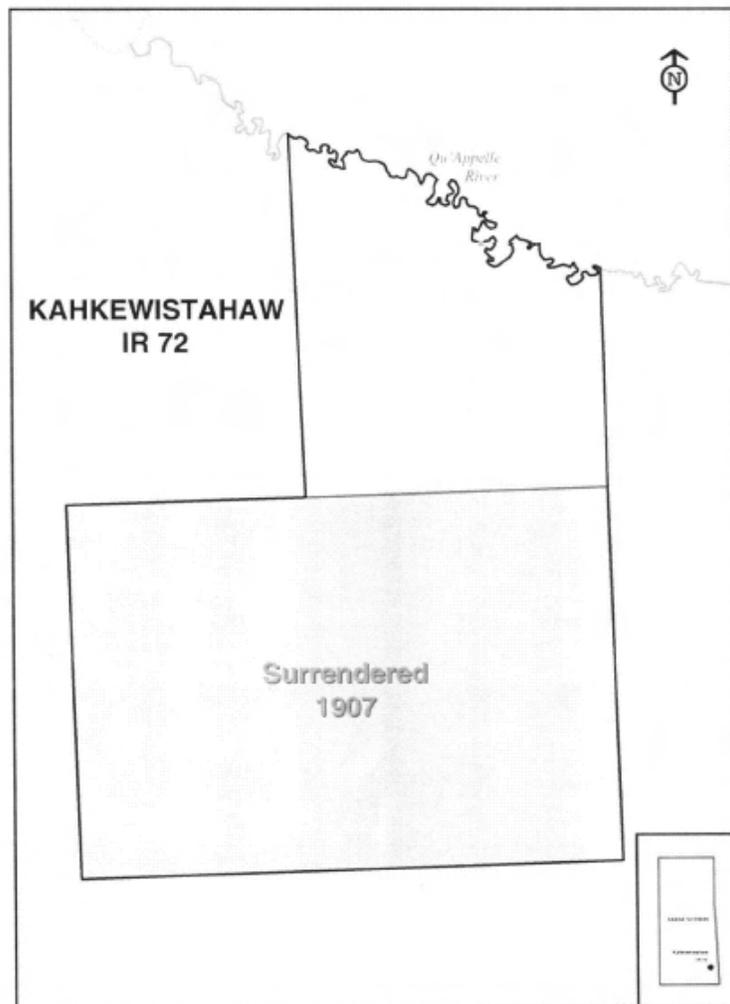
- There were more voters at the meeting than recorded in the vote count.

**280 / First Nation Land Surrenders on the Prairies, 1896-1911**

- Graham used the improvements issue as an inducement.
- Graham had the Band vote on an offer that he had not been authorized to make, regardless of whether the document was signed on January 29 or February 2.

A majority at the meeting may have consented to the surrender. A majority of the voters did not consent, but the number of voters at the meeting remains controversial. If the document was signed just after the vote, there is some chance that the majority of those present did not vote in favour.

As a suggestion for further research, it would be helpful to find and examine the interest distribution lists for the two payments, neither of which is on file.



**FISHING LAKE IR 89****Surrender of 1907**

The Reverend John McDougall was hired by Superintendent General Frank Oliver in 1905 to negotiate a surrender with the Indians at Fishing Lake. He was also given instructions to approach the Blood, the Stonies, the Sarcee, and the Hobbema Bands in Alberta; the Cote, Montreal Lake, and Fishing Lake in Saskatchewan; and the Swan Lake in Manitoba. This work extended until September 1907 (Canada, House of Commons, *Debates*, December 13, 1907). On his first visit to the Fishing Lake reserve in the fall of 1905, McDougall evaluated the asking price for the station grounds and right of way.

In a letter to Oliver on June 19, 1906, Inspector William M. Graham apprised the Minister that the matter of the Fishing Lake surrender should have been handled like the Pasqua surrender:

In fact, I feel sure that if I had had the papers and money with me when I was there I could have obtained the surrender . . . . As this is a large deal it would be necessary to have the matter thoroughly decided upon before the proposition is put to the Indians, because it would have a bad effect if the Department had to go back to them with a second proposition. Outsiders would interfere, as in the past. If a little latitude were given to the Officer taking the surrender, he could perhaps meet any small request, that would come from the Indians at the meeting. (NA, RG 10, vol. 3732, file 26623)

It is unclear whether McDougall had already discussed the surrender with the Band and had been refused, or whether Graham was suggesting he could have done a better job, or both.

McDougall quickly set up a meeting with the Indians at Nut Lake, to take place at treaty payment time on July 27, 1906. He proposed a surrender of the northern and western parts of the reserve, a total of 14,080 acres. The Band would be offered one-twentieth at the time of surrender, and one-twentieth at the time of sale (NA, RG 10, vol. 6704, file 121A-3-2). The meeting was put back. On July 27, the original date, Inspector Henry Carruthers telegraphed DSGIA Frank Pedley from Kamsack to send word to the Band to meet on July 31. Pedley immediately sent the surrender forms and \$7000 to Commissioner David Laird in Winnipeg. Fred Fischer, Acting Indian Agent at Pelly, wrote on July 31 saying that the Indians had been informed of the surrender meeting (*ibid.*). J.B. Lash, Laird's secretary, accompanied McDougall to the Nut Lake reserve, but did not find the

Fishing Lake people there. When the visitors went to Fishing Lake on August 1, few people were present, and the meeting was postponed for a day. On August 10, McDougall reported on the meeting (affirming Laird's report of August 7) that the Indians of Fishing Lake did not believe that the Nut Lake Indians had any interest in the surrender or sale of the Fishing Lake reserve. Both McDougall and Laird recommended that the Nut Lake, Fishing Lake, and Kinistino people be regarded as three distinct bands. McDougall also stated that the right of way needed to be settled (ibid.).

Accountant Duncan Campbell Scott wrote to Pedley on September 19 relaying his opinion that these had always been three separate bands, and that the arrangement needed to be formalized at the next treaty payments. McDougall also wrote Pedley on November 23 and expressed doubts about the advisability of formally separating bands that were never united. He proposed to deal with Fishing Lake separately (ibid.). Pedley disagreed, and recommended to Commissioner Laird on December 11, 1906, that the formal separation papers be drawn up (NA, RG 10, vol. 3561, file 82/1). He then authorized Laird to give Graham the separation documents, and to have them signed at the "proper time." On March 20, 1907, Pedley authorized Graham to obtain a surrender of 13,170 acres, offering a cash advance of 10 per cent or more (NA, RG 10, vol. 6704, file 121A-3-2). Graham also succeeded in his efforts to have the Fishing Lake reserve placed back within the Touchwood Agency.

Inspector Graham proposed to deal with the separation and the surrender issues in one trip, and to use conditions similar to those used at Pasqua and Crooked Lakes. This proposal was approved on May 11, 1907, and Graham requested money to use as a payment. He prepared to visit the reserves in early July (Graham to Laird, June 16, 1907, NA, RG 10, vol. 3561, file 82/1). He estimated the cash needed at \$10 per acre plus \$1000 for improvements. Two days after Graham wrote Secretary McLean requesting the money (July 4), he wrote again about two letters of instruction he had received from Assistant Commissioner McKenna which had confused the issue by suggesting paying the Indians on their respective reserves. Only the Fishing Lake people were to be paid for the surrenders, he understood, and this would take place after he had had the separation agreement signed by all three bands. Graham asked that McKenna not interfere. McKenna replied to Graham on July 15 that he was trying to draw attention to the fact that the Department needed to be prepared for questions of membership in the three bands. There was a need, he argued, to sort out

which people belong to which band. McKenna obviously was concerned about annuities, not the surrender or separation, but Graham did not take the advice to sort out membership (McKenna to McLean, July 17, 1907, NA, RG 10, vol. 6704, file 121A-3-2).

Graham then left Balcarres for the reserves, to be present when annuities were paid and to present the separation and surrender agreements. Nut Lake signed the separation document on July 27, and Kinistino signed on July 31. In his report of the meeting at Nut Lake, published some years later in his memoirs, Graham stated that he told the Nut Lake people that the Fishing Lake people had agreed to surrender part of the reserve if the other two bands agreed to it, and that they would receive some of the proceeds of the sale of land. After an hour's consultation, the Band leadership said that they would agree if the other two bands did (Graham 1991, 66). He then went to Kinistino. The first reaction of the Chief there was to refuse to have anything to do with Graham, for fear of losing his land:

After the chief finished, one of the headmen arose and said he would not sign anything unless all were satisfied. Then two other members of the band came forward and said practically the same thing. I was not surprised at this repetition as this always takes place at Indian meetings, the idea being to impress upon one the fact that they are all of one mind. (Graham 1991, 68-69)

According to Graham, the Band agreed to the surrender when told that it would not jeopardize their own reserve.

Not much happened on our return journey. We stopped at the reserve of the second band of Indians and got their signatures to the surrender as they were willing to sign as soon as they learned that the third band had done so. Then we went on our way to get the signatures of the first band. (Graham 1991, 71)

Graham's account is not clear about which bands he was referring to here. It does appear that he promised at least one of the bands not resident at Fishing Lake that they would benefit from the land sales, and that he was asking them to agree to the Fishing Lake surrender. (However, Graham's purpose in writing his memoirs in 1935 was to describe Indian life, not to certify the events of the surrenders.)

Graham wrote that he then went to the last meeting, but he does not say which one it was. As it does not match what he wrote by letter of the events at Fishing Lake, this may have been a visit with Nut Lake. Graham sat and smoked the pipe with the Chief and councillors the evening before the meeting, and then visited people in their teepees. When the meeting began, the Chief and his four headmen sat in front; the men sat behind them, and the women and children arranged themselves at the rear. Graham described concerns raised over reserve boundaries, fishing, and children taken away to school, but did not describe the content of surrender/separation discussions. He merely stated (p. 78) that they left for home the day after the surrender was signed.

In his correspondence regarding the meeting, Graham explained that he had first visited Nut Lake and Kinistino and that these bands had relinquished all claims to the Fishing Lake reserve. He found the Fishing Lake people willing to relinquish claims to the other two reserves, but it took two days of internal deliberations, after an initial meeting, before they were willing to surrender part of their own reserve. Graham had in fact given up and was preparing to leave when a meeting was called and “the whole band voted for the Surrender.” He issued payments of \$100 per capita, and collected back \$4000 to buy implements, horses, tools, wagons, harnesses. “We also collected enough to buy each family from 15 to 25 sacks of flour, enough to last them for a year at least . . .” (NA, RG 10, vol. 6704, file 121A-3-2). He was assisted in the meetings and distribution by William Murison, the new Agent at Touchwood. Alice Tye, his secretary, and Joe Ironquill, the interpreter, also witnessed the agreement. (It is worth noting that affidavits from the Band given in 1993 include testimony that a faction of the Band who was not in support of the agreement was away hunting at the time of the second meeting.) In a letter written on September 26, 1908, Agent Murison stated that he was present when the surrender was taken, and that he had persuaded the band members to hand back part of the money to buy farming implements on behalf of the Band: “[W]hen I handed the goods to them I told them that they must not dispose of them without my knowledge and authority . . . I may say that the Fishing Lake Indians are not capable of handling their own affairs and it will be necessary to keep them under strict supervision in order to make anything of them” (NA, RG 10, vol. 3562, file 8218).

Nine band members signed the agreement. None of them is listed as Chief or Headman because the separation had not taken place formally, and there were no leaders recognized by the

Department of Indian Affairs. Research has shown that there is some doubt over whether the membership issue – who belonged to which of the three bands – was settled when the agreements were taken, and whether all of the individuals signing the document were of legal age. The affidavit was signed by Graham and Sabitawasis on August 10, 1905, before Henry Milligan, JP, at Wadena. Sabitawasis seemed to have replaced Charmican, whose name is crossed out, and he is noted as being a headman even though the new Band had no elected leadership at that time.

Since there is no documentation as to how many voters there were in favour, or how many voters in total, one would have to assume that a majority of voters present at the meeting consented to the surrender. However, given Graham's description of the decision making, it should not be assumed that the individuals who signed the document matched the individuals voting in favour.

## **PEGUIS/ST PETER'S IR 1**

### **Surrender of 1907**

In late 1906 a Commission was set up by Minister of Interior Frank Oliver to settle outstanding land claims issues at St Peter's. It was to consider the option of a surrender. Hector Howell was named the Commissioner, Orange Clark was the solicitor for the Indians, Fred Heap the solicitor for the non-Indian claimants, and David Laird and Inspector John Semmens were to attend on behalf of the Department. Heap was also asked by the Selkirk Board of Trade to represent its interests. The Commission began its meeting with a session with the Chief, William Prince, on Christmas Eve, 1906, and the proposal for a surrender was mentioned. The first meeting with full Band Council was on January 4, 1907, and at that time the idea of a surrender was put forward for discussion. Laird and the Band Council expressed opposition (Tyler, Wright, and Daniel 1979, 208-09).

