

**THE OCHAPOWACE RESERVE:  
THE IMPACT OF COLONIALISM**

A Thesis

Submitted to the Faculty of Graduate Studies and Research

In Partial Fulfillment of the Requirements

For a Special Case Master of Arts Degree

In Indigenous Studies

First Nations University of Canada

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by

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Andrew George, candidate for the Special Case Master of Arts Degree in Indigenous Studies, has presented a thesis titled, ***The Ochapowace Reserve: The Impact of Colonialism***, in an oral examination held on June 10, 2009. The following committee members have found the thesis acceptable in form and content, and that the candidate demonstrated satisfactory knowledge of the subject material.

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## **ABSTRACT**

Treaty Four was signed on September 15, 1874 at Fort Qu'Appelle. The chiefs who signed the treaty on behalf of their bands were of the belief that the treaty was a nation to nation agreement and were doing so as sovereign independent nations. Unfortunately, from the perspective of the First Nations, this relationship quickly eroded.

The specific purpose of this research has been to demonstrate how the inhabitants of the Ochapowace Reserve have resisted the colonial practices of the Canadian government. These practices, which have been exercised since 1874, have resulted in creating a state of dependency and poverty for the people on the Ochapowace Reserve. The paper focuses on relatively recent contemporary issues because they illustrate how strongly and persistently the Canadian government has adhered to its colonial practices from 1876 to the present. The project also concentrates strictly on the Ochapowace Reserve and its residents because they represent an example of the people who endured the policies of the colonial Canadian government.

Much of the substance for this thesis concerning the colonial practices that the Canadian government applied in their administration of the Ochapowace Reserve Indians was abstracted mainly from written works and government records. A secondary source, albeit a limited one, was the use of oral tradition and oral history. This oral component, drawn from the knowledge of community members, serves as an historical base and as a parallel support for the written sources. A problem arose when it became evident that many of the more knowledgeable persons who were important transmitters of the oral history were no longer alive. As a consequence, reliance was placed on individuals who were believed to have direct or secondary knowledge about the history of the reserve.

Nonetheless, the evidence collected from these informants provided enough of a basis to construct a narrative to illustrate how colonialism has impacted Ochapowace people. In a sense these individuals were viewed as repositories of information, but this was subject to the limits of their memories and understanding of the history of the reserve

The collected information, written and oral, was used to explain the current circumstances confronting the people of Ochapowace within the context of colonialism and its accompanying capitalism. It was also used to illustrate how the band has resisted the government's colonial control. Over the years, the resultant forces of subjugation and control by the government created a situation of dependency and poverty for the people on the Ochapowace Reserve. The evidence strongly suggests that the current dependent condition that led to a state of poverty for the Ochapowace Indians is a direct result of colonialism.

## **ACKNOWLEDGEMENTS**

Many individuals have contributed to the writing of this work. Dr. A. Blair Stonechild, Dr. David R. Miller, and Professor William Asikinack all from the Department of Indigenous Studies in Regina, gave me great encouragement and wise counsel during the time I worked on the project. To the many other people who helped me in any way, I offer my sincere thanks: the Chief and Council for allowing me to undertake the study; to the Ochapowace membership, on and off the reserve, for providing crucial information; to my family for their moral support and for challenging me. The author is also deeply indebted to all who assisted in collecting the information. As the Cree people would say: ninanâskomitinâwâw kahkiyaw, “I thank you all.”

## **DEDICATION**

This thesis is dedicated to the memory of William C. George who began the work of recording the story of the Ochapowace First Nation. It was his dream to have completed the writing of a book.

This project is also dedicated to the people of the Ochapowace Reserve who are the subjects of the events that happened after the signing of Treaty Four.

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## INTRODUCTION

### A Word About Semantics

Anyone investigating the life of the principal Cree chief who signed the treaty on behalf of the eastern Qu'Appelle Cree will encounter several variations in the spelling and pronunciation of his name (See Alexander Morris; *The Treaties of Canada with the Indians ...*: 88-115). Even The Cree Dictionary compiled by Arok Wolvengrey<sup>1</sup> offers the spelling of the original Cree chief as Kâkîsîwêw, but indicates that Kâkîsîwê is also acceptable. Indeed, the residents of the Ochapowace Reserve are not clear on how the chief's name should be written or pronounced. When the new school was constructed on the reserve in 1994, the Chief and Council decided to name it after the original chief of the reserve. When the school opened in August of that year, the sign in front of the school read: Kakisheway School. Since then, the name was modified to Kakisîwêw School. Incidentally, M/A – 1<sup>2</sup> and the author's father were brothers and both were direct descendants of the first chief, but are now both deceased. Both pronounced the first chief's name as "Kâkîsîwê."

The Standard Roman Orthography utilized by the Department of Indian Languages, Literatures, and Linguistics at the First Nations University of Canada has been adopted for this study to create the spelling for the chiefs' names throughout this thesis, except when the names are cited in other sources. The name of the original Cree chief is arbitrarily spelled as Chief Kâkîsîwê as it comes close to Alexander Morris's record and because of M/A – 1's and the author's father's pronunciation. The other founding chief's name is recorded as Chief Cêkacâs.

Another name that has received wide acceptance throughout Indian Country is the anglicized name of the reserve, Ochapowace. The aforementioned elders routinely pronounced the name as Ocâpahowêš. The meaning of the name has also received several variations including “one who pokes another in the eye.” According to oral tradition, the name is actually derived from the Cree expression, otâpahowêw, “one who unties”, which transforms to its diminutive form, “ocâpahowêš.”<sup>3</sup> However, because of its familiarity, the anglicized name of the reserve will be retained as “Ochapowace” throughout this thesis.

Chapter One initiates the dialogue on how colonialism has impacted the Ochapowace people. The government took control of circumstances to place the Indians in a subordinate position through the implementation of various colonial practices. The backdrop to this colonial control was the development of the first *Indian Act* in 1876, followed closely with the formation of the Department of Indian Affairs. The prime objective of the government was to assimilate the Indians so that they could participate in mainstream society. The research information was organized following the research process described in the discussion below. Included in the discussion are some key issues and impacts that initiated the colonial regime on the Ochapowace Reserve.

### **Research Problem**

There is a lacuna in the literature pertaining to individual band histories like the Ochapowace Band. This creates a compelling need to fill the gap with a focus on the impact of colonialism after 1874. One of the reasons for this gap was the lack of importance that was placed on Indian history. Sarah Carter brought this fact to light when she described the prevailing attitude of writers like University of Toronto professor,

Edgar McInnis, who stated: "The aborigines made no major contribution to the culture that developed in the settled communities of Canada ... They remained a primitive remnant clinging to their tribal organization long after it had become obsolete."<sup>4</sup>

Another reason for the gap in the literature was the attitude of the colonial government who were content to keep Indians and their issues hidden on reserves. The less the outsiders knew about Aboriginal affairs the easier it was to justify colonial rule. This state of affairs was a throwback from the early reserve years when the Indians initially acquiesced by placing their trust in the government and its officials to look after their needs.

As well, traditionally, Indian history was passed down to succeeding generations by oral tradition. Due to cultural changes influenced by European efforts to assimilate the Indian people, not much of the oral history was carried forward. To make the situation more critical, many of the individuals who had been repositories of Ochapowace oral history have passed away and those who are still alive are comparatively young and, thus, the remaining oral history diminished considerably. Nevertheless, they still had memories of stories they heard from their parents and grandparents. Unfortunately, some of this generation seemed reluctant to be put on the spot as they are another step removed from the sources of the memories.

Another reason for the lack of Canadian Plains Indian literature can be equated to the experience of Native Americans in the United States. Eric Cheyfitz wrote: "For reasons having to do with both literary and political theory, post-colonial studies have largely ignored Native American issues, ... while at the same time Native American studies have remained ambivalent as to their potential position within a more inclusive, or

aware, postcolonial studies.” He argued that because Native American Studies, as an academic discipline, could become a useful mechanism for the deconstruction of colonization,<sup>5</sup> it threatens the position of the colonizers and their law makers – the government hierarchy. It is to their benefit to not make the public aware of the issues that Native Americans face on a daily basis.

Perhaps Howard Adams stated the reason for the gap in the literature pertaining to Native issues best when he wrote:

White social scientists have written extensively on Native people, but from the perspective of ethnocentrism and white supremacy. Such ideological writings have little validity in regard to the daily lives of Indians and Métis in their colonized communities. It is known that indigenous people are constrained by the colonizer from recording and writing their own history. In instances cited herein, government authorities fabricated documents that have been used by academics and other writers to distort the true history of Indian and Métis people. Hence it is not only an exceedingly difficult task for us to construct an authentic indigenous history, but it also requires an extremely prolonged period of time to reach publication.<sup>6</sup>

### **Research Questions**

The central questions surrounding this research study are: What can be revealed in the present about the historical past of the Ochapowace people from the extant written accounts? Given that many of the repositories of oral accounts of Ochapowace history have passed away, how do these sources match with the limited range of oral history sources that still remain within the community to create the account of the Ochapowace Reserve presented in this study? In other words, to what degree does oral history support what is already known from the existing literature, what else needs to be discovered? The outcome to these queries is the basis of the account of the Ochapowace Reserve presented in this thesis.

### **Theoretical Framework**

The research for this thesis is framed around the theory of colonialism which resulted in a range of effects including dependency, poverty, and underdevelopment. The history of dependence and poverty has been well documented. This dependence began with the fur trade. This was followed by the over-hunting of the buffalo which led to the treaty process. This latter course of events relegated Chief Kâkisiwê and Chief Cêkacâs and their followers to a life on a reserve, providing an opportunity for the Canadian government to subjugate them with various colonial practices, while restricting them to the boundaries of their reserve. Because the government failed to provide the necessary support for agriculture, reserve Indians were entrenched in poverty almost from the beginning of reserve life. Helen Buckley argued:

In its most basic sense, dependency goes back to the beginnings of reserve life when true independence ended. In the South, where the people had to be equipped for a completely new life, the Department took over the management of their lives, leaving them to follow orders while failing to provide the kind of assistance that could have established farming and encouraged the children to see schooling as worthwhile.<sup>7</sup>

The states of dependency and poverty that exist on Indian reserves such as the Ochapowace Reserve are the direct result of underdevelopment precipitated by colonialism. The colonial policies and practices that were advanced toward the Ochapowace Indian people created a culture of poverty. According to the sociologist, Georg Simmel, “poverty is essentially a relationship, a relationship that is defined by the fact that the inferior is the target of gifts which he cannot and may not reciprocate. To be poor is to be the recipient of charity.”<sup>8</sup> Furthermore, he contends that dependency is built into it; it is not a characteristic feature of the poor; but it emerges from within the psyche of the poor. The essence of dependency is that there must be poor individuals who are the recipients of charity but who are unable or not permitted to reciprocate. But there must

also be charitable individuals. Without either group the virtue of charity cannot be exercised. To clarify the poverty relationship further, the rich need the poor to be dependent in order to receive the charity from them; the rich in turn become dependent on the poor to be the recipients of their charity.<sup>9</sup> The federal administration of a typical reserve serves to illustrate this dependency relationship.

Instead of addressing the problems inherent in a policy of underdevelopment, the government implemented social programs without consulting the Indians about what kind of help was needed. With this ethnocentric approach it was inevitable that these government efforts would fail to achieve any relief for the Indians or rescue them from their dependent state. From the Indian point of view, their predicament is the result of the government's failure to live up to the terms of the treaty. As well, the Indians point to inadequacies of present-day programs. Indeed, the emphasis that the government places on their programs is low. Satzewich and Wotherspoon cite this assessment of government economic programs by Lester Lafond of the DC Financial Corporation: "While Indian economic development has received much attention over the years, it has been given the status of low man on the totem pole amongst the Department's array of programs to assist Indian people."<sup>10</sup> In the same light, Frideres points out that no one can deny that the Indians' "greatest obstacle is the very structure of our society itself, which prevents them from effectively participating in the social, economic, and political structure of our society."<sup>11</sup>

The dependence on the government has continued to the present day as the social programs implemented on the Ochapowace Reserve by the government have only exacerbated the dependence and poverty rather than alleviate it. Low quality social

services have not promoted self-sufficiency on the reserve to any significant degree. As Helen Buckley stated in a reference to the twentieth century, “The emergence of a welfare society marked a further decline into dependency, . . .”<sup>12</sup> Dependency and its closely related effect, poverty, have burdened the Ochapowace Indians since Treaty Four because of the colonial policies that were exerted by the Department of Indian Affairs.

### **Review of the Literature**

The review of the literature provides the background information and theory in areas significant to this study, including the meaning of colonialism and its impact on subject peoples. In order to introduce the premise of this research, it is important to define the concept of colonialism and to explain the ways in which it is utilized throughout the research.

What is colonialism and how has its impact been portrayed on colonized peoples? The term, colonialism in this research is defined as a system of social, economic, political, and cultural relations. Historically, the process of colonialism in Canada’s Northwest began with the exploitation of beaver pelts and labour from the colonized territory from 1670 to the 1870s. The extracted furs were then shipped to the home country of the imperial power. At the time that the beaver were diminishing, the colonizer turned to the land itself, at which time the British colonizer began offering settlers homesteads to occupy the seemingly vacant land to establish agricultural communities.