The Commission began to hold sessions to hear claims in February 1907. Throughout the sessions, Howell maintained that treaty Indians had no property rights to the contentious river lots and that non-treaty claimants did. He also continued to meet privately with the Chief and Council, and surrender offers were made. An early offer prepared by Inspector Semmens provided that

- each head of family would receive a patent for 80 acres
- once the balance of the reserve was sold, interest would be paid to families annually
- a new reserve would be set aside on Lake Winnipeg on the basis of 100 acres per family
- the band would select new sites
- the Loon Straits reserve would be the first considered

The Band Council apparently rejected this proposal (Tyler, Wright, and Daniel 1979, 214-26). Nonetheless, Howell went to the reserve at its invitation to hold a meeting to discuss the surrender on April 18, 1907. Inspector Semmens was there on behalf of the Department. At the meeting, which was held in the old schoolhouse, the Band unanimously opposed the above proposal.

A second meeting was called for May 16, with Semmens and Agent Lewis present, as well as Howell. The band solicitor, Clark, was not present. The two-hour meeting was held outside, and again the Band rejected the proposal. The *Selkirk Expositor*, owned by Lewis, reporting on the meeting, stated that the Band was not as far advanced as many had hoped, since they were opposed to the surrender (Tyler, Wright, and Daniel 1979, 218-20). An internal meeting of the Band followed, at which Chief William Prince revealed that he had been made promises that would make him “well off all the days of [his] life.” The Chief assured the Council that he was opposed to the surrender, and the ex-chief, William Asham, who was to become the leader of the opposition to the surrender, made him repeat the statement.

Howell then met with Minister Oliver while the latter was on tour, and the result was a new offer with detailed terms:

- patent for 80 acres for each family of five
- Chief to receive 180 acres
- councillors to receive 120 acres
- one-half of the proceeds from sales the first year to be distributed as equity
- interest money on remaining capital to be distributed annually
- Chief to receive \$10 more
- councillors to receive \$6 more
- rations to be distributed to entire band at treaty time
- hay reserve to be set aside out of northern part of present reserve on basis of 10 acres per family of five
- new reserve to be give on Lake Winnipeg on basis of 320 acres per family of five
- agricultural implements and bulls to be given annually
- assistance in moving and building
- taxes to begin when patent issued
- sales to take place only with approval of Inspector for first three years
- treaty provisions to apply to schools in new reserve.

This proposal was submitted to the Band on June 3. Semmens was present at the meeting, but Heap, Clark, Lewis, and Laird were not. Howell explained the provisions, whereupon some of the

band members spoke against the surrender and the apparent bribery. When one band member, Greyeyes, spoke about the failure of the government to honour the promises it had made, Howell left in anger (Tyler, Wright, and Daniel 1979, 221-26).

The number of people who were trying to get a surrender increased over the summer. Dr O.I. Grain, a physician and Conservative, was asked by Howell for ideas about how to manage it, and he later said that he agreed to get involved so that the Liberals would not later get all the spoils. Ernest Rayner, a Liberal merchant and manager of a store owned by a friend of the Sifton family, William Robinson, also became part of the group. The mayor of Selkirk joined the next round of discussions. This group met in late August, invited the Chief and a couple of councillors, and discussed the surrender, adding more incentives to the pot: a larger reserve, freedom from taxation for three years after patent, and the immediate payment to the Band of the moneys derived from the sale of the Mile Square (see Chapter 4). Immediate payment was not in fact allowed under the *Indian Act*, which would permit only a 50 per cent distribution at the time of surrender.

Howell also wrote, in his report to Oliver on August 30, that he intended to recognize the rights of a number of non-Indian claimants to river lots, which would reduce the size of the reserve to 48,000 acres. Howell pointed out that these patents would physically break up the reserve, making the Department's control of the Indians on it difficult. He also suggested to Oliver that the Band was on the verge of accepting the new terms, but they demanded the distribution of the Mile Square proceeds – \$5000 – as a condition. On September 5, the same day that Howell had another meeting with his group and the Band Council, Oliver responded that the \$5000 would have to come out of the proceeds of the next sale. According to Howell's letter to Oliver dated the next day, he had nonetheless told the Band that he would try to secure this condition (Tyler, Wright, and Daniel 1979, 234-39).

On September 7, Pedley informed Howell by wire that the \$5000 could not be paid out, but could be used for permanent improvements on the new reserve. Howell then fell ill, and Oliver authorized Pedley to go to Winnipeg to take the surrender. Pedley met Howell and his group on September 19, and the Chief and Council on September 20, paying the latter \$5 per person for attending. Howell, Lewis, and Semmens were all present. Pedley told them that he had \$5000, which he could disperse; it was not the Mile Square money, but an advance on the proceeds of sales from

the next surrender. He promised a distribution of \$90 per person based on a \$10 per acre estimate; this money would be forthcoming only after the sale. There was also discussion of prolonging the terms of the Council, and although all the details are not known, no new elections were to be held until 1911. According to newspaper coverage, the Chief and Council agreed to the surrender at this meeting. A band meeting, at which a vote would be held, was scheduled for September 23, and notices were posted in the churches, in English, on Sunday morning, September 22. Apparently the usual practice on the reserve was to post a notice of events one to two weeks in advance (Tyler, Wright, and Daniel 1979, 240-44).

The meeting was held on Monday, the 23rd, at the old schoolhouse. Many people had to stand outside, since about 200 people attended. Pedley, Lewis, Grain, Howell, Semmens, Rayner, Grain, and MP Samuel Jackson were there, making a very large party. Pedley chaired, and asked ex-chief William Asham to interpret. Asham refused, and W.H. Prince, the councillor who had long supported the surrender, took over. People later commented that the translation was poor and sporadic, and even those inside the building had difficulty following.

Both Pedley and Howell spoke in favour of the surrender. At least some of the clauses of the surrender were discussed, although, later, there was disagreement as to whether the entire document was read. Asham and others spoke, mostly against the surrender. Most of the discussion revolved around the advance Pedley was prepared to give on site (\$5000), and the \$90 per person to be advanced after the land sales, which he said represented the proceeds from the sale of half of the land, or 24,000 acres. There was also some coverage of the patents, and Howell apparently said he was prepared to issue patents immediately after the surrender.

By the end of the day, opposition was still strong, and Asham tried unsuccessfully to have a vote taken. By the next morning, opposition had lessened, and it was later alleged that alcohol and bribery were freely used the night before. Ernest Rayner later submitted a bill for \$321.70 for services rendered, which may have covered some of these expenses. On the second day, the meeting conditions were much the same, as were the discussions. A lunch break was called, and according to William Asham's later testimony, Councillor W.D. Harper offered him, as leader of the opposition, the same terms that the councillors were to receive from the surrender. Samuel Jackson made the same offer.

Howell did not attend the afternoon session when the vote was taken; he left that to Pedley. When the meeting began, Asham moved to postpone the vote, but Pedley would not agree. The Chief made a speech in favour of the surrender. The voters were then called outside to do a count, with those in favour to stand on one side, and those opposed on the other. As people left, however, the Reverend Mr Semmens shouted in Cree, pointing to the Chief and Council standing together: "Who wants \$90, let him go over there!" This led to some confusion about whether the line-up was for payments or for the vote, particularly for those who had not heard or understood the previous discussion. Semmens then proceeded to lobby some of the opponents personally, calculating what they would get in land and money. The counting was done by Agent Lewis and one of the councillors. Pedley announced the vote as 107 in favour and 98 against, although Asham later said that he surveyed the two groups again after the announcement and ascertained that the opposition group was larger. There was no recount, nor was there a written list of voters.

There were 223 eligible voters, so the vote carried on a majority of the meeting representing a majority of voters, not a majority of total voters.

Pedley then went back inside for the signing and, at the request of a band member, read the surrender document through, in English. There was opposition to the clause that the Department of Indian Affairs must approve the sale of lots, and this was struck off, after the vote. The document was also changed to allow ex-chiefs, such as Asham, the same amount of patented land as councillors. The document was then signed by the Chief, the Council, and by Asham. It was witnessed by Pedley, Grain, Rayner, and Semmens (Tyler, Wright, and Daniel 1979, 244-63). The affidavit was sworn the same day, September 24, in Selkirk, by Agent Lewis and the Chief, William Prince. It was sworn before a police magistrate, D.S. Daly. The Reverend Mr Semmens and Agent Lewis began paying the \$5000 advance, each band member receiving \$4.30.

In his report to Oliver on October 26, 1907, Pedley said:

The placing on the market of the land to be sold, namely, 24,000 acres will afford an opportunity long looked for of having the land available for farming and other purposes and the issuing of patents to individual Indians will ultimately . . . result in a considerable portion if not all the land granted to them passing into the hands of whites. (Tyler, Wright, and Daniel 1979)

Frank Oliver explained the granting of land in severalty as fulfilling the rights of the St Peter's Indians, as original settlers under the *Manitoba Act*, to get land at the time of transfer. He gave this explanation in the House on April 22, 1910, after having said on February 15, 1909, that the granting of title to the lots was a necessary concession to gaining the consent of the Indians for the surrender (House of Commons, *Debates*, April 22, 1910, 7851; February 15, 1909, 1019).

## **SWAN LAKE IR 7/7A**

### **Surrender of 1908**

The Reverend John McDougall, SGIA Frank Oliver's surrender agent, went to Swan Lake in early September 1907 "with your [Oliver's] instructions referring [sic] to the exchange of this Reserve, or the surrendering of a portion of land by the Indians to the Crown." McDougall reported that part of the Band still lived at Indian Garden, and that they looked upon the exchange of land from their reserve (to Interior) with the Tramping Lake land as a "wrong done to them." The Band had also told McDougall that they had received no answer to their petition of a year earlier to sell the Tramping Lake lands. "Thus I recognised at once that I was up against resentment and suspicion and almost total indifrance [sic] on the part of these Indians to any proposition from the Government." McDougall nonetheless posed two "propositions": 1) to exchange their entire reserve for one north and west, and to receive the balance of land in equity and funded moneys; or, 2) to surrender the Tramping Lake lands and that part of the Swan Lake reserve contiguous to white settlement – five and a half sections. The land would be sold at a minimum price of \$10 per acre, and the Band would receive one-tenth at the time of surrender, the balance a year later.

The Band turned down the first proposal and said it would consider the second, but only with Chief Yellow Quill present. McDougall then went and collected the Indian Gardens people, including the Chief, and went back to Swan Lake. There the band members turned down both proposals, with the exception of the sale of the Tramping Lake lands, for which they wanted \$22 per acre. McDougall thought the \$22 per acre figure represented the price of lands selling near Swan Lake of comparable quality to what had been taken from them. He recommended a "present equity of say \$15,000" and the promise of interest on funded moneys being paid on a per capita basis. These terms might be

persuasive to get a surrender along the lines of the second proposition (McDougall to Pedley, September 10, 1907, NA, RG 10, vol. 3624, file 5217-2).

McLean wrote back to McDougall on September 18, 1907, saying that the Department would never agree to pay the full purchase money, as the Indians requested, because it was not allowed under the *Indian Act*. Meanwhile, on October 12, 1907, Farming Instructor Campbell forwarded to Oliver a petition from the Band, signed by Chief Yellow Quill and two headmen, for a surrender of four and a half sections of the reserve, 2880 acres, plus the 2403 Tramping Lake acres, on condition of a \$10 per acre minimum sale, and one-third paid to the Band: 20 per cent at the time of the surrender, and 13 1/3 per cent one year after the surrender.

When McDougall heard about this proposal, he wrote to Oliver endorsing it. The Department agreed as well, except for the price of the Battleford area lands, for which they thought they might get only \$6 per acre. McDougall was asked on November 25, 1907, if he would take the surrender on these terms. Just after this, on December 4, a new petition came from Instructor Campbell, the Chief, and headmen, listing the conditions on exactly these terms, including the \$6 per acre at Tramping Lake, but with \$100 per head to be paid at signing, a little more than the 20 per cent proposed earlier. The petition was clearly prepared in McDougall's handwriting, but was not signed or witnessed by him. Campbell witnessed the signatures of the Chief and Headman, and signed his name in his own hand. On December 7, McDougall explained to Oliver that he had met first with the Indians at Swan Lake and, "after some trouble and with the help of Mr. Campbell," had succeeded in getting a majority of the Band to come to a meeting, whereupon they assented to the conditions given to McDougall. Then McDougall and Campbell went to Indian Gardens for the agreement of the Chief, who signed the letter (NA, RG 10, vol. 3624, file 5217-2).

On December 16 Pedley provided Oliver with information about the proposed surrender that he needed to take to the House in response to a request. Eleven days later, on December 27, Pedley provided Inspector S. Swinford at Portage la Prairie with authorization to take surrenders of both the Tramping Lake and part of the Swan Lake reserves, as per McDougall's second proposition. A cheque for almost \$10,000 was sent to Swinford on January 4, 1908, taken from the Consolidated Fund and the Management Fund, the latter without advance authorization, according to a letter from Accountant D.C. Scott to Pedley on December 30, 1907 (NA, RG 10, vol. 3624, file 5217-2).

Authorization by Order in Council was given four days later, January 8, 1908, for a surrender of 5283 acres, on the condition that the land not be sold for less than \$10 per acre in the case of the Swan Lake lands, and \$6 per acre for the Tramping Lake lands. The Indians were to be offered one-third of the purchase price, \$100 per person at time of surrender and the balance after the sale. Since the vote for payments to Indians in connection with taking of surrenders did not have enough money in it, authorization was given to borrow money from the Land Management Fund.

On January 28, 1908, Swinford submitted the surrender of part of IR 7 and all of IR 7A. "At the meeting called, nearly every man in the Band attended, and after the surrender was interpreted to them they had no hesitation in signing." Swinford went on to say, however, that the first payment of \$100 per capita was paid at Swan Lake on the January 22, the day after the surrender, and that the second payment was made on January 23 at Indian Gardens:

After the payments were over the Chief [sic] remarked that the Rev. John McDougall had informed them that all their old priveleges [sic] of holding sun dances etc. were gong to be returned to them, but the Chief said he didn't know whether this had anything to do with the surrender or not. I told him I could not understand the Rev. Mr. McDougall telling them such a thing as that, as the Department had no intention, that I was aware of, of allowing the old torture dances, etc.; of the past. (Swinford to McLean, NA, RG 10, vol. 3624, file 5217-2)

Swinford's account said nothing about a vote. Seven men from the Band signed the surrender, including the Chief. Agent Robert Logan and K.M. Garrioch, interpreter, signed as witnesses. It would appear from the paysheets at the time of surrender that there were well over 20 married men in the Band who would have been eligible to vote. Swinford did not include an affidavit, and he was told to get one signed by himself, the Chief, and one principal man, before a judge, magistrate, or justice of the peace. The returned affidavit is not included in the file, but, according to Swinford, it was returned March 3, over a month after the surrender (NA, RG 10, vol. 3624, file 5217-2). The Chief signed the surrender document, but it was not recorded whether he came down from Indian Gardens to be present for the vote itself on January 21.

A year or two later the Chief and two councillors wrote to the Governor General about the surrender. The letter was dated January 5, 1909, but since it was received January 11, 1910, the true date was probably 1910.

When John McDougall came to talk to us about the sale of part of our reserve he made a lot of nice promises on behalf of the government and said a lot of nice things that pleased us, and we beleived [sic] everything he said was true. One reason we did was because we were told that he was a minister and we were always told that a minister was a person that would not tell a lie to any one. So when he told us that we would be paid two large payments of seventy-five dollars per head, but that we would [illegible] so that he put first payment at one hundred dollars a head for first payment at time of surrender, and another one hundred dollars one year from that time and that was what we understood when we signed the agreement. We have got one payment according to agreement and we want another payment on account of same we have to depend on these moneys to feed our families through the winter as there is no game of any kind to be got here. Our hunters have been out all over the country, and have returned without any game or furs of any kind so that our families are in danger of starvation we humbly ask that the balance of the one third of the money still to come to us from the same that had already taken place on this reserve be paid to us this winter. (NA, RG 10, vol. 3625, file 5217-3)

The level of consent obtained is impossible to verify and there are no details about a meeting.

## **MUSCOWPETUNG IR 80**

### **Surrender of 1909**

This section contains some information on the Pasqua surrender of 1906.

In 1904 Inspector William Graham met with the Band to discuss surrendering 10,250 acres. All but two or three of the male voters were present, and all those present voted against a surrender. Graham said that he discussed the “benefits” with the Band, but did not elaborate what they were (NA, RG 10, vol. 3562, file 82/7).

In response to continued local inquiries about a proposed surrender throughout 1905, and possibly at the instigation of SGIA Frank Oliver, Graham returned to Muscowpetung to request a surrender. He also intended to visit Pasqua for the same purpose. “It is my intention to deal with each reserve separately and to suggest the terms, on which I think the Indians could be induced to surrender,” he wrote in a lengthy report to Oliver. Graham then dealt with each reserve separately. As to Pasqua, Graham assessed that the reserve was far too large for the population and that the Band would benefit from an annual distribution. An area of 15,900 acres could be surrendered without interfering with farming operations, and the land might bring \$15 per acre, given its location. He would propose to the Indians that the value be based on a minimum of \$8 per acre, and, from this

estimate, he would give one-tenth of the proceeds of sale to the Indians (one-twentieth at signing, and one-twentieth after the sale). Graham proposed offering the Band a chance to move buildings on the property and to receive compensation for improvements; payments for improvements should be made at the time of surrender. Finally, he would suggest funding the shares of children between the ages of 12 and 18.

As for Muscowpetung, Graham asserted that 17,600 acres from the southern part of the reserve could be surrendered, leaving still over 250 acres for each individual. For this Band, he proposed a \$7 per acre minimum, as “there are fewer Indians on this reserve than on Pasqua’s, and the first payment will go farther individually.” In conclusion, Graham said, he did not anticipate any difficulty taking the surrender on these conditions, but he would suggest having the forms drawn up so they could be signed at the first meeting called (NA, RG 10, vol. 3994, file 195126-2).

Accountant Duncan Campbell Scott evaluated the proposal, noting that the \$7 or \$8 figure was more reasonable than the \$10 minimum which was placed on the Cote surrender. The money would have to be advanced from the Land Management Fund. Oliver then prepared a memo to the Governor General in Council to request permission by Order in Council to take the surrenders from the two bands. In the memo, the amount of land to be taken from Muscowpetung was increased to 24,640 acres, based on the suggestion that the remaining reserve be reduced to an area large enough to allow for 128 acres per band member at the current population. The Order in Council was passed January 26, 1906, approving an advance from the fund of \$18,000 for cash distribution (OC 98-1906).

Meanwhile, Commissioner David Laird had been visited by people from Pasqua inquiring about the rumoured surrender. He advised them to call a band meeting, which they did on January 23, 1906, with the result that they asked him to go to the reserve to discuss the surrender. Laird wrote Ottawa on March 6, 1906, recommending surrenders from Piapot, Pasqua, and Muscowpetung. He seems to have been unaware of the discussions pending in Ottawa, or of the fact that Graham had by then taken a surrender at Pasqua and had been turned down at Muscowpetung (NA, RG 10, vol. 3562, file 82/7).

Surveyor J.K. McLean actually prepared two descriptions for surrender for Muscowpetung, one for 18,000 acres, and the other for 25,000 acres. Two were prepared for Pasqua as well. Deputy

Superintendent General Frank Pedley authorized Graham to take the surrenders on February 6, 1906, based on any of the alternative acreage figures. Graham wired McLean on February 20, asking whether the parents would draw one-tenth of funds for the children, or only one-twentieth. He also asked whether the vote of the Chief could affect the outcome, and whether the interest would be distributed annually. The reply, dated the next day, was that the distribution at surrender would be only for one-twentieth; the Chief's vote against a surrender would not matter if a majority was in favour; and the annual interest would be on the funded capital (NA, RG 10, vol. 3994, file 195126-2). Both acreage figures were taken to Pasqua on February 28 and were rejected. Graham took both acreage figures to Muscowpetung on March 5, 1906, and both were rejected. Graham did not give any details in his report to McLean on that day (NA, RG 10, vol. 3994, file 195126-2).

On April 16, 1906, a month or so after the meeting, band member Echeyace wrote to Pedley reminding him of an earlier letter about the sale of the reserve and other issues, and asking for a reply. McLean sent the reply to him via Graham; the contents of the reply are not known. Meanwhile, the next agent, W. Gordon, reported that year that the Band was getting along, but many were of advanced age, and the health of band members was not as good as at neighbouring reserves (Canada, Department of Indian Affairs, *Annual Report*, 1906-07, 139-43).

At the request of Pasqua, Graham planned another meeting to take the surrender. The meeting was held on June 5, and three rows of sections, 16,077 acres, were surrendered. Graham said that nearly all the voters were present, and that the vote stood 23 in favour, 5 against. "The first vote taken on this proposition some months ago, resulted in an even vote of thirteen for and thirteen against, so you will see that the Indians have viewed the matter in a different light since that meeting, although no pressure whatever has been brought to bear on them." The surrender was witnessed by Father Hugonard, and by paying clerk E.D. Sworder. Graham then distributed one-twentieth of the total projected payments, based on \$8 per acre. He proceeded to pay for the estimated values of land and building improvements, as stipulated in the surrender document. When Graham reported on the meeting, on June 8, he asked for more money to pay for improvements; at that time he had not yet had the surrender certified. When he submitted the documents to McLean, he was reprimanded for having taken only three rows of sections, rather than the four he was authorized to take (NA, RG 10, vol. 3994, file 195126-2).

It is worth noting that it was after the Pasqua land sales on November 17, 1906, that Graham wrote to the Department and suggested a ten rather than a five instalment plan. Such a plan would be far more attractive to prospective purchasers, so would likely lead to better prices.

A year later, on July 18, 1907, Graham brought the surrender proposition for Muscowpetung back to McLean's attention. He said that he had been asked by some of the Muscowpetung members to hold another surrender meeting; he offered an educated guess that the proposal might pass by one or two votes. He suggested putting an \$8 per acre value on the land, and offering 5 per cent of the proceeds to the Band, one-third of which would be paid out at signing, and two-thirds to be spent in building cottages (NA, RG 10 vol. 4035, file 304072). Graham did not immediately act upon his own idea, but met with Frank Oliver himself at Indian Head in October 1907, and the two men discussed the surrender. Oliver urged him to continue to meet with the Band, but to keep in mind that it must retain enough land to make a living. It is not known why the proposed distribution of proceeds dropped to only 5 per cent, which was lower than the earlier proposal, and lower than what other bands at the time were being offered.

Apparently Graham did mention the surrender whenever he visited the agency, and he always met with a refusal. In October 1908, Echeyace wrote to Laird, requesting a surrender meeting and reporting on an internal discussion held recently on reserve. The Band would agree to sell at \$25 per acre, he said, with half distributed. "The reason why we asked half of the Purchase money is because we are short for every thing" (NA, RG 10, vol. 3562, file 82/7). Another request followed on November 9, addressed to McLean, with the same purchase proposal (NA, RG 10, vol. 4035, file 304072). The Department promised a response, and on November 20 Graham wrote to Pedley that he had recently detected a change of opinion as to surrender. He rejected the \$25 per acre price as "absurd." He suggested a surrender of 17,600 acres, the "best half" of the reserve. Graham thought the sale would bring about \$104,800 at \$8 per acre [this figure should have been \$140,800]. From this, he thought to offer \$10,000 down, and \$10,000 a year later, and annual distribution of interest. Accountant Scott endorsed the proposal and suggested drawing up the forms on this basis. Chief Surveyor Samuel Bray wrote a description for 17,600 acres, and Pedley sent the forms to Graham on December 2, 1908, with a cheque for \$10,000. Pedley recommended that the Department retain

some discretion over the interest money, spending it on behalf of the Band instead of issuing all of it in cash.

Apparently the forms had been filled out, because Graham wrote quickly to protest the \$8 per acre minimum price inserted in the forms. He suggested leaving this out, since some land might not bring this much, and it would be misleading. "I will try to get the Indians to agree to part of the Interest money being expended for the benefit of the band each year as the Department see fit." He stated that, given how unwise it was to distribute cash before Christmas, he would go there after Christmas, after having first gone to Pelly (NA, RG 10, vol. 4035, file 304072). Graham was told by McLean that he could cross out the clause giving the minimum price, and Graham proceeded to do so. According to his diary, he met with the Band at noon on January 4, 1909. It appears from his notation that the meeting was held at Tom Anaquod's house, and that it lasted until 5 p.m., with payments lasting until 11 p.m. The day was very cold,  $-52^{\circ}\text{F}$ . The surrender document – for 17,600 acres – bears the terms he had proposed, with the \$8 per acre clause crossed out. It also contained a provision for the payment of improvements at \$5 per acre, but specified that "improvement" meant plowing within the past two years. The children would have their money funded.

There was no official report, either in the diary or in Graham's letter to Pedley of January 6, of what was discussed at the meeting, how many voters were present, or how many voted in favour. Ten men signed the surrender document, in the presence of Father Hugonard. At least 18 men received payment that evening, each individual receiving \$120. According to paylists, there were 21 eligible voters in the Band.