Colonization is also characterized by the imposition of authority by an imperial power that undermined the rights and political structures of the original occupants of the Ochapowace Reserve. In short order, the colonial authority created a relationship of asymmetrical power by establishing a bureaucratic system of administration of the territory and the peoples.<sup>13</sup> Colonial authority was established by the 1763 *Royal*

*Proclamation, the British North America Act of 1867 and the development of the 1876 Indian Act* which is still enforced through the Department of Indian Affairs.

British colonialism is not a unique phenomenon to any particular geographic region, nor is it isolated to one specific group or time period. To be sure it has historical roots. James S. Frideres wrote:

The social and economic problems facing Aboriginal peoples in our country as they enter the twenty-first century have not emerged overnight. Nor are they the result of random factors impinging on these groups. What is important to note is that Aboriginal peoples in other parts of the world have experienced similar fates and face similar problems today.<sup>14</sup>

Indeed, Paul Havemann provides “a contemporary, comparative, and contextual analysis of legal and political interaction between the states of Australia, Canada, and New Zealand and the descendants of the Aboriginal, First Nation, and Maori peoples whom the settlers dispossessed.”<sup>15</sup>

James S. Frideres and René R. Gadacz described how Aboriginal peoples fared under the influence of colonialism:

The current marginalization that Aboriginal people find themselves in today is no recent event, but rather rooted in historical circumstances. This political-economy approach will reveal similarities among these peoples around the world as they have experienced similar fates and face similar problems today. This suggests that there are similarities in settler societies with regard to processes that affect Aboriginal peoples in historical times as well as in the present. These structural impacts began to affect Aboriginal people at the time of contact with Europeans and became increasingly influential as the immigrant population grew. As the world political economy began to integrate with the Canadian domestic economy, these structural effects relegated Aboriginal peoples in Canada and throughout the world to a peripheral position in society.<sup>16</sup>

The specific intention of this research is to show how colonialism has been resisted by the people living on the Ochapowace Reserve. Therefore, it was necessary to include written resources by authors who analyzed the colonial impacts that followed the



signing of Treaty Four in 1874 which marginalized the residents of the reserve and placed them in a state of dependency and poverty.

Published works that provided the historical background were selected from a range of authors who are reputed to be authorities in the field of Aboriginal life and history. They include David G. Mandelbaum (1940, 1967, 1972, 1979) and John S. Milloy (1988) who provided a solid ethnographic and historical base of Cree history and culture and furnished issues pertaining to the intertribal relationship of the Cree respectively. Katherine Pettipas (1994) supplied information on the Indigenous religious ceremonies that were the cornerstones of Cree society. John W. Friesen (1997, 1999) provided a useful overview of the general history, culture and spirituality of the Plains Indians. Alan McMillan (1995) described the traditional ways of life and the cultural changes that arose as a result of European contact, and examined the issues of land claims and self-government. Alexander Morris provided the only known written account of the treaty proceedings.

The ethnographic contributions of Alanson Skinner (1913, 1914) were reviewed, particularly the information about the Qu'Appelle Cree which he gathered during a visit to the Kahkewistahaw Reserve, a neighbouring reserve to Ochapowace, in 1913 and 1914. Fine Day (1934), Mandelbaum's principal informant, related stories and anecdotes about the 'old ways' of the Cree people – their beliefs and customs pertinent to this region.

The writings of authors that supported the hypothesis that colonialism created the state of poverty and dependency for Indian people were also selected. These authors were chosen on the basis of their knowledge and understanding of Aboriginal life and the

issues and conditions facing reserve people today. Among the authors that satisfy this criterion included Sarah Carter (1990, 1999) and Helen Buckley (1992) who both discussed Canadian Indian policies, and in particular, how the government created a situation for the failure of Indian agriculture. Blair Stonechild and Bill Waiser (1997) related the untold story of the North-West Rebellion which rebuffs the commonly held belief that there was willing Indian participation in the conflict, but at the same time described the colonial tactics the government used to put the Indians in their place. Alan Cairns (2000) argued that the concept of ‘citizens plus,’ which was used by Indians to undermine the assimilationist 1969 *White Paper*, can be adjusted to encapsulate ideas such as ‘nation-to-nation’ relationships between Aboriginal peoples and the government to implement the inherent right to Aboriginal self-government. Noel Dyck (1991) analyzed Euro-Canadian tutelage and the pervasive consequences for Canada’s Indians. James S. Frideres and René R. Gadacz (2001) explored the various facets of social, cultural, and political issues that have faced Aboriginal peoples in Canada from the past to the present. Augie Fleras and J. L. Elliot (1992) compared the struggle of Aboriginal people in Canada, the United States, and New Zealand to restore their unique status within their respective colonized positions. They conclude that in order to achieve the goal of self-determination and self-government a massive restructuring of relations between the Aboriginal peoples and the state would be required. Jean Goodwill and Norma Sluman (1984) described how successive government administrations have dealt with Aboriginal peoples of Canada, and how one of the greatest advocates of Indian rights, John Tootoosis, fought tirelessly to gain recognition for Saskatchewan Indians. John H. Hylton (1999) put together a collection of writings by various contributors who

analyzed the prospects for the realization of self-government. J.R. Miller (2004) examined the issues of Native identity, self-government, treaties, land ownership and assimilation. Arthur J. Ray (1996) challenged what had been the popular belief that Canada's history began with the arrival of the Europeans when, in fact, the First Nations people had established their presence that dated back to Ice Age. Although they paid a heavy price in the ensuing clash of cultures the Natives persisted in maintaining their identity and place in a new social, political and economic order. Vic Satzewich and Terry Wotherspoon (1993) drew on existing literature to create a background to their discussions of Aboriginal and non-Aboriginal relations in Canada. Emphasis was placed on relations based on race, class and gender within which the Canadian establishment holds the balance of power in the areas of health, education, justice, economic development, employment and housing. E. Brian Titley (1986) chronicled one of Canada's hardnosed administrators of Indian Affairs, Duncan Campbell Scott. His influence is evident in the development of policies in health, education and welfare. Sally M. Weaver (1981) provided a comprehensive analysis of the 1969 *White Paper*, which among other proposals, recommended bringing status Indians into a situation of equality through the adopting of a common citizenship; that is, all citizens should belong to the Canadian state in the same way. Eric Cheyfitz added a timely comment on how scholars south of the border have failed to respond to the predicament of the effects colonialism on the Indian population in the United States. It is argued that the American scholars have set forth the idea that the Native populations are "no longer trapped in the vise of twentieth-century colonialism but (are) freed of government hegemony and ready to become whatever they wanted, which of course, they are not."<sup>17</sup> Given the colonial

experience of the Ochapowace Indians in Saskatchewan, his remarks in the article are equally appropriate for Canada. Jacki Thompson Rand used the Kiowa tribe as an example of how that tribe dealt with the U.S. government's efforts to control them after they were forced onto a reservation after an 1867 treaty. She noted that "the language of cultural conflict established a hierarchy in which Indians held the subaltern position."<sup>18</sup> This is a remarkable parallel on how the Canadian government's colonial tactics have affected the Ochapowace people and how they have responded to this control. Finally, Menno Boldt (1993) provided a definitive and provocative account of issues facing Indian people today as they struggle to overcome the injustices that they have been forced to endure under the Canadian colonial regime. Boldt's discussion is relevant to the self-governance issues on the Ochapowace Reserve. Edward Ahenakew (1995), from observations made on the Thunderchild Reserve, contributed to the literature with an emphasis on the value of oral history.

The primary sources were accessed in public and university libraries as well as from national, provincial and independent archives. These resources included published and unpublished government records and reports such as Sessional Papers, Department Annual Reports and unpublished archival collections of the Department of Indian Affairs which were accessed through microfilm (RG 10) from the First Nations University of Canada archives. Since Indian history was transmitted orally, the written sources are often the only tangible records generated concerning the early Indian - government relations. These government documents were written by government officials who, although may have attempted to express unbiased views, wrote from the point of view of European interests. Still their works cannot be overlooked. Although these records may

not always focus on specific communities like Ochapowace, the reports make general references to events which applied to particular agencies or regions such as the *Crooked Lakes Agency*. These references proved very useful for the reconstruction of how the Canadian establishment exerted its control mechanisms on the Ochapowace Reserve. Original government documents are also considered to be primary sources. Secondary sources include theses, textbooks and journals that cover a wide range of topics.

### **Methodology**

This research investigates how colonialism has affected the Ochapowace Reserve and how the band has resisted the government's colonial agenda. The main task, therefore, was to actively seek sources, both written and oral, which recounted the colonial impacts that the ethnocentric government exerted on the reserves such as Ochapowace Reserve. It was critical to examine the existing literature to ascertain what has been written to support the premise that the colonial practices of the government has had a major impact on the lives of Indians across the country. This information would serve as a background to show how the Ochapowace Band has resisted the colonial influences.

Although the written records were not specific to the Ochapowace Reserve, they provided the bulk of the information that was needed to explore the colonial history of the reserve. While much of the information in the literature is general to many or all reserves of the prairie provinces, it was pertinent to Ochapowace Reserve in that the experiences of all reserves are similar to the experiences of the people of Ochapowace. All the reserves endured the tutelage of a colonial government and all experienced poverty and dependency.

The importance of oral history has come to the forefront on the Ochapowace Reserve over the last two decades. M/A –119 who is now deceased, was willing to share the oral history of the signing of Treaty Four during the 1990s. This elder requested his nephew, M/A – 5, act on his behalf “indicating that he would like to have a meeting of elders and FSIN chiefs convened so that they could pull all their stories together in order to give the younger generations the true Indian perspectives of the treaties.” The nephew wrote a letter on July 5, 1999 to Perry Bellegarde, the FSIN chief at the time. Unfortunately, the nephew passed away before the meeting could materialize. The elder had advanced in age and had lost his vision and hearing by the time this researcher had an opportunity to interview him. Fortunately, one of his sons was the recipient of this important information and had tape-recorded his stories. These tapes were produced in the mid-1990s and were passed on to the researcher in 2000. Oral history was also used as testimony during court proceedings over the 1984 land claim and also in the GST tax case in 2002. As well, the Treaty Commissioner relied on elder evidence to state his landmark position on the so-called “numbered treaties.” In describing the understandings of the terms of the treaties he wrote:

The treaties were presented in written text as a method of documenting the exchange of promises. This text, which was prepared by Canada, is the expression of its understanding at the time treaty-making. For First Nations, the oral history of the “spirit and intent” of treaties is a significant method of recording the treaty-making process. Treaty elders repeatedly submitted that the treaty text does not conform to what they know by way of their oral histories.<sup>20</sup>

Oral narratives were intended to offer a parallel to the existing written accounts. However, a problem surfaced when the anticipated oral history did not materialize, due to the passing of many of the more knowledgeable persons who were important repositories

of the oral history. As a result, the researcher turned to current community members who were interviewed to ascertain the extent and the availability of local knowledge. The resource persons were elders, band leaders and adult members of the band and the youth from the community. To the surprise of the author all informants willingly agreed to share their knowledge. In order to access the knowledge held by these informants it was necessary and important to follow the protocol that was established by the researcher. This included making appointments for the interviews and setting up a schedule for the interviews. A consent form was also presented to the interviewees which stated among certain other conditions that consent was given for the researcher to use the information for the specified purposes; namely, inclusion in the thesis and future curriculum development. Ethical clearance was received from the University of Regina Research Ethics Board prior to the interviews. (See Appendix A.)

The informants were divided according to focus groups based on their anticipated contributions. The first group of participants were M/A – 1, and his son, M/A – 2. M/A – 1 had gained immediate post-treaty knowledge from his elders, and thus, was considered to be the best candidate to provide the history of the reserve including information about Chief Kâkisiwê and Chief Cêkacâs.

The second group consisted of M/A – 3, who believes strongly in upholding the treaties and promoting self-determination and self-government initiatives, M/A – 4, who has been active in pursuing the reestablishment of the Cêkacâs Reserve. Both of these individuals have knowledge of the reserve and the treaty which they received from a former chief and elder, who is now deceased.

A third group was comprised of other older individuals who have experienced life on the reserve, including their experience in residential school. It also included other band members who had stories passed down from their parents and/or grandparents. The stories of these participants necessarily reflected their knowledge of the reserve history, their perceptions of reserve life from the time of treaty (1874) to the present (2009). Selected band members, both on and off the reserve, were consulted.

A fourth group included the youth of the community. The researcher visited the school on the reserve for the purpose of explaining the history project to the students in grades six to nine. This was accomplished through an oral presentation. A prepared questionnaire similar to the one distributed to the parents was offered to the students on a voluntary basis. Students were allowed a reasonable period of time to return their responses. Classroom teachers were requested to collect the completed questionnaires. As with the adults, the anonymity of the participants was assured by an alpha-numeric system.

To facilitate the analysis of the responses from the questionnaires the topics were similar for each group of individuals, but the questions presented were slightly different to reflect the level and kind of knowledge of the participants. For instance, questions pertaining to residential schooling were not presented to the youth. The researcher exercised as much care and vigilance as possible to avoid excessive generalizations, fabrications and exaggerations. This was accomplished by a careful comparison of individual and group responses. The viewpoints were analyzed for consistency and accuracy judged on the basis of those that are held to be most common. For example,



both M/A – 4 and M/A – 5 indicated that the government used the *Indian Act* to control the Indians.

The Saskatchewan Oral History Film Project Collection deposited at the First Nations University of Canada Library was also searched for information pertaining to the Ochapowace Reserve. Records of Elder Workshops and David Mandelbaum's research on the Crooked Lake Agency during the 1930s were found. The data from these sources was entered as part of the oral history component in Chapter Three of the thesis to supplement the information provided by the focus groups and interviews mentioned above.

The pertinent information from primary and secondary sources along with the oral accounts was then compiled to demonstrate how colonialism impacted the residents of the Ochapowace Reserve. The following sections describe when and how colonialism took hold of the people on the Ochapowace Reserve. As the herds of buffalo disappeared, the Plains Indians faced starvation. Seizing the opportunity to take control over the lives of the ancestors of present day Ochapowace residents, the government negotiated a treaty which placed the Indians onto confined areas – the Kâkisiwê Reserve and the Cêkacâs Reserve.

The **Introduction** provides an explanation for the use of the Standard Roman Orthography in the spelling of the names of the two original chiefs and the name of the current reserve. It also explains the research process that was used to introduce the thesis.

**Chapter 1** provides background information in areas significant to this thesis including a summary of Treaty Four, a brief outline of the origin of the Ochapowace Reserve, the 1876 *Indian Act* and the Department of Indian Affairs which continue to

exist to this day and which continue to be utilized by the Canadian government to implement its colonial agenda.

**Chapter 2** presents a brief survey of life on the Ochapowace Reserve from Treaty Four and through the period of reserve creation. The chapter describes the central feature of colonial control, the Department of Indian Affairs together with its Indian Policy and the machinery that was established to manage the colonial system. This segment also delves into the effects of Churches and the Residential School scheme.

**Chapter 3** focuses on the stories by selected band members relating to the history of the reserve. It also briefly describes the experiences of eight generations of Ochapowace residents.

**Chapter 4** examines the aspirations of the band for the future. The chapter focuses on self-government and self-determination and briefly probes the imminent separation of the two bands.

**Chapter 5** summarizes and appraises the effects of Canadian colonialism on the Ochapowace Reserve and how the band has resisted the colonial influences.

## **CHAPTER 1: TREATY FOUR AND THE CREATION OF THE OCHAPOWACE RESERVE**

This chapter provides a succinct summary of Treaty Four, a short outline of the origin of the Ochapowace Reserve, the 1876 *Indian Act* and the Department of Indian Affairs. It also describes the impacts of colonialism and the studies that were undertaken by the federal government to explore the living conditions of the Indians on Canadian reserves like Ochapowace.

On September 15, 1874, seventy-five thousand square miles of agricultural land was surrendered for settlement, immigration, trade, and other purposes in exchange for certain treaty rights and the promise of peace and good will between the Indian bands and Her Majesty and Her Majesty's other subjects. Queen Victoria was represented by Alexander Morris, the Lieutenant-Governor of the North-West Territories, David Laird, Indian Commissioner, and William J. Christie, a former Hudson's Bay Company factor. Thirteen Cree and Saulteaux chiefs and headmen, including Ka-kii-shi-way (sic) or Loud Voice and Cha-ca chas (sic) or Fisher Belly,<sup>1</sup> both of whom headed large Cree bands from the Qu'Appelle River Valley, represented their bands. The government's obligation was stated in Morris's book:

And her Majesty the Queen hereby agrees, through the said Commissioners, to assign Reserves for said Indians, such reserves to be selected by officers of Her Majesty's Government appointed for that purpose, after conference with each band of Indians, and to be of sufficient area to allow one square mile for each family of five, or in that portion for larger or smaller families.<sup>2</sup>

so, yet the undersigned ventures to suggest that the reserves should be selected in such a manner as not to interfere with the probable requirements of the future settlement, or of land for railway purposes.”<sup>3</sup>

William Wagner, D.L.S., was assigned as the surveyor for the entire Treaty Four area, to work under W. J. Christie. David Laird, the Minister of the Interior and Superintendent General of Indian Affairs sent a letter to Christie on July 15, 1875 advising him that to keep the number of reserves to a minimum, by placing as many bands together as possible, if their members shared a common language.<sup>4</sup> The directive stated:

each reserve should be selected, as the Treaty requires, after conference with the Band of Indians interested, and should, of course, be of the area provided by the Treaty. The Minister thinks that the Reserves should not be too numerous, and that, so far as may be practicable, as many of the chiefs of Bands speaking one language, *as will consent, (my emphasis)* should be grouped together on one Reserve...<sup>5</sup>

On October 7, 1875, Commissioners W. J. Christie and M. G. Dickieson reported that:

The following bands are not prepared to settle on their Reserves at present, but have intimated the localities where they desire them to be. Ka-ki-shi-way or “Loud Voice” (49 families), at the Round and Crooked Lakes Qu’Appelle River, either above or below the Reserve set apart for those Indians belonging to the Fort Ellice Band who are settled there as already mentioned. They are not quite decided on the matter, and wish to see the place. ...The following Bands have no desire to commence farming at present, and gave intimation with regard to localities where they desired their Reserves to be set apart. (They are plain hunters, and depend on the buffalo for subsistence.)

Second on the list was Chakachas (sic).<sup>6</sup>

Because of the disappearing herds of buffalo the Plains Indians were faced with starvation. Seizing the opportunity to take control over the lives of the ancestors of Ochapowace residents, the government negotiated a treaty which placed the Indians onto confined areas – the Kâkisiwê Reserve and the Cêkacâs Reserve. History proves that the government broke its own treaty terms when it placed both bands onto a joint reserve without consulting either band.

The account then proceeds to offer a concise description of Treaty Four, which gave rise to the development of the Ochapowace Reserve. Included in the discussion is the infamous 1876 *Indian Act* which allowed the government to implement its colonial policies, and subversive practices. Also included are the components of the research process used for the thesis. The chapter concludes with a discussion of three legal proceedings which illustrate the impact the colonial relationship has had on the Band and its land.

### **The Origin of the Ochapowace Reserve**

During the annuity payments, on September 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup>, 1876, Wagner was able to get both Kakishiway and Chacachas finally to decide on a location for their respective reserves in the vicinity of the Qu'Appelle River. Ka-kee-see-way (sic) or 'The Loud Voice' and his band "desired that their reserve ... should front on the Crooked Lake (sic, McKay means Round Lake) extending northward," while Chief Cha-ca-chas's (sic) reserve was located "between the 102 meridian and the reserve set apart for Ka-ke-wes-ta-haw's (sic) band ...<sup>7</sup>

On the advice of Wagner, Kâkisiwê's reserve was deemed to be lacking sufficient timber <sup>8</sup> so another reserve needed to be marked out for him. The chief wanted the second reserve to be placed in the Moose Mountain area. John Nelson, who replaced Wagner, acted on the advice of A.E. Meredith, the Deputy Minister of the Interior. Kâkisiwê's second reserve was relocated on the south side of Round Lake in 1881, adjacent to the Cêkacâs reserve. The chief's request was denied because officials in Ottawa did not want to set a precedent for other bands to request a new location for their memberships.

### **Amalgamation**

Accordingly, the Canadian government directed John Nelson to survey a joint reserve – the Kâkisiwê Reserve (later known as the Ochapowace Reserve) – for the two bands. Thus, the original Cêkacâs Reserve was removed from the list of reserves that were surveyed in the Qu'Appelle Valley and became available for European settlement.

According to the Dominion of Canada Annual Report of the Department of Indian Affairs for the year ended 31st December, 1884, Chief Cêkacâs had “resigned his chieftainship two years ago (and) his Indians were put in Loud Voices's band.”<sup>9</sup> It was probably shortly after this time that the government decided that the two bands could be amalgamated in accordance with the directive that A.E. Meredith gave to Christie in 1875. This instruction stated that where consent was given, bands who spoke a common language could be combined. The Annual Report for the year ended 31<sup>st</sup> December, 1887 recorded that Cêkacâs and forty of his band members had left their reserve. A file, listing reserves and the chiefs, omitted the Cêkacâs Reserve. A statement in this file read, “I.R. No. 71 was provided for the followers of Chief Ka-Kee-She-Way (sic) and Chief

Chachachas (sic).”<sup>10</sup> Nowhere is it recorded that the two bands had been consulted or had consented to the amalgamation. The government had created a situation where two bands were to occupy the same reserve which was contrary to the terms of the treaty. In typical colonial fashion the government unilaterally joined the two bands even after it had promised a reserve for each band that was present on September 15, 1874 at Fort Qu’Appelle.

The treaty signing occurred at a time when the Indian bands were facing starvation and when John A. Macdonald’s government wanted to accommodate settlement and build a nation from sea to sea. It also provided an opportunity for the government to begin exercising its eurocentric control over the desperate Indians. This domination began with the enactment of the first *Indian Act* in 1876, only two years after Treaty Four was signed. Indians were not consulted and had no input in the draft of the *Act*. This legislation and its subsequent revisions allowed the government to impose the policies and regulations which enabled the government to regulate all aspects of the Indians’ lives. These were applied unilaterally by the government to subjugate the people of Ochapowace Reserve. To exacerbate the situation, the government felt no need to consult with the Indians whenever decisions were made concerning their affairs. The government and its bureaucrats have always taken the position that they knew what was best for the Indians. This attitude is based on the persistent belief in the “[d]octrine of Euro-Canadian ‘superiority’ and Indian ‘inferiority’.”<sup>11</sup>

It is obvious that the Government of Canada was intent on subjugating the Ochapowace Band. Even though the government stated that the Indians would be

consulted on the choice of location for their reserve there is no evidence that this had occurred. What is clear is that “someone in the hierarchy” had instructed John Nelson, D.L.S, to shuffle the bands who had been allotted reserves to the north of Round Lake to make room for the second Kâkisiwê Reserve. This leads to the conclusion that the colonial practices, which were implemented through the *Indian Act* within a few years following the signing of Treaty Four, had and continues to have a major impact on the lives of the people on Ochapowace Reserve.

### **The 1919 Land Surrender**

As part of its management strategy, the government engaged hard-nosed administrators to work among the Indians on their reserves. To be sure, these employees directed their efforts at promoting the government’s agenda to subjugate the Indians as opposed to working for the benefit of the reserve residents. One of these employees was William W. Graham who was the Inspector and later the Indian Commissioner. Graham applied the provisions of the *Indian Act* ruthlessly to establish control by fear. The Inspector was adept in imposing his will on the Indians and was relentless in executing land surrenders. As Sarah Carter noted:

Graham was certain that reserve agriculture would never expand greatly and for that reason Indians could well afford to surrender extensive tracts. Graham obtained large surrenders from the Pasquah and Muscowpetung bands in 1906 and 1909, and he eventually succeeded in securing surrenders of parts of the Crooked Lakes Reserves, a goal long sought by local non-Natives.<sup>12</sup>

One of the reserves where a surrender was made was the Ochapowace Reserve #71.<sup>13</sup> Apparently the government was not content to force the Indians onto reserves where it attempted to exercise total control over the residents. Chief Kâkisiwê had not



settled on the reserve that he selected in 1876 until 1881, yet a mere 38 years later the Government of Canada was pressuring Chief Ochapowace and his band to relinquish part of their reserve to provide individual lands for returning World War I soldiers.

The pressure to obtain reserve lands was not new for William Graham and the Canadian government. For example, in 1907 the Kahkewistahaw Reserve surrendered 33,281 acres to the Crown,<sup>14</sup> twelve years before the Ochapowace surrender. The first hint of a land surrender from the Ochapowace Reserve was contained in a letter dated May 26, 1885. It was addressed to David MacPherson, Minister of the Interior, from Thomas Evans, J. P. of Broadview, North-West Territories. It read in part:

The Indian Reserve which lies immediately to the north of this town is a most serious obstacle to all improvements to this part of the North West Territories. ... the town and district have felt that oppression and the constant theme of every resident has been that the Indian Reserve ought to be removed as soon and as speedily as the Government can affect it. The few Indians who pitch their widely scattered Tee Pees will in no way suffer from their removal, whilst the town and district will receive that new life of which they now so much stand in need.<sup>15</sup>

Although it was not clearly stated, the Indian Reserve actually referred to the Cowessess, Kahkewistahaw and Kâkisiwê Reserves. A year later on March 4, 1886 M.A. Burgess, the Deputy Minister of the Interior, wrote to L. Vankoughnet, the Deputy Superintendent-General of Indian Affairs, to inform him settlers in the Moosomin area expressed their concern over the location of the reserve being in the proximity of the Canadian Pacific Railway. He also expressed the opinion that the reserve should be moved six miles from the railway. This, he wrote, would benefit the settlements along the railway and the Indians themselves. In exchange the Indians would be granted a greater frontage along the river and given additional acreage from the land available within the

vicinity “so as to give each member of the band an area not less than 160 acres.” The purpose of this letter was to ask Vankoughnet if it would be “expedient to open negotiations with the Indians for the purpose of ascertaining their views.”<sup>16</sup> The matter was referred, first to Edgar Dewdney, the Indian Commissioner for the North West Territories, and then to the Indian Agent at the Crooked Lake Agency, Allan McDonald.