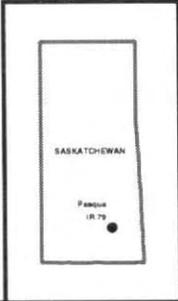
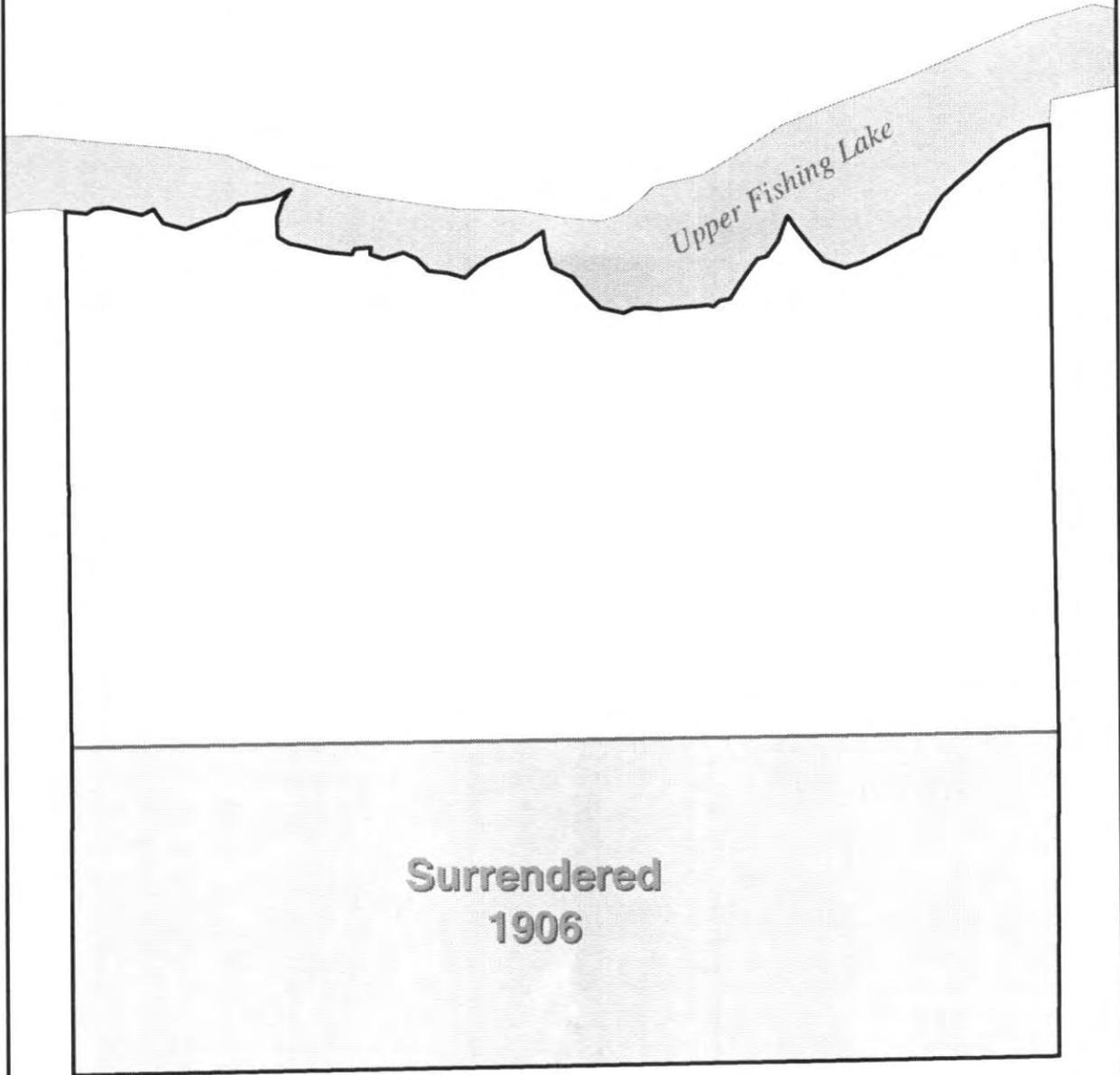
In a private letter to Pedley, dated the same day, Graham revealed that he had had difficulty obtaining the surrender. He attributed this to the activities of Echeyase, or Echeaise, who had been advocating rejection unless the Band got \$25 per acre. Apparently Echeyase had held a meeting just prior to the noon event. He had evidently paid a local notary public to attend the meeting as well, who was brought into the meeting by "a meddling half-breed." At the very beginning of Graham's meeting, the Chief asked whether Graham was authorized to pay the \$25, and, when Graham denied it, the Chief said that Echeyase had been holding meetings to oppose the surrender. He objected to the Department having corresponded with the man, without the Chief's knowledge. Graham went on to

say that the Agent did not know what was in the Department's replies, either, and that he was therefore at a similar disadvantage to the Chief.

In a letter of January 1910, signed by the Chief and six other men, there is mention of two witnesses, Hugonard and the JP, J.H. Murphy, who was possibly the notary Graham referred to. When a copy was sent later in January to the Governor General in Council for approval, there was another witness, Alexander Brass, added to it. Brass was Graham's interpreter that year at File Hills Colony and a member of his party.

In his expense report, which he was later called upon to defend, Graham stated that Father Hugonard had attended as interpreter. The Agent, William Gordon, was also present (NA, RG 10, vol. 6683, file 114A 2-2). Elders' testimony from 1992 asserts that William Murison, the Touchwood Agent who later bought land, was present, as well as a man named Christianson. The 1992 testimony was that the document was not signed until after dinner, and that those present were told to come back after dinner if they wanted the money. The affidavit was signed on January 6, 1909, by Chief Muscowpetung and Graham at Fort Qu'Appelle, before Justice of the Peace J.H. Murphy. A majority of those at the meeting may have consented to the surrender, but it does not appear that a majority of voters gave their consent.

PASQUA  
IR 79



## **THE KEY IR 65**

### **Surrender of 1909**

This section contains some information on the Keeseekoose surrender of 1909.

After the Key Band submitted a proposal to the Department of Indian Affairs in July 1908 for a land surrender of 13 sections of the reserve, Inspector William M. Graham said he would follow up on the request. He did not go to the reserve until January 18, 1909, after taking the Muscowpetung surrender. "Instead of surrendering thirteen sections as they wished to do in the first place, I persuaded them to surrender seventeen sections as the Land in question is not being used and is very light and cut up with Sloughs, and scrub, and will not bring a high price. However there is a time coming when the land will sell." Graham then reported that the Key people were content to give up any interest in the Shoal River reserves, and that the Shoal River people, on his understanding, did not wish to move. Graham accepted the Key request for \$100 per person down payment at the time of the surrender, \$20 more than the earlier proposal. He requested cash from the Department sufficient for this dispersal and to reimburse band members for improvements (Graham to Pedley, January 21, 1909, NA, RG 10, vol. 4039, file 329759).

Graham wrote to Pedley the same day about a deputation of people from Keeseekoose who had been to see him at the same time, and who wished to sell about 6000 acres of their reserve. After discussion with Graham, they agreed to sell 8000 acres. They wanted \$15 per acre as a sale price, but Graham rejected this price. He also objected to their request for a payment at surrender of \$6 per acre, saying it was too high, and he suggested a figure of \$85 per person (NA, RG 10, vol. 7770, file 27117-3). W.A. Orr of the Lands and Timber Branch endorsed the proposal in a memo to Pedley on January 30; Accountant D.C. Scott attached a note on February 1 saying that there would be no money until the new appropriations, but an advance could be found if necessary. DSGIA Frank Pedley authorized Graham on February 8 to take the Keeseekoose surrender, and on February 13 to take the Key surrender. Graham was to apply for funds for both when needed.

Ironically, two days later, on February 10, Commissioner David Laird wrote to Headman Kakakeway of Keeseekoose, in response to his inquiry, that he was not aware that any portion of the reserve was to be sold. "In any case before the Government can dispose of Indians lands the majority of the voting members of the band have to surrender the same of their own free will" (NA, RG 10,

vol. 3561, file 82/1). Laird had obviously not been notified of the surrender discussions; at the same time, Kakakeway and the seven other residents, in writing to Laird to say that they did not want to surrender, were not in accord with those who allegedly approached Graham. The headman wrote to Laird again, on February 25, saying that the majority of that Band was opposed to selling all the best land, but would agree to selling some. Again Laird told them, on February 27, that the majority of male members would have to vote in favour, and he suggested that they make their proposition to Agent Blewett or Inspector Graham (NA, RG 10, vol. 3561, file 82/1).

Graham then solicited funds for the Key surrender, but did not go right away to the Agency. On April 19 Agent Blewett wrote Secretary D.A. McLean saying that the people of both bands were anxious to know when the surrenders would take place, as they needed cash to buy oxen and equipment for the coming season. After this letter, Graham iterated his request for the Key funds, and added Keeseekoose. He also asked for money to reimburse Keeseekoose Band members for improvements: “It will be necessary to have this latter amount at the time the first payment is made, as there will be no difficulty in deciding as to where the improvements are situated, and again, the Indians at this reserve are an indifferent lot and will expect payment at once” (NA, RG 10, vol. 4039, file 329759). Graham went first to Keeseekoose, taking a surrender there on May 15, and then to Key on May 18. At Keeseekoose, a surrender of 7600 acres was taken, with a \$85 per person distribution. The surrender was witnessed by A.A. Crawford and by Graham; seven voters, including the Chief and Headmen, signed the document. A few months later, 30 men signed a petition to Pedley regarding reserve boundaries.

In his description of the Keeseekoose surrender, dated May 21, Graham said that he had called the meeting on May 13, and the meeting was actually held on Saturday, May 15. Nearly every member of the Band was present, and the vote was unanimous. Graham then had the papers signed, and began payment of \$85 per person.

The Key surrender, dated May 18, was witnessed by W.M. Graham and A.A. Crawford, and had seven signatures attached. There were 17 or 18 men over the age of 21 at the Band at Pelly at this time, and about another 34 at Shoal River. Graham did not record any of the events of the meeting at Key – discussions, notice, number of voters, or the number voting in favour – other than to say, in his letter of May 21, that “nearly all members of the Band were present and the vote was

unanimous.” If this was the case, then not all the voters signed the surrender document (NA, RG 10, vol. 4039, file 329759).

The terms of both surrenders were similar, in that the lands were to be sold at auction, moneys for children 12 to 18 years of age were funded, and authorization was given for the purchase of farm equipment and livestock from the proceeds. Only the Keeseekoose surrender provided for reimbursement of improvements.

Both the Key and Keeseekoose affidavits were taken in Kamsack on May 19 in front of J. Wallace, JP. Both Chiefs signed, although the original affidavit for Keeseekoose had the name of the Key Chief, instead of Kitchemonia; it was returned for correction (NA, RG 10, vol. 7770, file 27117-3).

Graham proclaimed that the vote was unanimous in both surrenders. Neither of the surrender documents was signed by a majority of voters, and there is little documentation about the proceedings.