Agent McDonald communicated some concerns to Dewdney regarding the tract of lands that was to be surrendered. He was apprehensive about the negative publicity that this surrender would engender, and secondly, he believed that both the Kah-ke-wis-ta-haw and Loud Voice Reserve would “be giving up the best of their hay, but not to the same extent as Little Child’s” or Cowessess’s Reserve. He anticipated that the Indians on the reserves would soon need adequate hay lands for their growing herds of cattle. In regard to the land being considered for surrender he noted that “should the proposition be carried out, the Indians will be giving up far more valuable lands than they will be receiving.”<sup>17</sup>

Meanwhile, “a delegation from Broadview, led by A.G. Thorburn, met the Minister of the Interior to discuss the possibility of opening up the ‘South Range’ of Township 17, in the Crooked Lakes Indian Reserve, to settlers.” This request was forwarded to the Superintendent General of Indian Affairs which in turn was received by Agent McDonald who was called on to submit a report on the matter. The report was contained in a letter dated March 10, 1891. He reminded Vankoughnet that he had suggested “that land North of the Qu’Appelle Valley should be given to the Indians in lieu of that Southern portion proposed to be ceded” on March 22, 1886. No follow-up

action was taken at that time and would no longer be possible “as that land is now occupied.”

Agent McDonald also detailed the reasons he was not in favour of pursuing the surrender of the South Range of Township 17. His report was passed on to A.G. Thorburn on April 16, 1891. He wrote:

... although I am most anxious that the views of the people of Broadview should be met, still from my position as Indian Agent, I am bound in the interests of the Indians to point out the difficulties in the way, which are tersely these. If these lands are surrendered by the Indians, no reasonable money value can recompense them, as their Hay lands would be completely gone, and this would necessitate no further increase of stock, which would of course be fatal to their further quick advancement, and would be deplorable, and the only alternative that I can see is to give them Hay lands of equal value immediately adjacent to the Reserves interested, which I do not think is possible now.<sup>18</sup>

In contrast, the Department of Indian Affairs received a resolution presumably from the Broadview Community Association expressing this view:

That the opening of the South Range of Township (17) in Crooked Lakes Indian Reserves for settlers, due compensation therefore being given to the Indians, is desirable, in the interests of the Town, of the Canadian Pacific Railway, the settlement of the country and its general interests, and would prove to be to the advantage of the Indians also.<sup>19</sup>

On July 19, 1892 Allan McDonald informed the Deputy Superintendent of Indian Affairs of the death of Chief Ochapowace in 1891. Later, on August 27, 1892 McDonald reported that he was unable to secure the consent of the Ochapowace Band to surrender the land for the road allowance through their reserve but would continue the effort. The letter was forwarded to Vankoughnet by the Assistant Indian Commissioner, A.E. Forget on August 29. Agent McDonald was able to convince Oosawistwi (Osâwâstim), a

principal man, and Little Assiniboine, another band member, to carry out the affidavit on January 21, 1893 that had earlier been refused by Chief Ochapowace. The affidavit was sworn before the Honorable Edward L. Wetmore of the Superior Court of the North West Territories. In essence, this officially declared that the land surrender for the road allowance was now complete. A memorandum from the Superintendent-General of Indian Affairs to the Governor General in Council confirmed this reality. In part it read:

The undersigned begs to submit herewith three surrenders, made by the Bands of Chiefs O'Soup, Ochapawace (sic) and Kapeewistaha, of certain portions of their reserves described in said surrenders being required for the purpose of roadways, said reserves consisting of Nos. 71, 72 and 73, within that part of the North West Territories covered by Indian Treaty No. 4.<sup>20</sup>

In regard to the land surrender of the South Range of Township 17, Inspector William Graham reported that he was able to get the Indians of Kahkewistahaw and Cowessess to relinquish 53,985 acres: 33,281 and 20,704 acres respectively, on January 28 and 29, 1907. Yet, on February 12, 1907 Graham advised J.D. McLean, secretary of the Department of the Indian Affairs, that he was unable to get the Ochapowace Band to accept a surrender even though he had offered them nearly three times as much as that offered to the Cowessess Band. After the first vote four members were in favour of a surrender and sixteen against. The results were almost identical in another balloting "held on Saturday, the 9<sup>th</sup> inst." with five in favour for the surrender and nineteen opposed.<sup>21</sup> However, in a letter from Agent M. Millar to Frank Pedley, Deputy Superintendent of Indian Affairs there was an air of optimism. Millar, "was of the opinion that they (the Ochapowace Band) will shortly ask for another opportunity to do so."<sup>22</sup>

Inspector William M. Graham persisted in his efforts to obtain a surrender from the Ochapowace Band. He requested another opportunity to accomplish his mission in a letter to J. D. McLean, Secretary of the Department of Indian Affairs, on April 16, 1907. He was under the impression that he could convince the Band to accept a surrender. He suggested "that a payment of one-fifth be offered the Indians, one tenth at the time of signing and one tenth after sale." Indian Agent Millar got into the act on April 16, 1907. He suggested in a letter to J.D. McLean, Secretary of the Department of Indian Affairs that Mr. J. Lestock Reid, D.L.S., survey a "fourth line from the south, commencing at the east boundary of Ochapowace's Reserve No. 71 to the west boundary on his arrival." The purpose of this line was to "illustrate to the Indians of that band what the selling of four rows of sections would mean to them in relation to the land which will be left." Millar conveyed this opinion:

It is very desirable in the interest of the Indians themselves, and also of the adjoining district that this band follow the example of the other Indians, and sell part of their land. They are, however, somewhat differently situated, and I do not think are likely to consent for a considerable time to the sale of the whole of the south six rows of sections. I am of the opinion that they would surrender four rows of section if the line is run as suggested, as they do not seem to know now just how the selling of any particular area will affect them.<sup>23</sup>

The quest for the surrender continued when W.A. Orr of the Lands and Timber Branch sent a memorandum to the Deputy Minister. In reference to William Graham's offer to attempt once more to obtain a surrender from the Ochapowace Band, he stated that the proposed surrender would be 37,573 acres. In an exchange of correspondence between Graham, Inspector of Indian Agencies, and J.D. McLean, Secretary of the Department of Indian Affairs, Graham sought permission to alter his proposal. He wrote:

I beg to say that if the Department is willing to accept my recommendation, and offer the Indians of Ochapowace Band one-tenth of a cash payment at time of sale and one-tenth after sale, instead of one-tenth in all, it would be necessary to have \$15,000 available.

It will not be necessary to transfer this amount of money to me until you hear whether I require it, but what I should like to know is, can I get this amount on short notice if it is required? I should like to have your authority to alter the conditions of Surrender from one-tenth payment to one-fifth, and should like this authority at the earliest possible date.<sup>24</sup>

This meant that the Inspector would give the Indians a one time payment of one fifth of the purchase price at the time of sale, instead of the one tenth at the time of signing and the one tenth after sale that he had initially proposed on April 16, 1907. Authority to alter the conditions of surrender was given to Graham by McLean on May 14, 1907. On May 24, 1907 Graham sent a letter to McLean, the Secretary of the Department of Indian Affairs stating that he had held a meeting of the Ochapowace Indians to find out if they had reconsidered not surrendering the land in question. The Indians were unanimous in their decision not to sell.<sup>25</sup> However, the Inspector of Indian Agencies, was not about to give up on his efforts to secure a surrender. W.M. Graham reported to the Minister of the Interior on May 5, 1919 concerning his inspection of the Ochapowace Reserve with Mr. Walter Govan, the Saskatchewan representative of the Soldier Settlement Board. His letter stated:

We beg to report that we have made an examination of the four rows of sections off the South side of Ochapowace Reserve, situated north of the main line of the C.P.R. between Broadview and Whitewood. The reserve is nine and a half sections in width and the area that has been examined is thirty eight sections.<sup>26</sup>

On May 22, 1919 Graham inquired about his report as he was anxious to begin

the negotiations with the Ochapowace Band. In his letter he expressed “the opinion that a cash payment of \$1.00 per acre would have to be made to the Indians at the time of surrender which would mean approximately \$25,000 and this money should be available prior to opening negotiations.” But he appeared to be pessimistic about the degree of success he would enjoy from his efforts. He noted that “this Band in the past have always opposed to granting surrender of any portion of their lands and I have little hope of securing a surrender in this instance.” However, he did commit to make an honest effort to get a surrender “as they can well afford to let this much of their land go as they have much more than they need.”<sup>27</sup>

A memorandum on June 5, 1919 from D.C. Scott, the Deputy Superintendent-General to Arthur Meighen, the Minister of the Interior, stated that he thought that \$9.00 would be a fair and reasonable price to pay the Ochapowace Indians. He recommended acceptance and indicated he would inform the Soldier Settlement Board that it could take possession on payment of the purchase price. Mr. S. Maber pledged \$25,000 on June 7 on behalf of the Soldier Settlement Board in connection with surrender and purchase of the land on Ochapowace Reserve. On June 10, 1919 D.C. Scott informed Maber that he approved the \$9.00 per acre price and added the instruction for Maber to send the funds to him. The money would then be forwarded to Indian Inspector Graham as an advance payment with the proviso that it would be returned if the surrender was unsuccessful.<sup>28</sup>

Mr. S. Maber sent a cheque for \$25,000 to Duncan C. Scott on June 13, 1919 constituting the down payment. Scott then instructed a Mr. Paget to prepare a cheque in that amount in the name of W.M. Graham. The money was to be paid to the Ochapowace

Indians as a down payment "... if they consent to surrender certain of their lands for sale to the Board."<sup>29</sup>

On July 7, 1919 Commissioner William Graham forwarded the surrender papers consisting of statement of surrender, a list of male members of the band, a record of poll, and affidavit of execution. The latter item was of some concern because it was not signed by key representatives of the Band Council. J.D. McLean, Assistant Deputy and Secretary of the Department of Indian Affairs, referred the matter to Graham in a letter dated July 15, 1919. He returned the surrender papers and expressed the oversight accordingly:

I have to acknowledge the receipt of your letter of the 8<sup>th</sup> instant, No. 9-36. Enclosing surrender of 18,240 acres in the Ochapowace Reserve No. 71, and in reply have to point out that the affidavit of execution was not signed by the Principal men, which is absolutely essential to the validity of the document.<sup>30</sup>

In compliance, Inspector Graham had the affidavit re-executed before Justice of the Peace, A. Sinclair, and returned the surrender documents to Scott. This time the marks of Walter Ochapowace and Pierre Belanger were included.<sup>31</sup>

Daniel Ochapowace, son of Walter Ochapowace, described the surrender proceedings in a sworn affidavit:

... Mr. Graham came out to the reserve and there were other people with him. The police and interpreter from the Indian Office came. They all got there in a Democrat. They had a big meeting on Ochapowace Indian Reserve. A big gathering. There was horses and tents at the farm instructor's place.

There were a lot of people there. There was a barn there, though I think it is burnt down now. I was lying down on the ground in the big wide door there and the Indians were sitting on benches.



There was a big long table with \$100 bills, \$50 bills, \$20 bills, \$10 bills, \$1 bills. It was just like chocolate bars and ice cream. That was what Mr. Graham had done with the Indians. He knew that we would wish for that money and that was what he put on the table.

That I was lying down on the floor in the barn at that meeting. I was a big boy and remember Mr. Graham saying, "How many of you think so? Stand up and vote. The ones that want to sell, stay sitting." All the Indians stood up, except one. He was outvoted so they asked him to stand up too. I don't know who it was. Some of them Indians done something with two hands holding them up when they stood up. Mr. Graham said that was all right and I think the Indians got \$110 per head, whether a baby or a big person. They all got \$110 per head.<sup>32</sup>

The list of male members on the Ochapowace Reserve eligible to vote on the surrender on June 30<sup>th</sup>, 1919 totaled 27. Twenty-three attended the surrender proceedings meeting, four were absent. Seventeen voted in favour, while six declared they were against the surrender and did not vote. The result of the overall vote was signed by Indian Commissioner Wm. Graham and Inspector W.B. Crombie.<sup>33</sup>

The vote was the deciding factor in the sale of the Ochapowace land. On September 2, 1919 Arthur Meighen recommended:

[the] acceptance of a surrender of the three most southerly rows of sections comprising 18,240 acres in the Ochapowace reserve, Crooked Lakes Agency. This land has been applied for by the Soldier Settlement Board and has been valued by Commissioner Graham and Mr. W. Govan at \$9.00 per acre."<sup>34</sup>

Also on September 2, 1919 Arthur Meighen made plans to submit documents pertaining to the surrender to the Governor-General in Council. He stated in a memorandum:

The surrender has been duly authorized, executed and attested in the manner required by 49<sup>th</sup> Section of the *Indian Act*, and that the under-

signed would recommend that the same be accepted by Your Excellency in Council and that authority be given for the sale of the land covered thereby as the Superintendent General of Indian Affairs may deem best in the interest of the Indians; the original surrender to be returned to the Department of Indian Affairs and the duplicate thereof to be kept of record in the Privy Council Office.<sup>35</sup>

The transaction was announced to the Governor-General in Council through a memorandum from Arthur Meighen, Superintendent-General of Indian Affairs, on September 11, 1919. The memo stated that the Soldier Settlement Board wished to purchase the surrendered 18,240 acres of the Ochapowace Reserve at \$9.00 per acre in the amount of \$164,160. On the same date, a copy of the Memorandum to Council, signed by Arthur Meighen, recommended the transfer of the land purchase to the Soldier Settlement Board of Canada. The memo also affirmed that “[t]his land was surrendered on the 30<sup>th</sup> of June for disposal and the surrender was accepted by Order in Council of 6<sup>th</sup> September, 1919.”<sup>36</sup>

The surrender represented a major coup d’état for the Government of Canada. It was another example of how the government was able further to colonize and impose its will on the people of the Ochapowace Reserve. While the government was experiencing success at gaining control over the Indians, the reserve Indians on the Ochapowace Reserve, and indeed across Canada, were not benefiting from assimilation efforts of the government. Poverty and dependency conditions were, and are, the dominant features of reserve life.

With persistent lobbying by Indian leaders, however, the government initiated studies to examine the matter. Conducting studies was and is a popular method for the government to deal with Indian concerns. Various studies and federal legislation, both

proposed and actual, have been used by the government to distract the people from achieving their goal of self-reliance. Satzewich and Wotherspoon stated that Indians are the most studied group in Canada and suggested the reasons for the studies. Moreover, the deplorable situation for the Indians does not change, while government policies also remain the same. They wrote their assessment:

[N]umerous studies have been undertaken to understand and explain the position of Aboriginal peoples in Canada. Of all ethnic categories in Canada, it is unlikely that any other has stimulated as much academic research. Over the years, the motivations for this research have been varied, and have encompassed the rather paternalistic oriented, where the aim is to identify the “Indian problem;” an assimilationist orientation, where the aim is to facilitate the entry of Aboriginal peoples into “mainstream” society; those whose aim is to facilitate the retention of traditional cultural patterns; and those whose aim is to expose past and present injustices and oppression.<sup>37</sup>

### **The Hawthorne Report**

The first investigation into the life conditions of Indians across Canada resulted in the Hawthorne Report which was published in 1966.<sup>38</sup> The document authored by H.A. Hawthorne was entitled, *A Survey of the Contemporary Indians of Canada: Economic, Political, Educational Needs and Policies*. The study, which may be considered akin to a Royal Commission, “identified the poor quality of life experienced by Aboriginal people and concluded by suggesting extensive changes in government policy and programs.”<sup>39</sup> Alan Cairns elaborated on the significant change that Hawthorne introduced – the recommendation that Indians be granted the status of “Citizens Plus.”<sup>40</sup> Indians should be regarded as such, but “in addition to the normal rights and duties of citizenship, Indians possess certain additional rights as charter members of the Canadian community.

According to Cairns, Hawthorne contended “that assimilation was neither an unquestioned goal nor an appropriate policy. Hawthorne, in his report, argued that Indians should be given the educational and other tools they need to make meaningful choices of how they wished to live.”<sup>41</sup>

Fleras and Elliott expressed their understanding of the concept of “citizens plus:”

Aboriginal peoples are anxious to possess the same rights that most Canadian citizens take for granted. They want to live in a just and equal society where (a) they can set down roots and make a contribution to society at large, (b) they are not victimized by racism or discriminatory barriers that preclude meaningful involvement, (c) the rights of individuals are protected against unwarranted state interference and bureaucratic meddling, and (d) their culture, language, and identity can flourish as legitimate components of Canadian society. These concerns and demands are no different from those espoused by all Canadians, and reflect the right of all Canadian citizens to be the same as well different.<sup>42</sup>

### **The White Paper**

In reaction to the Hawthorne Report, the Trudeau government introduced a plan which proposed to change Indian-government relations. The *Statement of the Government of Canada on Indian Policy, 1969*, better known as the White Paper, was introduced in Vancouver in a speech by Prime Minister Trudeau on 8, August, 1969. During the speech he stated his government’s views on Aboriginal rights and treaties. The proposed action represented a major policy shift. Disguised as a proposal to put Aboriginal peoples on an even footing with other Canadians and to free them from the discriminatory and paternalistic provisions of the *Indian Act*, the Liberal government,

under Pierre Elliott Trudeau, proposed a re-structuring of Aboriginal-government relations.<sup>43</sup> Fleras and Elliott commented on the White Paper which:

recommended the eventual elimination of 'privileges' for Aboriginal peoples. By 'normalizing' their entry into Canadian society as 'equals', the White Paper attempted to do away with special and separate status as set out in section 91 (24) of the Constitution Act. It sought to abolish Indian status (by repealing the *Indian Act*), accelerate absorption into the mainstream, terminate federal obligations, allocate reserve resources to individual ownership, devolve services and support to the provinces, and phase out the Department of Indian Affairs, in the belief that separate and special Aboriginal status was undemocratic and counter productive.<sup>44</sup>

In addition to the above assessment, Sally Weaver claimed that the White Paper was prepared in a secretive fashion despite government commitments to Indians that they would participate in the process; the production of the White Paper had many earmarks of political deception.<sup>45</sup>

Predictably, and to the surprise of the policy-makers, the White Paper was rejected by Aboriginal groups in an unprecedented display of unity and singularity of purpose on the basis of its racist content and genocidal potential. It was not because they wanted the government to get out of their affairs completely but "they wanted the right to conduct their political, social, and cultural affairs without excessive interference from Ottawa."<sup>46</sup> Authored by Harold Cardinal, the 1970 Red Paper was a response to the Prime Minister's White Paper and was an example of a national movement by Indians who pushed back, forcing Trudeau's government to withdraw its policy document.<sup>47</sup>

After the defeat of the White Paper, the government pushed the idea of changing the *Indian Act* to the back burner. Nearly two decades after the Hawthorne Report two

more comprehensive studies were commissioned by the government to examine the state of Aboriginal conditions again. Both of these reports indicated that radical change in the relationship between Aboriginal nations and all the levels of governments in Canada was essential. This coincides with the philosophy of self-government and self-determination currently envisioned by the people of the Ochapowace Reserve.

### **The Penner Report**

The second study was the 1983 Penner Report,<sup>48</sup> officially known as the *House of Commons' Special Committee on Aboriginal Self-Government*. It posited 58 specific recommendations to accomplish self-government. A key recommendation was the phasing out of the Department of Indian Affairs over a five-year period. Indian governments would assume the responsibilities of administering their own affairs. The report was clear about the ultimate aim of Indian self-government which asserted the right of Aboriginal peoples to self-government be explicitly stated and entrenched in the *Constitution*. Penner concluded that self-government was an inherent right. His report advocated the entrenchment of this inherent right within the Canadian constitution. This form of government would be sovereign; that is, it would have full legislative powers on all matters that affect Aboriginal communities. Additionally, the form of government recommended by the Penner Report was not the limited municipal-style provided to Indian bands by the *Indian Act*. Instead, the report urged that First Nations be allowed to “form a distinct order of government in Canada.”<sup>49</sup> It was a milestone in the history of protest against oppressive government policies. Visions of self-government created an atmosphere of optimism among Aboriginal communities including the Ochapowace First

Nation. This report came at a time when the Ochapowace Band was contemplating self-governance to determine their own direction in developing the on-reserve economic opportunities.

The 1983 Penner Report came at a politically important moment. The government had patriated the *Constitution Act* on April 17, 1982. However, First Nations protested when they discovered that the original drafts of the *Constitution* did not contain any reference to Aboriginal rights.<sup>50</sup> The protests led to the insertion of Section 35 which stated that “[t]he existing and Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed.”<sup>51</sup> Native leaders took this as an attempt to limit their rights. The clause “could also be interpreted as constitutionally entrenching all rights, including an inherent right to self-government, never surrendered through treaty.”<sup>52</sup> Nonetheless, the recognition of Aboriginal and treaty rights in the Constitution kindled hopes for self-government as First Nations people realized that they could do as well or better than the Department of Indian Affairs to manage their own governance. This interest was evident by the emergence of the expanding literature and the support of the non-Aboriginal community across the nation.<sup>53</sup>

One of the leading authorities on Aboriginal issues, John H. Hylton, described various attempts by the provincial, territorial, and federal government to address the question of self-government. Following the Penner Report, the government of Pierre E. Trudeau’s Liberals attempted to deal with constitutional matters. Section 37 of the Constitution had also provided for the convening of a single first ministers’ conference to

discuss Aboriginal constitutional matters to be held no later than April 17, 1983. On March 1983, provincial and Aboriginal leaders met with Pierre Trudeau, the Prime Minister of Canada at the time. The discussions revolved around the question of self-government which needed to be resolved before any constitutional recognition could be given for the concept, but in the final analysis the conference did not directly address issues pertaining to self-government.

Nevertheless, Section 37.1 required that at least two further first ministers' conferences had to be called before 1987. The first of these two conferences that were to follow occurred in 1984. It was chaired by Prime Minister Trudeau who was not known as an advocate for Aboriginal and Treaty Rights. At the First Ministers Conference the Prime Minister stated that "we are not here to consider whether there should be institutions of self-government, but how these institutions should be brought into being."<sup>54</sup> After some serious debate, delegates to the conference accepted the concept of self-government in principle. The Prime Minister seemed to concede that Aboriginal self-government was inevitable.

Following the failure of the final conference in 1985 to resolve the question of self-government, Brian Mulroney's Conservative government and the provincial governments signed the Meech Lake Accord in 1987. Because the Meech Lake Conference would have changed the Constitution's amending formula, it required the unanimous consent of the both the provincial and federal governments within three years before it became law. As it contained no reference to Aboriginal interests or aspirations for self-government or to their participation in the discussions, MLA Elijah Harper, an



Ojibwa-Cree from northern Manitoba, denied the unanimous consent of the Manitoba legislature in June of 1990.<sup>55</sup>

The collapse of Meech Lake led subsequently to the Charlottetown Accord which was drafted in 1992. The government of Prime Minister Brian Mulroney attempted to make the subject of self-government more acceptable to Aboriginal people. Unlike Meech Lake, “[t]he Charlottetown Accord offered more compromise and more promise for all”<sup>56</sup> (such as) a comprehensive package for Aboriginal peoples, including the elusive inherent right and a treaty-renewal process. Aboriginal self-government seemed to be within reach. Unfortunately the talks failed to produce anything to suggest that self-government would be realized. The Accord was defeated in a referendum on October 26, 1992 dashing any hope for self-government.

The constitutional conferences resulted in considerable changes in the relationship between First Nations people and the Canadian government. The Indians have abandoned their earlier passive approach in favour of a more assertive and perhaps, a more confrontational stance. This position gradually evolved as Indian leaders across the nation gained a better grasp of their political agendas along with a greater level of confidence in speaking for their rights. For instance, Indians firmly believe that their treaties are internationally recognized agreements in which their sovereignty and nationhood are affirmed.<sup>57</sup> Although there appears to be a stalemate toward achieving self-government there is a better understanding of the antithetical positions of First Nations and non-First Nations on the issues surrounding self-government. The lessons that have been learned

from past negotiations point to three solutions to the stalemate – the two-row wampum (co-existing parallel sovereignties), assimilation, or the concept of *Citizens Plus*.<sup>58</sup>

### **The Royal Commission on Aboriginal Peoples (RCAP)**

The third and most recent major undertaking to study Indian conditions was the recommendations of the *Royal Commission on Aboriginal Peoples (RCAP)*. This comprehensive study rekindled the hopes for self-government and self-determination on the Ochapowace First Nation. The recommendations that came from the report coincided with the aspirations the Ochapowace Band. The Commission was established in 1991 under the *Public Inquiry Act* by the Mulroney government to investigate and recommend ways to improve the lot of Indians and other Aboriginal groups in Canada. The Commission was established largely in response to the Oka crisis and the failed Meech Lake Accord, both of which occurred in 1990. Seven commissioners were named, four of them were Aboriginal persons. Marlene Brant Castellano described the scope of the mandate contained in the Order-in-Council which established the commission:

The Commission of Inquiry should investigate the evolution of the relationship among Aboriginal peoples (Indian, Inuit, and Métis), the Canadian government, and Canadian society as a whole. It should propose specific solutions, rooted in domestic and inter-national experience, to the problems which have plagued those relationships and which confront Aboriginal peoples today. The Commission should examine all issues which it deems relevant to any or all of the Aboriginal peoples of Canada, ...<sup>59</sup>

The final report of the “Commission”, released in 1996, consisted of five comprehensive volumes. One of them, *Gathering Strength: Canada’s Aboriginal Action Plan*, outlined a comprehensive framework for renewing Aboriginal and non-Aboriginal partnerships to strengthen Aboriginal governance and to design a new fiscal relationship

which was intended to sustain the growth of strong healthy communities. According to Castellano, the final report of the *RCAP, Partners in Confederation*, dealt exclusively with self-government. In this volume, the “Commission” concluded:

[T]hat Aboriginal nations have a unique legal and historical right to govern themselves within the Canadian federation. This right derives from their status as peoples with an inherent to freely determine their political status and to pursue their economic, social, and cultural development. This right is recognized in emerging international law, affirmed in historic treaties, and protected in the Constitution. From the commission’s perspective, the right of self-government vests in nations or peoples rather than in the bands defined by the *Indian Act*. Self-government can be exercised in a variety of forms – within defined territories, in relation to citizens in dispersed locations, or through public forms of government that also include non-Aboriginal constituents.<sup>60</sup>

*RCAP* covered virtually every aspect of Aboriginal life in 440 recommendations.

Leaders across the nation accepted the report with guarded optimism as they had seen the promises of the Hawthorne Report and the Penner Report fall by the wayside. Once again, they saw the exclusion of Aboriginal peoples from the planning and implementation strategies. As well, the government maintained rigid control of the programs that were initiated. The cliché, the more something changes, the more it remains the same, seems to have held true. Time will tell if history will repeat itself and see the promise of the study evaporate without results.