**KEESEEKOOSE  
IR 66**

**Surrendered  
1909**

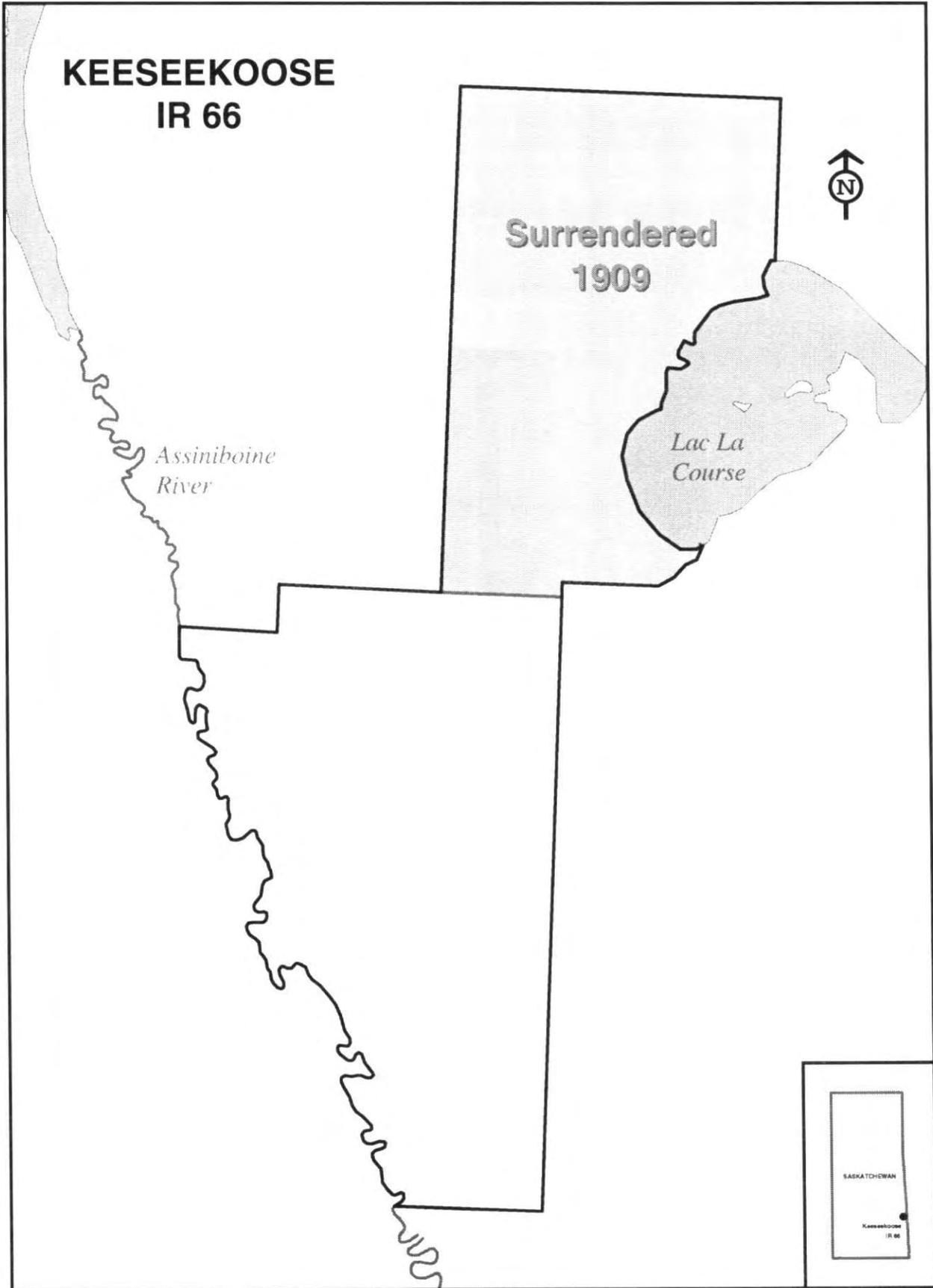


*Assiniboine  
River*

*Lac La  
Course*

SASKATCHEWAN

Keeseekoose  
IR 66



## **Bobtail IR 139**

### **Surrender of 1909**

This section contains information on negotiation of the Samson IR surrender of 1909.

The Montana Band had been living on the original Bobtail reserve since 1896. Apparently, the Bobtail Band had never lived on the reserve, and its members were dispersed among the other Hobbema Agency bands.

Inspector Markle had visited the Hobbema Agency in early 1906 and had written to Secretary J.D. McLean suggesting an amalgamation of the Bobtail and Samson Bands and reserves, and a surrender of the five sections of the combined reserve that were in excess of the treaty requirement for 128 acres per person. He had even recommended an expropriation of the surplus, but this recommendation was not considered. Superintendent General Frank Oliver's agent, the Reverend John McDougall, was sent to meet with the bands, including Ermineskin, on May 8, 1906. At the time he encountered strong opposition from the Montana people on Bobtail reserve, and from the Ermineskin people. Samson's people showed some willingness to negotiate, despite their strong opposition to surrender in 1904 (Lupul 1978, 34).

McDougall secured an agreement to surrender from Samson's on May 22, 1906, on certain conditions. The Band wanted a \$10 per acre minimum sale price, and asked that McDougall look after its interests in the sale of land. It wanted more control over its own affairs, including an end to the permit system; it wanted agreement that there would be no more surrenders; it wanted more flexibility in the system used to issue permits to cut hay; and it wanted guarantees of continued assistance to the aged and infirm. McDougall recommended these terms to Oliver, suggesting that, if this negotiation was successful, the other bands would follow (Lupul 1978, 34; see NA, RG 10, vol. 4012, file 266600).

Oliver refused the terms, partly because the land offered for surrender was not along the Calgary and Edmonton Railway. The Band, however, did not realize that the terms had been turned down, and, according to a letter from Agent G.G. Mann on October 18, 1906, neither did the Agent. The Band believed that it had surrendered the land, and kept expecting money from the sale of land to arrive. Mann asked when the sale was to be held. When Accountant D.C. Scott was reviewing the estimates in January 1907, he prepared a memo to Deputy Superintendent General Frank Pedley on

January 14 in which he pointed out that the best way to procure additional implements and livestock for band members, which they had requested, was to accept their offer of surrender. It should be made clear to them, however, that they would get no liberties not granted to other bands, nor would they get the interest money to spend as they chose; it would be managed for them (NA, RG 10, vol. 4012, file 267138).

When Mann was authorized by McLean to take the surrender on February 11, 1907, Scott's further advice not to seek a surrender along the railway and split the reserve was ignored. Mann was told to seek a surrender along the line, and to tell the Band that almost all of its previous conditions were unacceptable. According to a letter from Agent Mann, on April 5, 1907, Chief Samson refused to surrender land along the line, and refused to contemplate a surrender which did not incorporate the terms he had worked out with McDougall in 1906. McDougall met with the Band representatives again in August, and they rejected his suggestion of surrendering 13 sections to the west of the track, and 8 on the northeast part of the reserve, at \$10 per acre minimum price. They did agree to surrender 160 acres near the track for \$12 per acre. McDougall also said that, if he had had cash available for distribution, he would have gotten the surrender. These terms were rejected by Headquarters (NA, RG 10, vol. 4012, file 267138).

The matter was dropped until late 1908. Once again, in that year, Inspector Markle moved to secure surrenders from the Hobbema bands. Chief Samson had written to Oliver requesting a surrender of the land to the west of the tracks; the letter was witnessed by McDougall. The new request included 50 per cent band equity, and 10 per cent distributed per capita at the time of surrender. The Band also wanted the interest money from the funded portion distributed per capita (NA, RG 10, vol. 4012, file 267138, December 30, 1908). Markle also wanted the part of Bobtail's reserve west of the Battle River, and he believed that only the remainder of the old Bobtail Band living on the other reserves should be consulted, not the Montana Band living on the reserve at the time. Chief Surveyor Samuel Bray contested the latter assertion, on the grounds that the occupancy of the Montana people had given them the right to vote. Chief Accountant Scott believed that the Bobtail people had waived their rights to the reserve when they re-entered treaty in 1887, after taking scrip, although, he said, since they now had treaty rights again, this 1887 decision may not have been binding (Lupul 1978, 34-35).

McDougall was authorized to go back into the Agency, and he secured an agreement from Samson's Band to a surrender of the reserve lands, 9380 acres, west of the railway. The surrender

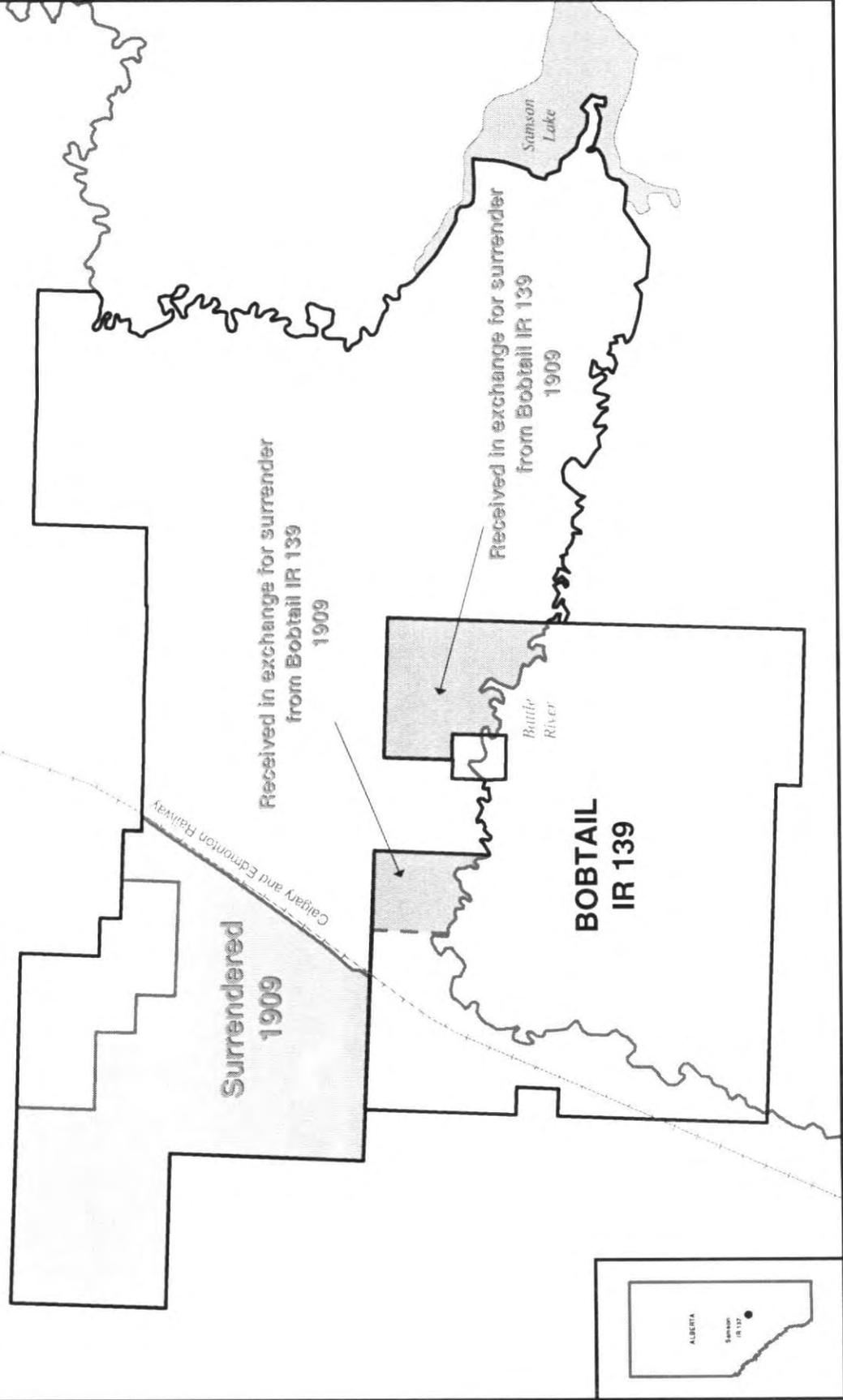
was signed on January 28, 1909, by the Chief and three headmen, and witnessed by McDougall and Mann. The Band received a per capita payment of \$20, as specified in the agreement, with the balance of 50 per cent of the surrender proceeds to be paid as the land was sold (NA, RG 10, vol. 4012, file 267138).

McDougall reported to Oliver that the Montana Band had refused amalgamation, and that he had told them, as instructed, that they did not have rights to the reserve and that it might be taken from them (McDougall to Oliver, January 2, 1909, NA, RG 10, vol. 4012, file 266600). Once again the rights of the Montana and Bobtail Bands to the reserve were debated in Ottawa. Oliver said that in his opinion the Bobtail people had lost all rights to the reserve when they had originally taken scrip. Since the Montana people had no right to vote on the reserve, he said, then the whole reserve could be taken without a surrender. The proceeds of the potential sale should go to the bands that had admitted the Bobtail people when they re-entered treaty, Samson's and Ermineskin's. The Montana Band should not be allowed to share the proceeds, Oliver said. Scott, however, checked the paylists and discovered that there were some original Bobtail people living on the other two reserves who had never left treaty, and who therefore had never lost their rights in the reserve and had to be consulted for a surrender (Lupul 1978, 35).

Thus, when McDougall went to Hobbema in June 1909 to obtain a surrender at Bobtail, he neglected the Montana people living on the reserve and took the surrender from four representatives of the former Bobtail Band. His authorization came from McLean, dated June 3. He was asked to take the surrender from the Bobtail people, and to obtain agreements between Bobtail and both Samson's and Ermineskin's Bands regarding proceeds of sale and transfers. He was also sent \$10,905 for distribution. Although McDougall was sent blank forms, there is a memorandum on file, unsigned and handwritten, in which the terms later "agreed to" were recorded.

The surrender was dated June 12. The new agreement would allow the Montana Band to retain 10 square miles south of the Battle River, in the eastern part of the reserve. Some of the reserve north of the river would be added to Samson's reserve, and the rest, 10,880 acres, was surrendered for sale. Agreements were signed on July 17 with Ermineskin's and Samson's Bands by which the Bobtail people were to obtain full rights in the latter Bands in return for granting a share of the funds received from sale (Lupul 1978, 35; see also NA, RG 10, vol. 4012, file 266600).