### **The First Nations Governance Act (FNGA)**

In March 2001 Paul Martin’s government began to lay plans to again amend the *Indian Act* by introducing a bill tentatively named the “First Nations Governance Act (FNGA).” However like the White Paper, the ill-advised proposal was seen by First Nations as a deception of the government’s intent. For them it was nothing more than a new and improved assimilationist policy. Although the Minister of Indian Affairs, Robert

Nault, made an attempt to have the Indians involved, the Indians rejected the proposal because it was not advancing anything new. The government was simply reinforcing its control over the Indian people. The federal government was disguising the legislation under the pretense of consultation. If the *Indian Act* was considered too oppressive, the proposed FNGA would offer nothing new.<sup>61</sup>

First Nations all across the nation were united in their opposition to the scheme because it was seen as just another attempt to assimilate them. The proposal was seen as a threat to Aboriginal and treaty rights and to the continued existence of Aboriginals as distinct peoples, i.e., a threat to their inherent right to self-government. Not since the 1969 White Paper has a proposed federal bill generated so much negative reaction from Indian people. The proposed bill contained three stipulations that were objectionable to them: first, it was to be mandatory and would be imposed on First Nations; second, the Indians would not have avenues to appeal or challenge the legislation; and third, there was no mechanism for First Nations to approve or reject any outcomes of this process. The Indians were correct to refuse this forced assimilation.<sup>62</sup> If the FNGA accomplished anything, it strengthened the Indians' interest and resolve to gain their inherent right to self-government and self-determination.

However, Euro-Canadians have had great difficulty in accepting inherent rights as a basis for self-government. Until the late 1970s the governments within the federal system were firm in their negative response to Aboriginal demands for self-government. They took the position that they could not recognize Aboriginal sovereignty because the only sovereignty that existed in Canada was vested in the Crown. Bradford Morse stated

Joe Clark's position on the question. Clark, the federal minister responsible for constitutional affairs in 1991, explained why the government of Canada was reluctant to recognize the inherent right to self-government concept. In Clark's words:

Our concern with the term is straightforward. We believe that the word – undefined or unmodified – could be used as the basis for a claim to international sovereignty or as the justification of a unilateral approach to deciding what laws did or did not apply to Aboriginal peoples. Our concern with inherency is not with the word but with the meaning. If it can be shown that an amendment can be drafted to ensure that an inherent right does not mean a right to sovereignty or separation, or the unilateral determination of powers, we will look at that. If Aboriginal Canadians can help define what inherency would mean in practical terms – in terms of authorities and jurisdiction and powers – in such a way that the integrity of this federation is not put in question, we would welcome that.<sup>63</sup>

Joe Clark's words are representative of the government's attitude toward First Nations' aspirations for self-determination and self-government. Even now the reaction toward the concepts of self-government and self-determination is mixed as Aboriginal leaders and government officials continue to debate its merits and establish their respective positions on the question. J.R. Miller noted the view of self-government by Aboriginal peoples. He wrote:

In the negotiations at both the First Nations Conferences of the 1980s and at the Charlottetown talks, leaders from First Nations, Métis organizations, and Inuit bodies attempted to secure constitutional recognition of a right of Aboriginal self-government that they contended had always existed and was unextinguished.<sup>64</sup>

The preceding account reveals how the government launched its colonial regime early following the signing of Treaty Four. The *Indian Act* of 1876, the Department of Indian Affairs and the reserve system all contributed to the domination over the Ochapowace people by the federal government. Three studies were conducted to explore

the deplorable living conditions that existed on reserves in Canada such as the Ochapowace Reserve. These were the Hawthorne Report (1966), the Penner Report (1982), and the Royal Commission on Aboriginal Peoples (1996). Although the government created an impression that they were addressing "Indian problems," its responses to the reports reflected its attitude that the government knew what is best for the Indians. The recommendations offered were categorically ignored and the Indian conditions were left unchanged. The studies may have benefited the people of the Ochapowace Reserve if the government had been more sensitive to the needs of reserve peoples. In the next chapter the reserve continues to provide the setting in which the government exercises its colonial control over the Ochapowace Reserve and its people.

This chapter illustrates how the colonial relationship that was established in 1876 has impacted the Ochapowace Band and its lands. First, the amalgamation of the two bands in the early 1880s was executed by the government without consulting either band or obtaining consent from them. Then in 1919 the Ochapowace Band was coerced into surrendering 18,280 acres of land from the southern portion of their reserve. In 1966, the federal government ignored the findings of its own study, the Hawthorne Report, which introduced the concept of 'Citizens Plus' which would have provided an opportunity for Canadian Indians to begin the process of establishing self-government on their reserves. Likewise, the government rejected the recommendations of both the Penner Report in 1983 and RCAP in 1996. Whenever it appeared that the Indians might be getting an opportunity to improve their life conditions, their hopes were dashed by the government at the last minute because it seemed to the federal regime that it was relinquishing too much of its control over the Indians.

## **CHAPTER 2: LIFE ON THE OCHAPOWACE RESERVE UNDER TREATY**

### **FOUR**

The true beginning of this thesis unfolds in this chapter when European invasion took hold. The colonization of Western Canada occurred in two stages. The first stage began in 1670, when the colonizing country through the Hudson Bay Company, exploited resources through the extraction of beaver pelts that were shipped to the home country to make felt hats. In the second phase, some two hundred and sixty years later, the colonizer took advantage of the predicament that the Indians found themselves in when they lost their main source of sustenance (the prairie buffalo) which left them starving. The colonial power made treaties to settle the Indians on small tracts of land called reserves in order to remove them from the path of imminent settlement. Coincidentally, the colonial power offered British settlers homesteads for a fee of ten dollars<sup>1</sup> to occupy the seemingly vacant land to establish agricultural communities. The colonization process was completed when the colonizer established relations of asymmetrical power (*Indian Act*) over the First Nations people. This was accomplished by establishing a bureaucracy (Department of Indian Affairs) to administer the territory and the original residents. The impact of the residential school that was located at Round Lake is still evident on the Ochapowace reserve today. The chapter concludes by briefly discussing the experiences of eight generations of residents over a period of approximately 130 years to highlight the extent of the colonizing process.

#### **The Early Reserve System**

This section illustrates how quickly the Canadian government changed its

management plans over the Indian people. Reserves were initially created as a forum to prepare the Indians for assimilation into the European way of life, but when the Indians continued to struggle to survive, the government seized the opportunity to exercise greater control over the lives of the reserve residents. Following the signing of Treaty Four, the Plains Indians in the treaty area were expected to select lands that would be surveyed as their reserves. Although many bands did not immediately occupy their reserves, the circumstance of disappearing buffalo herds eventually forced them to settle. No longer were they free to roam their territories following the buffalo herds which were their main food source. Up to that time they had been relatively free to leave the reserve and to hunt. But everything changed after 1885 when the real oppressive policies and the amendments to the *Indian Act* were adopted. Consequently, they were then faced with being confined to smaller spaces where they were pressured and expected to take up farming as a new means of subsistence without the assistance that the chiefs had demanded during the time of the treaty negotiations. Although they may not have realized it at the time, life on a reserve was a foreboding sign of what was to come. As they were to discover, assistance for an agricultural avocation was not as readily forthcoming as had been implied. Robert Innes stated that “[i]n the early reserve period, members of the Cowessess First Nation, as with all First Nations, faced tremendous pressures to alter their political, social and economic culture to reflect Euro-Canadian cultural ideals.”<sup>2</sup> Life on their reserves would not be an easy transition for the buffalo hunters of the plains. The Euro-Canadian negotiators representing the Crown thought that they were being benevolent to the Indians by offering them a means to become civilized and, therefore, assimilated into a reflection of white society by the reserve system.



Buckley, writing in 1992, described the discrepancy between the experiences of the Indians and the Euro-Canadian immigrants to illustrate how the two cultures have fared since 1867. She observed that:

in the first one hundred years after Confederation an estimated nine million immigrants entered Canada. Many of them subsequently left Canada (the numbers are unknown), but even allowing for a considerable outflow, the ones who stayed on and were absorbed into the main fabric of Canadian life could probably be reckoned in millions. Yet a tiny population of Native people whose ancestors signed the western treaties with the Crown still live separately from Canadian society, many of them in conditions that resemble those of the Third World.<sup>3</sup>

As the settler economy became more and more established the economy of the Indian population became increasingly in disarray. During the same time external government controls became more heightened and institutionalized. Although the government wanted Indians to pursue agriculture it did nothing systematically to ensure its success. Buckley elaborated on this state of affairs by providing the following example:

Consider the band on Pasqua Reserve, which broke thirty pieces of virgin prairie for planting without the aid of draft animals; with no way to feed themselves while at this work, they had been forced to eat their dogs. Chief Pasqua journeyed to Regina to ask the lieutenant for help: seed, cattle to work the land, and provisions to keep his people going; he received only a small dole of provisions, nothing else.<sup>4</sup>

According to the above quote, insufficient resources and inadequate support personnel made the transition from a traditional to a modern economy extremely and unnecessarily difficult, if not impossible, for all reserves, including the Ochapowace Reserve. But the Indians exhibited great commitment to continue their farming efforts even though the government would later make it even more difficult. The consequence was that Indian dependence on federal assistance grew<sup>5</sup> rather than diminished.

Yngve Georg Lithman claimed that “in order to understand the history of an Indian reserve community in Canada, one has to devote more than passing attention to some of the institutions of the larger society.”<sup>6</sup> At the top of his list was the Department of Indian Affairs with its accompanying *Indian Act*, followed by the Churches.

### **The Department of Indian Affairs and Canadian Indian Policy**

The *Royal Proclamation of 1763* became the basis for Indian policy in Canada. The *Proclamation* established the idea of paternalism behind the reserve system and that Indians and their lands (reserves) needed to be protected from white settlers. Starting in the 1830s in eastern Canada, the government began setting aside Indian reserves where Indians could be Christianized and civilized, the dual policy of protection and assimilation. To accomplish these goals, and at the same time to get the Indians out of the way of European settlement, they were placed or confined to permanent villages or reserves. The Indian department, consisting of colonial officials such as Indian agents and collaborating missionaries, was to assist the process by providing instruction in the English language, Christianity and agricultural methods. The government’s hope was to produce self-supporting, self-reliant individuals who were to become indistinguishable from other Canadian citizens.<sup>7</sup> The scheme received the full support of the Indian Department as it needed a new purpose to justify its existence at a time “when voices were already being raised in London calling for its abolition.” This concern was raised by the British Colonial Office in the 1830s when it was decided that a policy of assimilation would solve the “Indian problem.”<sup>8</sup>

Before Confederation, colonial policies that were established by the British government guided the relationship between the colonial government and the Indians.

Consequently, by the date of Confederation the federal government already had a fully developed Indian policy and the mechanisms needed to manage the Indians in Canada's Northwest. Titley affirmed that "[r]ather than initiate original or innovative policies, the Dominion chose to continue with and to build upon the patterns that had been established in the Canadas (Upper and Lower Canada)."<sup>9</sup> David T. McNab observed that "[h]istorians have examined the origins of Canadian Indian policy and have generally agreed that prior to Confederation it was a product of the ideas and actions of politicians and administrators in the Canadas."<sup>10</sup>

According to Yngve Georg Lithman the provision for the administration of Indians and their lands gave the Canadian government a pivotal role in the recognition of the treaties in Western Canada.<sup>11</sup> During the early years following the treaties the federal government was actively trying to fulfill its treaty obligations. Reserves were surveyed and annuities were distributed. The ideology behind these activities articulated by Lithman was:

the belief that the Indians would soon adopt a Euro-Canadian lifestyle and become part of the mainstream society. ... As communities, the Indian reserve communities were supposed to become ordinary municipalities, as their residents were supposed to adopt Euro-Canadian modes of living, including individual rather than communal ownership of reserve land.<sup>12</sup>

This was supposed to happen when Indians became enfranchised. As it turned out, the reserve system was merely a way to isolate Indians from the rest of society while this transformation was effected. This provided the government an opportunity to employ their assimilation practices to this end. But other entities had vested interests in making the system an industry. Church organizations, Indian Affairs personnel, and "[w]hite

farmers who leased the reserve land and (other) White people who were hired to do various chores in the reserve communities,” all had an interest to maintain the status quo.<sup>13</sup>

With the completion of the treaties in Canada’s northwest, the Canadian government developed a management system to carry them out. First, the treaty area was divided into the Manitoba Superintendency and the North-West Territories Superintendency. Treaty Numbers One, Two, Three and Four were under the administration of the former while Treaty Numbers Five, Six and Seven were managed by the latter. Morris described the structure of the “machinery”:

Under the Superintendents are agents having charge of particular districts and bands within them, who reside among them. The Chief Superintendents and agents are officers of the Department of the Interior, and are directed by and report to the Deputy Superintendent of Indian Affairs at Ottawa, Lawrence Vankougnet, Esq., who has had long experience of Indian management in the older Provinces, ...<sup>14</sup>

The Treaty Commissioner expressed his confidence that the organization would ensure success in fulfilling its responsibilities to the Native population. He believed that “[t]he system of management is thus a complete one, and doubtless, one day its mode of management, will be perfected and adapted to the growing exigencies and wants of the Native population.”<sup>15</sup>

### **The *Indian Act***

The legislation that proved to be more than a passing nuisance to the Indians is the *Indian Act*. It is and was the main device used by the federal government to implement its colonial practices and policies. According to Brian Titley the passage of the *Indian Act* in 1876:

created the framework for an Indian policy that was applied more or less uniformly across the country. It granted considerable powers to

the superintendent general and his representatives and ensured that Indians were increasingly subjected to bureaucratic regulation. It was designed to protect the Indians until they acquired the trappings of white civilization. At that point, they were supposed to abandon their reserves and their special status and disappear into the general population.<sup>16</sup>

Walsh aptly described the new legislation: “The *Indian Act*, instead of implementing the treaties and offering much-needed protection to Indian rights, subjugated to colonial rule the very people whose rights it was supposed to protect.”<sup>17</sup>

The regulations in the *Indian Act* together with the deployment of the Department of Indian Affairs, an agency that was also had roots in eastern Canada, has affected almost every aspect of life on the Ochapowace Reserve. The *Act* spelled out conditions for such issues as band membership, protection of reserve land, the provision of band government, land leases and surrenders and even the administration of wills. Hoople and Newberry characterized the subversive effects of the original 1876 legislation:

The application of the *Indian Act* in Federal Government policy – from the time of the establishment of the reserves in the last half of the nineteenth century – has been directly responsible for the majority of the economic, educational, health, social and community problems facing the individual Native people and their communities today.<sup>18</sup>

The *Act* has undergone several revisions. However, the regulatory controls in each revision were changed to accommodate the needs of the government rather than those of the Indians. For example, Section 114 was inserted to prohibit ceremonial activities like the Sun Dance in 1894. It was anticipated that this would discourage “heathenistic” practices while at the same time encourage Indians to remain at home to tend to the business of farming. Ironically, the provision remained in the legislation until 1951 when it was determined that it failed to accomplish its intended purpose.

The last major overhaul which occurred on June 28, 1985 included the enactment of *Bill C-31* as an amendment to the *Indian Act*. Sarah Carter stated that this section of the *Indian Act* was partially founded on the *Enfranchisement Act* that had been enacted in eastern Canada. Carter observed that “[a] significant feature of the colonial legislation, later incorporated in the 1876 *Indian Act*, was the effort to impose Euro-Canadian social organization and cultural values, and English common law, in which the wife was virtually the property of her husband.” This allowed the government to enfranchise an Indian woman and her children if she married a non-Indian man. Beginning with the 1869 *Act*, an Indian woman who married a non-Indian man lost her status as a registered Indian, as did her children.<sup>19</sup> The government’s objective was to eliminate Indian status by targeting those individuals who had reacquired their status after 1985. The legislation was set up in such a way that within two generations, the offspring of these people will have lost their status as Indians. This means, of course, that the government’s treaty obligations to provide services currently available to status Indians would no longer exist.

The *British North America Act* provided the legal authority for the government of Canada to assume administrative control and ward ship over the First Nations and their lands, but it was the Indian agents who were responsible to administer the regulations within the *Indian Act* to place the Indians in a subjugated position. Brian Titley described the far-reaching and influential role of Indian agents whose jurisdiction extended over one or more reserves:

They directed farming operations where appropriate; they administered relief when necessary; they inspected schools and health conditions; and they ensured that the rules of the department and the provisions of the *Indian Act* were complied with. They were also authorized to preside over band council meetings, and while they could not vote, they were often able to influence the decisions made. Their powers were increased considerably

in 1881 when an amendment to the *Indian Act* made them justices of the peace under the act. They could then prosecute and hand down sentences for violations of its provisions.<sup>20</sup>

On many occasions these men were political appointments who knew very little about Indians, and subsequently, what the needs of their charges were. Instead, they often treated the Indians harshly, unfairly, and many times inhumanely. There were no exceptions to the rule. Blair Stonechild and Bill Waiser pointed out that:

Indian agents were patronage appointees who had little understanding or sympathy for the Indians and the dramatic changes they faced. Their general unsuitability for the task at hand, often bordering on incompetence, led to a high turnover rate. Those who were singled out for commendation and promotion, on the other hand, tended to be hard-nosed disciplinarians who believed that their first and only duty was to establish their authority over the Indians.<sup>21</sup>

Ken Coates' commentary on the historic effects of the settler political economy on the lives of First Nations was no less forgiving:

Investigations of the Canadian treaty process, long lauded as an appropriate and peaceful alternative to the American experience of land conflict and wars of occupation, have revealed the strong hand of government in the negotiation process and a pattern of government neglect and mismanagement following the initial settlements. The final report of the Royal Commission on Aboriginal Peoples (RCAP), released in 1996, echoed what First Nations leaders and academics have been arguing for many years: that the administration of indigenous affairs in Canada was dominated by colonialist and racist assumptions, that the First Nations people have suffered grievous social, cultural, and economic harm through these processes; and that contemporary Aboriginal anger and political unrest is rooted in this history of oppression.<sup>22</sup>

Despite such condemnations, the government continues to rely upon the provisions of the *Indian Act* to maintain its control over the lives of Indian people. However, Indians today are beginning to challenge the legislation in attempts to gain more independence from government control or to use it to accomplish initiatives, i.e., urban reserves, to benefit their members.

## **Churches and Residential Schools**

The role of education in teaching responsibilities of citizenship fostering homogenization of disparate groups and inculcating particular values is well established. Under the *British North American Act* the responsibility for Indians was placed on the new Dominion government. The assimilation of Indians became a key element in Canada's Indian policy. This practice was meant to absorb the Indian populations into the dominant society while at the same time destroying their culture. Schools became the vehicles for accomplishing this goal. Major Christian denominations – Roman Catholic, Anglican, Methodist, and Presbyterian churches – signed on to provide this service for the government. All had previously been involved in the education and Christianizing of Native populations in various other regions prior to Confederation. Their main objective was conversion which meant the destruction of the children's link to their ancestral culture. Indian children were removed from the influence of their parents and relatives, sometimes forcefully. Indeed, the assimilation efforts were directed at destroying everything cultural including the basis for spiritual beliefs. The involvement of the churches was intended as a cost saving measure for the government and this fit perfectly with Duncan Campbell Scott's agenda and his cost-saving plans for Indian programs. Scott "was appointed superintendent of education in 1909 and deputy superintendent general in 1913."<sup>23</sup>

In setting up the residential school system, Scott differed from Alexander Morris's view of the conversion of the Indians to Christianity. Morris had not anticipated any difficulty in achieving the objective of converting the Indians to Christianity as he perceived a common element between First Nations' spirituality and Christianity. He



wrote: "But the Churches too have their duties to fulfil (sic). There is a common ground between the Christian Churches and the Indians, as they all believe as we do, in a Great Spirit. The transition thence to the Christian's God is an easy one."<sup>24</sup>

After completing the treaties, Morris could not avoid expressing his Eurocentric perspective by alluding to aspects of Indian culture that would need to be replaced by what he thought would be a superior religious and moral presence. He recorded:

Let us have Christianity and civilization to leaven the mass of heathenism and paganism among the Indian tribes; let us have a wise and paternal Government faithfully carrying out the provisions of our treaties, and doing its utmost to help and elevate the Indian population, who have been cast in our care' ...<sup>25</sup>

However, this effort at civilizing the Indians did not succeed as planned. Brian Titley noted that: "[t]he missionaries were frequently frustrated in their efforts at evangelization by the persistence of certain aspects of Native culture which they regarded as fundamentally incompatible with Christianity. It was missionary agitation that led to the proscription of some of these customs under the *Indian Act*."<sup>26</sup> Although these repressive practices did discourage continuity in many communities and families, the Indians from the Ochapowace and Kahkewistahaw Reserves from the Crooked Lake Agency persisted in holding a major celebration, the Sun Dance, on June 23, 1934 during the years that the *Indian Act* had prohibited such ceremonies.<sup>27</sup> They were not prepared to allow the government, through its repressive legislation, to dictate how they were to live spiritually.

For years the Indian Agent, acting under the direction of Indian Affairs, took total control of the band's economic interests such as the sale of goods produced or obtained on reserve. Except for a few individuals who were acting on their own, and with the benevolence of some understanding lawyers, the ordinary citizens of the Ochapowace

Reserve have not had much of an opportunity to express their sentiments about *Indian Act* policies that were imposed on them. Because of the fear of reprisals, this state of affairs existed ever since Chief Kâkisiwêw took his reserve in 1881. Whenever concerns were raised by a few individuals – for example, being refused to sell grain without a permit to a local elevator agent – they did not have the support of the band membership as a whole. Consequently, their objections were not taken seriously by the Indian Agent, who dictated what the band would be allowed to do. Often the only choice that was available to them was to take direction from the Agent and so this became the measure of the status quo.

According to elder, M/A –1, it was not understood at the time of treaty that Agents would have such sweeping powers. He cited the testimony of Opwâsimosîs, a member of the Cêkacâs band who was present during the treaty negotiations. On one occasion Opwâsimosîs told M/A –1 that the agent's role was to serve the needs of the Indian people. Opwâsimosîs asserted that the agent's role was not to regulate the affairs on the reserve. He was to serve the Indians by acting only as a liaison officer between the Indians and the government. He was expected to relay the concerns of the Indians to Ottawa.<sup>28</sup> Similarly, M/A – 1 also understood that the Canadian police forces were expected to protect the treaty by taking action against anyone who violated the treaty or had unscrupulous dealings that threatened the security of the treaty Indians and their lands.<sup>29</sup> This was the expectation in relation to the administrative practices on reserves.

### **Eight Generations Later**

The Ochapowace Reserve has existed for over 130 years since John Nelson

surveyed it in 1876. From that time, eight generations<sup>30</sup> of Cree/Saulteaux Indians have been resident on the land that was granted to them by Treaty Four. Coincidentally, they have had to endure the enactment of the first comprehensive *Indian Act* in 1876 and its revisions. These documents effectively established the reserve system as the central feature of Canada's Indian policy since Confederation. By establishing the reserve system, the Canadian government was able to pursue a policy of total subjugation on the Indians who were kept captive on the reserve where they struggled to maintain their cultural identity.

It took centuries to shape the traditional Plains Cree culture just as it did to create various European cultures. It was the land that played a large role in shaping the attitudes and values of the Plains Indians. All nature, including man, was part of the sacred circle of life. This was in clear contrast with the principle that man was given dominion over the earth. It was this intrinsic disposition that the Indians took with them into their new alien way of life under the reserve system. It was this common, yet fragile, thread that has held and sustained Indians over this difficult period.

It was to this fragile thread that the first two generations of Kâkisiwê's descendants clung; they bore the brunt of the deliberate detribalization policy which was consciously and openly attempted by the Canadian government. Under attack were traditional leadership roles of the chief, traditional cultural ceremonial and communal customs, language, and religion – everything that was considered essential to the survival of the culture was suppressed.<sup>31</sup> The Department of Indian Affairs, in cooperation with the Christian missionaries in the residential school setting, sought to destroy what they deemed to be the heathen culture of the Indians and to mould the people into 'decent

civilized Christian souls' who would then be worthy of taking their place at the bottom of Canadian society. Undoubtedly, the deliberate de-Indianizing process was primarily cultural genocide, meaning the non-voluntary obliteration of one's culture to be completely replaced by another. This was the nature of the institutional constraints that translated to the structural racism, dependency and poverty that exists to the present day.

It was this first and second generation of Ochapowace Indians, despite their frustrations with the government's lack of concerted help, who became successful farmers in less than two decades.<sup>32</sup> They were first to endure the scathing thrust of that first *Indian Act* – the constraints of the power of the chief and council, the prohibition of traditional cultural ceremonies and dances, and the all-encompassing constraints of the 'permit' and 'pass' systems.<sup>33</sup> It was these first generations who slowed the process of cultural genocide by resisting as much as possible, the government's blueprint to send their children to the residential school.<sup>34</sup> After being forced to send their children to the boarding school after 1894, they had to face the prospect of not seeing their children for ten months of the year, and in many cases, never to see them again if they fell victim to tuberculosis (T.B.) that ravaged the cramped quarters of the school.<sup>35</sup> Despite the government's pressure to enforce its assimilation efforts, the first two generations clung desperately to their traditional values and attitudes.

Each successive generation was acted upon by the specific constraints of treaty obligations and of the various *Indian Acts*. It was the third generation who had to go without a chief from 1891 to 1911 when the traditional chief, Ochapowace, was deposed in 1891. This conveniently stymied traditional Indian government practices whereby the

chief was selected by consensus. It was also a time when the people tried to resist the pressure to surrender land to the *Soldier Settlement Board*. Under considerable duress from the Indian Commissioner, William M. Graham, the majority of male adults finally succumbed to the demands without the benefit of the leadership of a chief in 1919.<sup>36</sup>

Despite their efforts to cling to their traditional ways, change began to emerge during the third generation; it was, however, a change that was not expected. The change was basically a curious mixture of Euro-Canadian and the old traditional Indian ways. The Indians began to accept some Euro-Canadian attitudes while still keeping traditional ways of thinking. Although farming was being practiced, hunting, fishing and gathering were not forgotten. Although many Euro-Canadians viewed the change as assimilation, it was not the assimilation that the Canadian government had hoped would take hold under the reserve system and the *Indian Acts*. E. P. Patterson saw this change as a synthesis rather than a move toward assimilation. He argued:

... because some (Indian) individuals assimilated into Canadian society and because the Indian culture clearly was not what it had been at its earliest European contact, the non-Indians assumed that the Indians were being assimilated. This understanding served to underscore the prevalent view of Indian culture as static and encouraged the tendency to interpret all changes as evolution towards assimilation rather than a creation of a new synthesis which continued to be 'Indian culture.'<sup>37</sup>

The events of the 1930s and 1940s for the most part influenced the fourth generation of Ochapowace Indians. The Indians were then on the decline economically and, by this time, only a few farmers persisted in trying to eke out a living despite the drought conditions of the 'dirty thirties.' The permit and pass systems that were imposed in 1881 and 1885 respectively, were still in effect. Reserve Indians relied heavily on the

ration dole-out which also continued from the 1880s. There were always people in need of rations as more and more people were living in dependency and poverty. During this period, the last of the traditional chiefs, Jack Ochapowace, son of Chief Ochapowace, was elected in 1933. The old traditionalist phase of the Ochapowace Reserve came to an end with his resignation in 1949.