**SAMSON  
IR 137**



**BOBTAIL  
IR 139**

Received in exchange for surrender  
from Bobtail IR 139  
1909

Received in exchange for surrender  
from Bobtail IR 139  
1909

Surrendered  
1909

Calgary and Edmonton Railway

Battle  
River

Samson  
Lake

ALBERTA  
Samson  
IR 137

## **MOOSOMIN IR 112**

### **Surrender of 1909**

This section contains some information on the Thunderchild IR 115 surrender of 1908.

Agent J.P.G. Day submitted a proposal to the Department of Indian Affairs in March 1907 for the surrender of both the Moosomin and Thunderchild Reserves in their entirety. Both Bands were to be provided with money to buy new reserves, to be moved to the new sites, and to be paid for the value of the improvements made on their original reserves. DSGIA Frank Pedley recommended the proposal to Frank Oliver, and Day was instructed to take the proposal to the two Bands. The first meeting between Day and the Moosomin and Thunderchild Bands took place August 24, 1907. Day reported to Secretary J.D. McLean on September 24 that both bands refused to entertain the proposal, having already heard talk of the surrender and having decided against it before the meeting, Day felt. The matter of the lack of a Chief for Moosomin was raised, as was Chief Thunderchild's request to go to Ottawa himself. Day in fact recommended, on behalf of the Bands, that this Chief and two delegates go to Ottawa, with himself, to negotiate. Nothing was done about this request; the Superintendent General of Indian Affairs, Frank Oliver, on a trip west that fall, met with the Agent and the Indians, and decided not to pursue the matter. There would be no trip east for the band representatives (NA, RG 10, vol. 7795, file 29105-9).

In the spring of 1908, new rumours went around the district that Thunderchild had agreed to surrender, and that Moosomin would soon follow. One of those promoting these rumours was Father H. Delmas. On May 6 this local Oblate clergy witnessed a petition from Chief Thunderchild and 26 members of the Band, to surrender the reserve for a new one across the river, south of the original reserve. The terms in the petition were similar to those Day had pushed in 1907, but rations were to be extended for five years; the Band wanted \$15,000 down payment, distributions of interest four times a year, and some discretion over the spending of remaining capital (NA, RG 10, vol. 7795, file 29105-9).

Delmas sent a letter to Oliver 12 days later, saying that he felt he had successfully negotiated the surrender for the Department, and asking that a portion of the surrendered reserve be made available for a colony of Catholic settlers. DSGIA Frank Pedley wrote to W.A. Orr of the Lands and Timber Branch and recommended that discussions be renewed, with a view to establishing the new reserve at Bright Sand Lake, north of the original reserve, and with only six months of rations. When

asked by telegram whether the Moosomin people might also consider such a surrender, Day replied that they might, although they had not been included in discussions to date. Day was then asked to hold off on the Thunderchild surrender until the papers could be prepared and forwarded for Moosomin. These papers were forwarded on June 17, 1908 (NA, RG 10, vol. 7795, file 29105-9).

Day replied on June 27 that he did not believe the Indians would agree to the surrender unless \$15,000 was available for each Band for distribution and rations were promised for one year. Accountant D.C. Scott told Pedley by memo on July 9 that this kind of expenditure would require authorization that he could not get immediately from Parliament; he also recommended that Inspector W.J. Chisholm be involved in the event to safeguard such a large amount of money. A note written across the page said that one year's rations would be approved, but that Day should advise the Department before he intended to take the surrender. Two days later Secretary J.D. McLean sent a short letter to Day with these instructions, and Day replied almost immediately that the Indians would not consider signing without \$15,000 down, as they were on the verge of backing out of the surrender in any event and would use any excuse to refuse (NA, RG 10, vol. 7795, file 29105-9).

In another contradictory message, Day wired the Department on July 24, in response to a message from McLean asking when the surrender meeting would take place: "Indians prepared sign surrender when money here." McLean then wrote to Commissioner Laird immediately, requesting that he assist with the surrender, given the large amount of cash involved; the money was forwarded with the letter. Inspector Chisholm was apparently unable to take on this task.

The meeting with Thunderchild took place on August 26. The issue of rations was discussed; the Band wanted five years of rations, and, in compromise, Laird offered two. The meeting continued on August 27, with two or three unsatisfactory attempts to vote, according to Laird. A tie vote late in the day was broken by the Chief, who voted in favour of the surrender. The terms of the surrender included two years' rations, and immediate distribution of \$15,000 cash. The minimum upset price was set at \$6 per acre for the land to be sold, and \$3 per acre was to be spent in the purchase of the new reserve. Both Father Delmas and the Anglican missionary, D.D. McDonald, were active participants in the discussions at Thunderchild. (See Funk 1989, for an account of the negotiations based on oral history; Funk relates the story that the money was literally placed in view on the table prior to the final vote, and the assertion that the meetings took place in a schoolhouse so small that women and children had to sit outside to try to listen.)

The same terms were taken to Moosomin on August 28, where they were rejected “overwhelmingly”; Laird said that he felt there was no point in staying and pressing for further votes to be taken, as he had done in Thunderchild. Agent Day also reported on the meeting of the 28th, saying that the Indians had signed a statement in advance of the meeting that they would not give up their present land. Day alleged that this was the influence of outsiders, and that the Moosomin Indians would soon realize the benefits that the Thunderchild people were getting. Day was subsequently reprimanded by Pedley for ignoring his orders not to take one surrender if he could not get both, and was told to continue his efforts to reach a resolution with Moosomin. When Day was once again called to task in February 1909 for his failure, he explained that the bands did not get along well enough to have contemplated a joint meeting. He had not understood that he was to take both together; Laird had written to him before and suggested taking one at a time (NA, RG 10, vol. 7795, file 29105-9).

A petition was sent from Moosomin Band members to Oliver on January 8, 1909, asking for a surrender, with land to be sold at \$12 per acre, and a new reserve bought at Little Jack Fish Lake at \$3 per acre. The balance of \$9 per acre would be given to them as cash down payment, they proposed. They also recommended that a survey and evaluation take place before the surrender, including the selection of the new site. McLean wrote to Day that the price per acre was too high, and that the law would only allow a maximum of 50 per cent down (NA, RG 10, vol. 4041, file 335993).

The Reverend D.D. McDonald wrote to Laird on February 19, 1909, saying that he believed that Moosomin’s people wanted to surrender. He recommended against allowing a reserve at Little Jack Fish Lake, as it would place the two Bands farther apart and more difficult to manage with one staff member. Laird would reply on February 22 that there was no chance the Department would agree to the Jack Fish location (NA, RG 10, vol. 3563, file 82/11). Meanwhile, on February 19, Agent Day wrote to McLean regarding another meeting he had had with the Indians at Moosomin; he had ascertained that they were willing to surrender, but they maintained their desire for a new reserve at Jack Fish Lake, not Bright Sand. He proposed a surrender on the same terms as those at Thunderchild, but with a down payment of \$20,000. The geographical description of the new reserve site was included (NA, RG 10, vol. 4041, file 335-933).

Correspondence began with the Department of the Interior about available land for the new site, and McLean wrote to Surveyor J.L. Reid on April 20, 1909, asking him to take a delegation from Moosomin to select the site, which should be near the Saulteaux reserve. On April 21, McLean sent Reid instructions to subdivide both the Thunderchild and Moosomin reserves into lots for sale during the coming season. Day was also sent instructions by Pedley for the taking of a surrender on the terms Day and Moosomin proposed, including the \$20,000 down payment; two of the quarter sections of land requested had been homesteaded and were not available. The letter also concerned the selection of new sites for both bands, asking Day to assist Reid and the bands in this matter. On April 30, Day reported that they agreed, and would sign when the money came. They would, however, like to keep Indian Reserve 112A, the haylands (NA, RG 10, vol. 4041, file 335-933). McLean agreed to get the money, but he did not agree to the retention of IR 112A. He also directed, in a separate telegram of May 4, that, when the cash arrived, the debts were to be settled.

While these discussions were going on, McLean was also advising Day that the Department was changing its mind about the costs of providing a traction engine to the two bands, as per the agreement at Thunderchild and the proposal at Moosomin (which proposed to share the machinery). McLean said that, if the engine was such as could be used for plowing as well as the mill, then the bands should pay the difference in cost, including the cost of paying someone to run it. The surrender agreement did not specify the use of an engine for plowing (McLean to Day, May 5, 1909, NA, RG 10, vol. 4041, file 335-933).

The money arrived, and Constable O'Keefe and Constable Drysdale of the RCMP accompanied the money to the reserve. The surrender document, for both reserves 112 and 112A, was signed on May 7 and forwarded to McLean on May 8, 1909. It was signed by 15 men, of the 30 to 32 potential voters at the time. It was witnessed by Agent Day, Clerk C.J. Johnson, Reverend Mr Delmas, Constable O'Keefe of the RCMP, and Ralph Pritchard, interpreter.

There was no record of the meeting: when and where it was held, what was discussed, who attended, or who voted. In a letter of May 18, 1909, Day revealed that Father Delmas had acted as interpreter. This raises the question of why Ralph Pritchard signed as interpreter. In the 1990s, elders' testimony was that no meeting was ever held, but that people were simply asked to go and sign the document. Also, it appears that at least three of the original signatures were made by the same hand. The affidavit of May 7 was taken in front of C.J. Johnson, a JP (the same clerk who was handling the

money). It was signed by Day and by both Josie Moosomin and Etowakeesik. There was no chief at the time (see McMahan 1985, 39-42; NA, RG 10, vol. 4041, file 335-933).

On June 15, 1909, C.J. Johnson certified that he had acted as pay agent to distribute the \$20,000 at the time of the sale. The handling of the money was certified by E.H. White, a Battleford realtor and the son of William J. White, the Immigration Agent who acquired Indian lands by auction and tender.

Only a few days later Josie Moosomin wrote to the Department and said that reserve 112A had been surrendered against band members' will, and that they wanted to keep it. The Department said it was not desirable to keep the original reserve. Agent Day, in his May 18 letter to McLean regarding the surrender, stated that he had taken the surrender for haylands with difficulty, and he really believed it was not in the best interests of the Band to surrender them (NA, RG 10, vol. 4041, file 335-933). Surveyor Reid was sent to assist in selecting the new reserve, with instructions to include new haylands. Reid reported back his impressions that there were no good haylands within 20 miles of the new site, and he recommended that one square mile of the original haylands be kept. McLean approved this, and said that the new reserve at Jack Fish Lake would have to be 23 rather than 24 square miles (NA, RG 10, vol. 4041, file 335-933).

In the recommendation sent by Prime Minister Sir Wilfrid Laurier to the Governor General in Council to accept the surrender, there is reference to the retention of the one square mile of haylands (NA, RG 10, vol. 4041, file 335-933, June 10, 1909). The Order in Council accepting the surrender, dated July 6, recommended sale without reference to the Land Sale Regulations of the Department meaning that the restrictions on land sales contained in the Regulations would not apply in this instance (Canada, Order in Council 1539/1909, July 6, 1909).

Two months after the surrender, Josie Moosomin was finally officially recognized as chief. He had been elected by the band in 1904, but the Department had neglected to recognize his election. In June 1909, Agent Day raised the issue in a letter to McLean, saying that the Indians wished to have Josie Moosomin recognized as Chief. McLean got this authorization from McLean on July 5.

Elders' testimony in the 1990s was that Josie Moosomin was threatened by Laird and Day that he would not be Chief unless he signed the surrender. The level of consent to the surrender is difficult to determine. It may have been obtained from a majority at a surrender meeting, if indeed there was a meeting.



# THUNDERCHILD IR 115

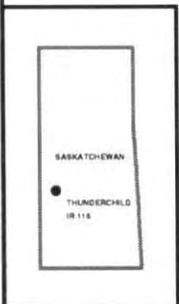
*North Saskatchewan River*

*Canadian Northern Railway*

**Entire Reserve  
Surrendered  
1908**

*Battle River*

*Twin Lakes*



**PEIGAN IR 147**

**Surrender of 1909**

On May 2, 1908, Inspector J.A. Markle reported on a meeting with the Indians from IR 147 at the Agency office, and the question they raised about rumours that the reserve would be taken from them. They had also heard that certain white men wanted to establish stores on the reserve. Markle advised them to sell a half section east and north of the Brocket station ground and right of way, for a village site. The land could be sold for good prices, and those people with buildings and improvements on the land could get compensation. Markle also advised them to surrender the southeastern portion of the reserve to the CPR line. These suggestions met with opposition, although a few people, according to Markle, seemed willing to consider them:

Several members of the band had numberless wants, such as implements of various kinds, steam power plowing outfits, cattle, etc. I told them that I held the notion that the Government would not supply them with all they had asked for and the only manner, apparent to me, of securing them was to agree to the surrender of their land and on the condition that articles really required was [sic] to be purchased out of a portion of the proceeds of the land referred to. (NA, RG 10, vol. 4034, file 302340-1)

In response on May 13, DSGIA Frank Pedley asked Markle to discuss the matter with the Indians, and to advise what portion of the reserve they might be willing to surrender.

Markle wrote back to Pedley on June 5 about a meeting held on the reserve on May 13. The majority were still opposed to a surrender, but Markle had talked to several people who were willing to consider it. Markle referred to the diversion of the CPR Crow's Nest Pass line, and recommended finding out the exact course so that the line might serve as the dividing line between the surrendered and retained portions of the reserve. A townsite was required near Brocket Station, Markle said, and some people were prepared to surrender portions of the two sections lying north and east of the station and right of way. Markle would also suggest a surrender of three to five rows south of the line, on the eastern part of the reserve (NA, RG 10, vol. 4034, file 302340-1).

On May 3, 1909, Pedley wrote to SGIA Frank Oliver concerning the Band's attitude to a surrender. The letter was written in response to a letter from Bishop Pinkham, of Calgary. The Bishop's letter had raised a number of issues, including a surrender, the current lease arrangements, and the Band's projected need for a steam traction engine. Pedley rejected an idea for a steam plow,

on the basis that the Agent had not asked for it, the Peigan had always preferred to work with horses, and there was no money for it. Pedley also commented upon the Maunsell brothers' lease, due to run out in 1912, and with which they had had trouble [the Band had requested that the lease be cancelled]. The problem was unresolved. The Indian Agent, E.H. Yeomans, had been asked to look into the matter.

Markle wrote a long letter to DIA Secretary J.D. McLean on May 24. At that time he said that the Peigan had asked him a year ago to get a thresher and farming implements, and that he had told them that a land surrender was the best way to get the cash. At the request of the Band, he had had another recent meeting with members to discuss a surrender of the southeastern part of the reserve. At this meeting, the band members offered 30 sections, and demanded terms of \$20 per acre minimum sales price, with a power ploughing outfit, 500 cows, 300 horses, harnesses and wagons, and rations "forever" to be issued from sales.

Markle rejected these terms, saying the price set on the land was too high. A few days later several supporters came to see him, and he advised a surrender of 45 sections. The various band members met among themselves; they came back to Markle, and the terms for a surrender were set, including \$10 per acre, the purchase of an engine, complete farming outfits, material for fencing the eastern boundary, seed grain for 40 acres per farmer, grain elevators and storehouses, and additional money for livestock and outfits to be sold to band farmers. Out of the interest of the funded portion, the wages of a farmer and assistants were to be paid, as well as operating capital supplied. Also from the capital, weekly rations of 5 lbs of beef and 5 lbs of flour for two years would be voted (then all rations to cease for able-bodied people). Markle pointed out to the Department that, since they were receiving rations anyway, this proposition would save the government money.

Markle then requested authorization to take the surrender of 45 sections, but he asked for blank forms, "because I may find at the last moment that some changes in the conditions will be necessary to secure the consent of a majority of the band. If this freedom of action does not meet with your approval I do not think that anything will be gained by discussing the question at greater length." Markle expanded on the proposal in a letter written on May 26 from Bocket. He said that it was understood that the cost of the working outfits was provided for only as funds from sales became available. As to the money to be expected, he said there was land nearby which "could not be purchased" for \$20 per acre (NA, RG 10, vol. 4034, file 302340-1).

Accountant Duncan Campbell Scott wrote to Pedley about the terms on June 2. The only problem he could foresee was the provision for rations. This would have to come from interest, not capital, and would relieve the Department of the existing expenditure for rations for the Peigan. "I therefore think that the clause should read that the cost of the ration shall be charged to interest if possible, leaving it to be inferred that the Government will foot the account, or some portion of it, for two years if the interest account will not bear the expenditure." Scott recommended that Markle be given blank forms and authorization to set the minimum price per acre at not more than \$10 per acre, and suggested expenditures from capital at not more than \$60,000 or \$70,000. Pedley then gave Markle authorization on June 14, 1909, with the limits expressed by Scott, including the provision that rations be derived from interest rather than capital (NA, RG 10, vol. 4034, file 302340-1).

On July 15 Markle met with the Band, and a "test vote" found that the majority, 46, voted against the surrender, and 39 voted for it. The Chiefs opposed it, and the young men favoured it, but were afraid of alienating their wives, many of whom were daughters of those opposed. Those opposed had brought lawyer Colin McLeod in to work against the surrender. Based on the comments of the supporters, Markle believed that the surrender might be consented to at the next opportunity, especially as two of the Chiefs were in poor health and might soon pass away (letter of July 16, 1909, NA, RG 10, vol. 4034, file 302340-1).

On July 17 Markle wrote again and said that some of the opponents had called on him and asked for another vote, which Markle held on July 23. On this occasion, 60 voters opposed the surrender, and 42 supported it. McLeod was paid \$80 for the bad advice he gave on the surrender, said Markle. He also said that some band members had proposed a surrender of the northwest part of the reserve instead, being poorer land. On July 27 he wrote yet again, proposing terms for a surrender of the northwest part of the reserve, at the same upset price, with 25 per cent of the proceeds to be spent on working outfits, and no rations. He asked for permission to keep the forms and have another meeting right away, since Surveyor J.K. McLean was in the area doing subdivision work and would be available immediately.

Duncan Campbell Scott reviewed this request for Pedley, and recommended that this new proposal for a surrender of 40 sections be allowed, on the terms Markle suggested. The day after, August 4, McLean gave Markle authority to go ahead with the meeting.

On August 5 Markle wrote from Red Deer about the two unsuccessful attempts, the intervention of the lawyer, and the scare stories advanced by some of the Chiefs. He recommended that the *Indian Act* be amended to disallow the presence of anyone not authorized by the officer taking the surrender. Markle alleged that Macleod had admitted that the terms were fair and reasonable, and yet had accepted payment to agitate against the surrender (NA, RG 10, vol. 4034, file 302340-1). It is worth noting that Surveyor McLean was present at some of the meetings, at Markle's request, and would later serve as witness and adviser to Markle.

Inspector Markle submitted a surrender on August 18, and made his report on the 20th. The surrender was for "36 or 37" sections of land, and an investment of 30 per cent of the proceeds in working outfits. The remaining 70 per cent would be funded to the Band; the interest on it would be used to meet the operating expenses of a motorized farming outfit, and the remainder for food for the band members. Markle had tried to secure a surrender of a larger area, because a down payment of one-tenth received at the land sale would not meet all the requirements of the next season, providing the land was even sold over the winter.

Markle went on to say that he had had great difficulty getting the Band to agree to the surrender, since the Blood, Peigan, Blackfoot, and Sarcee believed that a surrender would be a violation of Treaty 7. The Chiefs did not vote, except for one who voted against it. Markle believed, however, that he could obtain a further surrender in a year or two. In order to obtain a further surrender, he suggested that he might have to ask for an advance in the next year's estimates to provide for some of the terms. Some of the Band, he said, were willing to surrender a small area near Brocket, 30 or 40 acres, for a town site, but there was some anticipated opposition from those who thought this might mean a liquor establishment. Would a long-term lease work just as well, or else sales agreements forbidding these establishments (NA, RG 10, vol. 4034, file 302340-1)?

This proposal for a lease was rejected by the Department, partly on the basis that a lease arrangement would not prevent liquor establishments, and partly on the grounds that the area proposed for surrender was on the projected Section 8, potentially part of a Hudson's Bay Company claim (NA, RG 10, vol. 4044, file 348511). Markle wrote again to McLean on the same day, saying that he had tried to get the Band to surrender a larger area to obtain a larger first payment, which could then be used to outfit farmers. "I trust, too, that all future surrenders within my inspectorate will include similar conditions." Although Markle did not describe the vote in these reports, later

correspondence revealed that the vote as 40 in favour, 10 against, out of a voting population estimated by Markle himself to be at least 108.

The surrender document was dated August 18, 1909, and signed by 15 men. It was witnessed by Ben White Bull, by Agent E.H. Yeomans, and by J.A. Markle. The affidavit was signed to two men marked on the form as principal men, Black Eyes and Cold Weather, and was taken to a justice of the peace in Brocket, E.B. Plunkett.

On the same day that Markle was writing his letters to Secretary McLean, August 20, Chief Butcher sent a letter to Frank Oliver “to tell you that Mr. J.A. Markle has been several times to vote to sell part of our reserve. We have against [sic] the selling and now if furse [sic] to do the others selling. The form he send to you we posted the suffrage. We are sending the names that [were] against the vote.” Sixty-five names were appended, some with marks. There was no witness to the marks. Colin McLeod wrote to Oliver on the August 23 informing Oliver that he had been retained as legal counsel on “behalf of the majority of the Indians [on] the Peigan Indian Reserve” to oppose the selling of lands obtained through trickery. McLeod had been present at two of the meetings, he said; on the first occasion, 87 Indians voted, and on the second 100 did, and both times the vote was opposed to surrender. “Unless Mr. Markle’s instructions are that he may take a vote on this question every day in the week and report upon the first expression that is favourable to the selling of the lands, I must say that the lands of these Indians are to be taken from them in a manner different from that which has hitherto been the policy of your Department . . .” McLeod then suggested that the Department investigate the issues before they were taken to court (NA, RG 10, vol. 4044, file 348511).

Ten days later McLean asked Markle for a report. Before Markle received the request, he had written a further report on the surrender. He projected proceeds at auction of about \$240,000, thus yielding a down payment of \$24,000, and he wanted double this sum for investment in farming outfits, seed, and fencing before spring. He suggested that the buyers be asked to pay one-fifth down, the rest coming in 10 annual payments with a charge of 5 per cent interest. The other bands would be looking closely at results. Again he said that he could have gotten more land surrendered at Peigan if outsiders had not interfered. He also noted that the factions for and against had been evenly divided.

Markle’s September 7 reply to McLean’s request was shorter.

- This was the first time they had seen and voted on a surrender for this particular area.
- The Chiefs and band members knew that a vote was to be taken.
- Some people were present and were advised not to vote, “with an object in view.”
- There was no trickery.
- The surrender was in the best interests of the Indians.
- The conditions laid down in the *Indian Act* regarding consent were fully complied with.

On the same day, Markle wrote to McLean and suggested an auction date of December 15, at a time when farmers would have money available for purchases. He suggested Pincher Creek as a site, and Crawford Norris of Griswold, Manitoba, as auctioneer (NA, RG 10, vol. 4044, file 348511).

As plans for a sale progressed, so did the pressure by those opposed to the surrender. McLeod wired Oliver and the Premier of Alberta on November 10 and threatened exposure in the press and Parliament. Oliver wired Markle on the 11th, and Markle wired back to say that in his opinion the surrender was defensible in every respect. He included a list of voters “for” and “against,” which he certified himself. The vote had been conducted by poll via written ballot. On November 13, McLeod countered by forwarding to Oliver a number of affidavits from band members who had come to his office that day to swear the following:

- they were eligible voters;
- they had no notice of the meeting and believed that the matter was negotiated without consent;
- they were opposed to the forthcoming sale; and
- they believed that the number of voters were 103.

The affidavits were taken before George H. Scougall and witnessed by a Mr A. Bury.

Surveyor J.K. McLean, who was present at the surrender meeting, was called upon to give his version of events. McLean said that he was “occasionally” in the room when the discussion was

going on, and was present for the vote. As far as he knew, the customs of the Band were followed in providing notification, since the Chiefs and subchiefs were told, and they were expected to notify their followers. Meetings with the Chief and four subchiefs lasting three to four hours per day were held on two different days prior to the vote. "Some other members" of the Band also attended. Written notices were sent to the Chiefs and subchiefs the night before the vote was to be taken, informing them of the intended vote. The vote was then taken by Inspector Markle and Agent E.H. Yeomans. Each voter had his name registered. The vote, which lasted from nine until six, was witnessed by Head Chief Butcher as well. McLean said that it was well known on the reserve that the vote was to be taken, and that it was the choice of some of the subchiefs not to vote. (McLean to Pedley, November 19, 1909, NA, RG 10, vol. 4044, file 348511). In a second memo of the same day, McLean estimated that there were at least six people who came to the polling booth but did not vote.

Markle, under pressure, provided additional names by adhesion. These people were out haying at the time of the vote, he said. Eleven names appeared on the adhesion, witnessed by the Agent and dated November 15, 1909. In a later letter, Markle verified specifically that he had explained the surrender and shown a map to voters before they placed their votes. In yet another letter of November 26, just after the sale, Markle reported that he had heard lawyer McLeod and his associate say that they could have taken the surrender in 15 minutes; they obviously wished to block this surrender so they could show their influence (NA, RG 10, vol. 4044, file 348511).

The controversy continued, McLeod also submitting more affidavits. The original sale date set by Markle for December 15 had been changed to November 24 on Secretary McLean's October 2 recommendation to DSGIA Frank Pedley, for fear that the December date would be too close to the holidays to attract buyers. There was a last-minute call by Markle to keep the November date as posted, in spite of the efforts of the opponents to stop it. McLeod, purporting to represent 61 band members, posted a notice on November 23 saying that all sales would be contested. Markle counter-attacked, notifying McLean on November 26, just after the sale, that some of the people signing affidavits were underage. He submitted six more names as adhesions, as well as a statement from an absentee who had sworn one of Macleod's affidavits, the latter saying that he had signed against his wishes. Markle wrote a defence of the surrender on December 15. He admitted that some on the reserve opposed giving up land for any reason, but he felt that outsiders had inflamed matters. In a further letter of December 27, Markle stated that there were 108 to 110 voters in the Band; 60 had

signed affidavits for McLeod in opposition, 40 had voted in favour, and 17 had signed adhesions in favour. Thus, he argued, some of the opponents either had to be underage, or had to have voted for the surrender. Agent Yeomans then took McLeod's list and, on January 19, certified that two on the list were underage, and six had voted in favour.

On December 1, 1909, Constable Fyffe of the RCMP wrote to his supervisor, Superintendent Primrose, about the events of the surrender vote, at which he had been present. He believed that less than half of the voters were present. At 6 p.m. he had asked Markle to keep the polls open, as there were more people to vote; Chief Butcher also asked for the polls to stay open. Markle had refused. Markle had then counted the votes and declared the surrender carried. "I may mention that Mr. Markle stated to me that if those Indians who favoured surrender, had stayed on the Reserve instead of going with the others across the line, they could have taken a vote and carried for a surrender at a previous meeting." Fyffe also said that he had been told by Markle to keep McLeod off reserve in case he showed up for the third meeting. "There is dissatisfaction among the Indians who were against the surrender as they claim that the last vote taken did not represent the wishes of the majority of the band" (NA, RG 10, vol. 4044, file 348511).

On February 5, 1910, J.D. McLean asked Markle to supply the notice that had been posted before the meeting and to state band custom on notification. Markle responded the same day that the notice, dated August 17, the day before the meeting, stated that a meeting was called for Wednesday the 18th for the purpose of a vote on the surrender of a portion of the reserve. "Take notice and govern yourself accordingly, at one o'clock." Markle verified that he had personally notified two Chiefs on August 17, at the Agency office, and messengers were sent to a few others. The custom was to alert a few individuals with the expectation that they would alert others. "Such notification brings large or small numbers according to the individual view of the importance of the meeting" (NA, RG 10, vol. 4044, file 348511).

(See Chapter 6 for the dispute which continued after the sales.)

## **BLACKFOOT/SIKSIKA IR 146**

### **Surrender of 1910**

Inspector J.A. Markle tried in 1907 to broach the question of a surrender of some land to fund band endeavours, and was authorized by DSGIA Frank Pedley in 1908 to make a formal approach. When

the Department rejected the Band's and Markle's proposal, which was based upon projected land sales values that it felt were unrealistically high, the matter lapsed for a year. Meanwhile, Markle took a surrender at Peigan, which he hoped would induce the Blood and Blackfoot Bands to make a similar arrangement. On March 29, 1910, he reported that, based on what he had heard from the Blackfoot, he believed he could obtain a surrender similar to that at Peigan.

Markle reported on April 11 about a meeting held that day at Gleichen; the chiefs had approached him without invitation, and told him that the Band was divided on the subject of surrender. "After a general meeting a number came to my rooms and agreed to the following:"

- A surrender of 115,000 acres south of the irrigation canal: "Ninety % of this land is as choice as can be found in Alberta. Today thirty dollars per acre was offered for raw land about 4 miles out from Gleichen not as good as the greater portion of the area under question."
- Horses, implements, buildings, fencing material for the Band, worth about \$400,000, to be paid for from the proceeds.
- Rations, to be paid from interest (\$20,000), and, if moneys are available, operating costs and repairs for equipment.

To meet these expenses, the land would have to be sold at \$14 per acre. Markle added that in his view "speculators" would easily pay that price. He enclosed an itemization of the buildings, furnishing, and outfits required, similar to that from the previous year, but with more emphasis on outfitting young farmers, as agreed to by the Peigan (NA, RG 10, vol. 3702, file 17537-3).

When pressed for more details, Markle said on April 14 that the terms would be fulfilled by 1915, and that only 20,000 acres of the proposed surrender area could be irrigated from the present canal. Asked to defend the sale price, Markle said that land in the area was going at much higher prices, and that his estimate had been conservative. He also believed that some of the opponents of the surrender would refuse new houses, if the surrender carried, so that the actual expenditures might also be less.

When Markle failed to gain immediate authorization, he drafted a surrender, which he sent to the Department on April 22. On May 16 Pedley responded that the "more progressive" Indians should be allowed time to consider the proposal. He expressed continued reservations about whether the sale would bring in the estimated proceeds, and suggested a clause in the surrender saying that the fulfilment of the terms was contingent upon land sales dated prior to December 31, 1915, meaning

that, if the government did not get enough money in land sales, it was not committed to fulfilling all the terms of the surrender.

Finally, Pedley stated:

It is desired that if you consider it advisable to proceed with this matter you will notify all the members of the Band who are entitled to vote of the date and time of the meeting and keep a careful record of all procedures taken, also of the individual votes. Blank forms of surrender are enclosed herewith to be filled out according to the terms mentioned by you, which are hereby approved. (NA, RG 10, vol. 3702, file 17537-3)

In a separate letter dated the same day, Pedley approved Markle's draft surrender, but asked that individuals procuring farming outfits be asked to repay the cost of the outfits. It is worth noting that asking members to repay the benefits of surrender appears to be a part of a new trend. It appears in several 1909, 1910, and 1911 surrenders.

Markle took Pedley's advice and distributed maps, and continued to hold meetings with band members. He wrote to Department Secretary J.D. McLean on June 13 saying that he intended to hold a vote on the afternoon of June 15. Of 133 votes cast that day, 69 were in favour of the surrender, and 64 were against it. Eight Chiefs supported it, and five opposed. "There may have been a few who did not vote who are against the deal but if I am correctly informed there are quite a number agreeable to it but they failed to appear for one reason or another," Markle said in his brief report of the same day. In a longer report on June 27, he said that he had had an informal meeting with the Chiefs on June 13, and the voting day was agreed to at that time, along with an enlargement of the proposed surrender area beyond that marked on the maps that he had previously distributed to "prominent men." The Chiefs present at the meeting on the 13th agreed to give verbal notice to their members. Markle then wrote letters advising of the poll and distributed them to absent Chiefs.

Please take notice that a vote of the male members of the Blackfoot Band of Indians will take place at the Blackfoot office on Wednesday next the 15th instant on the question of the surrender of about 115,000 acres of land belonging to the Blackfoot band of Indians and lying southerly of the Bow River. The poll will open at 1 O.C. P.M. Kindly notify all members of your Band of male sex and 21 years of age and generally govern yourself accordingly.

For the vote Markle used an open poll – a technique he had previously employed at Enoch (1908) and Peigan (1909). A desk was set up outside the clerk's house, and a clerk recorded the votes. The Reverend Father Levern was present, as was Agent J.H. Gooderham.

Before starting to accept votes I tacked a rough map of the reserve on the outer wall of the house and this map outlined the area under consideration for surrender. I pointed out the area referred to on the map and then read in detail the conditions from one of the copies afterwards executed by self, Chiefs Yellow Horse and Wolf Collar.

When it was apparent that all had voted, Markle said, and he had issued a warning, the poll was closed. The Chiefs “who agreed to the surrender had their names and marks recorded thereon.” In another letter of June 20, Markle said that the two missionaries on the reserve had supported the surrender. The Indians in favour of it had asked that both missionaries witness the vote, but only one could be present (NA, RG 10, vol. 3702, file 17537-3). A clerk, a translator (Billy Mayfield), and Father Levern signed as witnesses. In correspondence from 1917 (see Chapter 6), Markle said that the entire agreement was discussed at meetings prior to the vote, and that it was read and translated the morning of the vote. Markle, the missionaries, and the Agent all promised rations in perpetuity, and believed that this promise turned the vote.

A voters' list was later sent to the Department which apparently included Chief Running Rabbit on the “agreeable” list (writing is blurred), although Markle said in his June 27 letter that this Chief was ill and did not attend the poll. This fact was also stated in a letter of June 23. It is possible that the man listed was one of the Chief's three sons mentioned in the letters. Many Shots #2 is listed in both “for” and “against” lists – perhaps one of these was Many Shots #1.

Markle did not mention if there was any translation of the terms, or any discussions. There was an interpreter, Billy Mayfield, who signed the surrender, along with the clerk, the agent, and Father Levern. No information is available about the total number of eligible voters.

## **MISTAWASIS IR 103**

### **Surrender of 1911**

The plan for surrender engineered by Accountant D.C. Scott and Surveyor J.K. McLean in 1911 was relayed to Agent Thomas Borthwick by Pedley on January 31, with the caution that moneys for

fencing or equipment would not be advanced until after the sale of the land, so that the Department could be sure that the advance would be repaid.

DSGIA Frank Pedley gave detailed instructions to Agent Borthwick. He described the sale terms to be paid in 10 instalments with 5 per cent interest due on the unpaid balance. "If the Indians will agree to surrender the land on the above terms, after it has been fully explained to them, that the Department will only advance the necessary funds conditional upon the sale realizing sufficient to repay the amount so advanced, you are hereby given authority under the provisions of the *Indian Act* to submit the same to the Indians . . ." Pedley went on to quote the *Indian Act* requirements for surrender: "If the majority of those who are present at the meeting and entitled to vote are in favour of the surrender, they should sign their names on the forms herewith enclosed." An affidavit should be signed by both the Chief and a headman. An upset price of \$9 per acre, plus the value of improvements, should be used as a guide to sales.

Pedley's letter is particularly noteworthy for two points. First, he suggests that the advance be made only after the sales bring in sufficient funds. Second, Pedley's wording suggests that Borthwick was authorized to submit the surrender to the Indians only if he was sure they would agree.

Pedley went on to recommend to Borthwick that he stick with the idea of requiring Indians to pay individually to use equipment. These payments would be used to build up the Band's capital account. The interest accruing from the capital could be used for repairs (IACR, file 674/34-13-103 vol. 1). It would appear that the Indians were being asked to pay twice for this equipment, once with land surrenders, and secondly with annuities or cash income.

The signed surrender form was promptly returned to the Department on February 22, 1911. Borthwick supplied few details of the meeting, other than to say that the Band was difficult, and insisted on a \$15 per acre upset price, as well as having some of the cash paid directly to band members. The Department rejected this price, saying that at \$15 per acre the land might not sell, and thus not bring in the \$5200 needed for machinery and fencing. Instead, it was recommended that Borthwick value the land in the spring, after the surrender. The Department also rejected paying half of the sales proceeds (minus the cost of machinery) to the Band, because the fund would not generate enough interest to pay for repairs (IACR, file 674/34-13-103).

Borthwick went back to the Band, and got a second signed surrender on March 20, 1911. This surrender was for 1607 acres, as requested. The conditions were quite detailed and met departmental expectations. No upset prices were mentioned. After the stipulated purchases were made, one-half of the remaining proceeds were to be used for additional machinery and horses, and the other half would be placed to the credit of the Band. The document was signed by Chief Jacob Johnstone and 22 others, as well as the Agent, clerk T. Eastwood Jackson, and interpreter William Dreaver.

Borthwick submitted the surrender on March 21, 1911. He pointed out that the upset price and cash payment had been waived. He recommended that the engine and separator be bought by the Agency instead, to be used by other Indians in the Agency, who would have to pay on a per use basis. On March 30, Secretary McLean wrote to accept the surrender and Borthwick's operational suggestion, and he recommended the use of a separate account system. He noted, however, that Borthwick had not sent in the affidavit/statutory declaration, which Borthwick sent on March 27.

The affidavit, dated March 20 in Prince Albert, before T. Eastwood Jackson, JP, was signed by Borthwick and by Chief Johnstone, John Duncan, Thomas Muchasis, and George Dreaver. Note that Dreaver served as interpreter and Jackson as paying clerk at the surrender meeting.

A majority of voters appear to have consented to the surrender, but no details of the meeting and the number of voters, etcetera, are known at this time.