The most stark and traumatic period for the Ochapowace Indians was the fifth generation period which began during the 1950s. It was a time when Canada was experiencing a post-World War II industrial boom. The economy was growing rapidly but reserve life remained far removed from any of this new found prosperity. Everything was going well, but not for Saskatchewan Indians. The crippling detribalization policy of the Federal government had ensured that the Indians would not be ready to enter the highly industrialized work force to participate in the economy on equal terms with other Euro-Canadians. Rising prices and standards of living relegated reserve Indians further behind. Trying to right its past wrongs, the government brought its first major revisions to the *Indian Act* in 1951. However, this measure did little or nothing to solve the problem. In response, the government initiated a policy of integration – a new name for assimilation – during the early 1960s. Frideres described the change:

[T]he Department Of Indian Affairs emerged with a new direction in its policies and programs for Natives. Assimilation was discarded as a goal and as the Minister of Mines and Natural Resources declared in 1946 the federal government decided to help the Indians retain and develop their Native characteristics while simultaneously taking on the full rights and responsibilities of Canadian citizens.<sup>38</sup>

This begs the question, how were the Indians to integrate when they did not have the necessary skills to do so? In short order, the quick integration scheme served only to

further entrench dependency and poverty into their lives. Jeremy Hull correctly concluded:

Furthermore, the goal of the original policy – the subjugation of Indians – had been achieved to the extent that Indians had also become embedded as the poorest group in our society. As the modern welfare state began to emerge it brought some benefits, especially health and education, but it also placed them as part of the welfare class.<sup>39</sup>

The sixth, seventh, and eighth generations range in age from forty-five (+ / -) years or younger. At the present time these generations are in a state of uncertainty. They are the descendants of at least four generations of residential school survivors who were deprived of a stable home life. The residential school experience had removed these survivors from their parents, from their homes and from the support of the extended family which deprived them of an opportunity to learn parenting skills. John Milloy described the situation in a classic account of the legacy of the residential school system:

One of darkest hues in the tapestry came from the fact that the main thrust of the colonial system's assimilative strategy had concentrated on the young,... They were the vulnerable future of communities and of Aboriginal culture, and they had been removed from their homes and placed in the care of strangers, many of whom were hostile to their culture, beliefs, and language. For the sake of civilization, in the discharge of national duty, they were placed in residential schools. For those children and their communities and, indeed, for all Canadians, the consequence of those schools, ... has been truly tragic.<sup>40</sup>

Clearly, the youth on the Ochapowace have been among the victims of a failed government strategy. The damage that colonialism has inflicted on Saskatchewan youth in First Nations communities has been well documented. Doug Cuthand described these young people as the “collateral damage” of colonialism. He stated that:

[t]oday, young people with no direction, low self-esteem, and a lack of useful skills are gravitating into gangs, addictions and criminal activity. This is having a serious effect on our communities, our families and the individuals. Each decade

has seen an increasing number of alienated people living wasted and unfulfilled lives. ...Many of today's Aboriginal youth find themselves in a cultural void somewhere between their own community and the modern world.<sup>41</sup>

Perhaps a rendition of the seventh generation prophecy, which many Aboriginal societies in North America have adopted, will come into play in changing the fortunes of the people on the Ochapowace Reserve. One version of the prediction is traced to the Ojibwe Nations from Eastern Canada. It states:

In the time of the Seventh Fire,  
A new people will emerge,  
To retrace their steps and history,  
To find what was left by the trail.  
Their steps will lead them to many different places,  
And to teachers and elders of their nations.  
But many of the elders will have forgotten,  
Or never learned the teachings.  
Some elders and historians will be silent out of fear and ignorance.  
Many more will be overlooked and nothing asked of them...  
Their task is not easy.  
It will take time, hard work, perseverance, and faith.  
The new people must remain strong in their quest...  
There will be a rebirth of the Anishinabe (Indian Nations) and a rekindling  
Of the Sacred Fire which will be the Eighth and Final Fire...  
Of eternal peace, understanding and acceptance over the entire world.<sup>42</sup>

Notably, the current chief, M/A – 3, represents the seventh generation of Ochapowace Indians. Perhaps he and his successors will be the ones that will make the 'seventh fire prophecy' come true. The eighth generation are those that are below twenty-five years of age. Hopefully, they will be the ones to continue the trend toward better life conditions over the Eighth, Ninth and Tenth Fires.

Clearly life on the Ochapowace Reserve has not been easy. From the beginning of reserve life, the people have had to tolerate and adapt to the various constraints of government policies derived from the 1876 *Indian Act* which were



implemented by the Department of Indian Affairs. Instrumental in the effort to assimilate the original inhabitants of the land was the residential school at Round Lake. Keeping a vigilant watch over the affairs of the band were the farm instructor and his superior, the Indian Agent. As the twenty-first century began, the Ochapowace residents were given an opportunity to express their views about events that have impacted their lives on their home reserve. This topic is covered in the next chapter.

### CHAPTER 3: VOICES OF THE PEOPLE

This chapter records the findings in the interviews and written surveys provided to the researcher by band members. The following descriptive accounts refer to the recollections and/or understandings of the oldest informants who were willing to share their memories of their life on the reserve. The understandings and interpretations of the youth are also included. Their stories and comments/opinions reflect their understanding of how colonialism has impacted their lives. Many of Kâkisiwê's descendents have passed on to the spirit world taking their knowledge of the Ochapowace Reserve with them. However, those that remain were still able to contribute some information about the history of the reserve. All of these people have had various degrees of memories of their experiences with the effects of colonialism during their lives as members of the Ochapowace Reserve. Their stories were about the sad and happy times, about the hard times, about their friends and relatives or about events that were significant to them. Most of the older individuals who would have been aware of the colonial relationship between the government and the reserve Indians are no longer alive, and the younger ones will not have the same degree of understanding. Nevertheless, their stories contribute to this segment of the thesis.

During the course of this research, M/A – 1,<sup>1</sup> who was oldest tribal member and a fourth generation descendant of Kâkisiwê, passed away. Fortunately, his narratives about the early history of the reserve were preserved through modern technology, specifically in the media of video-tapes. Because he was more comfortable speaking Cree, it was necessary to translate and transcribe the stories.

In one episode, video-taped on July 31, 1994 at his home, M/A – 1 described

Treaty Four proceedings at Fort Qu'Appelle. According to his testimony, Kêta kinâkos (The Spotted One) and Opwâsîmosîs (Little Assiniboine) were present at Fort Qu'Appelle and heard what was discussed at the time of treaty. Kêta kinâkos was the informant's grandfather while Opwâsîmosîs was a member of the Cêkacâs Band and later was a long-time resident on the Ochapowace Reserve. According to M/A – 1, before Opwâsîmosîs told him about the treaty proceedings, he advised M/A – 1 to “try to remember what is told to you. That will be useful to you if you can remember.”<sup>2</sup>

Apparently the Indians were informed of the arrangements that the commissioner was prepared to make. The Treaty Commissioner, Alexander Morris, advised the chiefs that were present:

Don't be afraid to deal with me. I am going to kill (slaughter) all the cows the steers. I will kill them all (so that you will have food to eat). I will look after you. And also, I have long ears (I am a good listener). I will know where you are located. Also, I have long arms (to protect you). I will look after you.<sup>3</sup>

Kêta kinâkos mentioned that a policeman – a redcoat – was present. The headmen were issued military-style clothes complete with high-top boots and were instructed to put them on in the presence of the policeman. After donning the clothes they were advised not to be ashamed to wear the uniform: “For example, this policeman, he is not ashamed.” They were also issued footwear, police boots, which Kêta kinâkos found to be most uncomfortable.<sup>4</sup> Although the clothing may have been issued as a symbol of the Indians' acceptance of the treaty and their loyalty to the Crown, more likely it was the initial issuance of the clothing that was promised to the chiefs. Alexander Morris had promised, “...each Chief and headman will receive a suit of clothing once in three years, ...”<sup>5</sup> This practice may have originated from the fur trade when the Chief Factors would dress the Chiefs of the bands with whom they traded in military-like uniforms to ensure

their loyalty. Preferential treatment was accorded to band leaders that came from some distance during the 1760s. Before the trading began for the day, the trading chiefs were given a suit of clothing called the 'Captain's Outfit' which served as "European symbols of political authority and allegiance."<sup>6</sup>

Kêtakenâkos described the procedure by which the chiefs selected their reserves. Apparently, Kâkisiwê and the other chiefs were instructed to designate a location for their reserves. After conferring with his band members, Kâkisiwê announced that he wanted Round Lake (and the surrounding land for his reserve). After the treaty discussions were over, Kâkisiwê and the other chiefs were dispatched to their reserves. Before leaving, Kâkisiwê was appointed to distribute rations to the others. According to the written records and oral history, it was disclosed that even though both Kâkisiwê and Cêkacâs did not immediately occupy their reserves, they were permitted to designate the locations.

In the same narrative, M/A – 1 expanded on the information that he received from Opwâsimosîs, a member of the Cêkacâs band who had taken treaty at Fort Qu'Appelle. Opwâsimosîs told M/A – 1:

This is when we were told where to go (to our reserve). But we (the Cêkacâs Band) had nothing, not even a wagon, no tent, nothing, no gun, and nothing to eat. We came away, right away from Fort Qu'Appelle. The other ones (other bands) didn't stop (delay). They left and went straight to their reserves."<sup>7</sup>

Both Chief Kâkisiwê and Chief Cêkacâs were present when this order was issued.

When Cêkacâs and his band arrived at their designated reserve location in the late summer of 1881 they were hungry. Opwâsimosîs did not say how many people there were, but remembered what they did on their arrival:

We were in a circle, not just one (person). We sat in a circle and we were talking. We had been given pipes and tobacco and matches. We

smoked all night long. We had nothing to eat. And so early the next day at the coming of daylight we came away from there. We got to Kâkisiwê's reserve.<sup>8</sup>

And Kâkisiwê, because he was there, he fed us right away. And so that was the way it was all the time (we were there). As soon as it came time to eat, he gave us more food to eat. We were never hungry because he had his rations. And we decided to stay there.<sup>9</sup>

M/A – 1 explained the arrival of Cêkacâs on the Kâkisiwê Reserve; besides being hungry, Cêkacâs was not accustomed to staying in one place which may have caused him to leave his reserve. The elder, M/A – 1, also described what he knew about Cêkacâs's departure in 1887 to the United States. Evidently, before leaving, Cêkacâs told Kâkisiwê, "I give you my reserve."<sup>10</sup> The informant continued: "And so he left right away. No one knew where he went. We were never told."<sup>11</sup> In the *Annual Report* for the year ended December 31, 1887, Agent A. McDonald reported: "During the month of April, Cha-ca-chas (sic) and a party of forty Indians left their Reserve and proceeded south. They are at present in Dakota [Territory], where they intend passing the winter."<sup>12</sup>

It is not clear why Cêkacâs left to go south across the border in 1887. Some have conjectured that he intended to collect his band members who had decided to stay with Rocky Boy's nomadic band in Montana (a mixed group of Cree and Chippewa/Ojibwe had not yet been granted a reservation).<sup>13</sup> Being an avid hunter, perhaps he merely wanted to continue to chase the buffalo which he hoped to find.

M/A – 1 characterized his sentiments and understanding of events surrounding Kâkisiwê's successor, Ochapowace, becoming chief:

It has been very disturbing since Indian Affairs selected Ocâpahowê's to be the chief. It was they who selected him. The elders did not say anything; they did not speak up long ago because they did not understand (what their options were). They didn't say anything. The white man, Indian

Affairs, went ahead and did what they wanted to do. Besides, Ocâpahowâs wanted to be the chief. And so, that is the way he (Indian Affairs) did things from a long time ago. He was the “boss” (of Indians and their affairs).<sup>14</sup>

This informant then expressed his understanding of the role of the Indian Agent from information given to him by Opwâsîmosîs who asserted that,

This man should not be making laws (regulations) about anything. This man is a hired man (atoskahâkan). When the treaty was first made at Fort Qu’Appelle the people (chiefs) were told “I will give you an Agent. And this Agent, anything you want (need), you will call the people together; you will meet. And after you meet, you will write down what you need. Anything that you write, you will give it to this one (the Agent). He will send it to away (to Ottawa).” He was not designated to be the manager of the reserves. He was told that.<sup>15</sup>

At the end of the narrative, M/A – 1 briefly mentioned Paul Acoose, an elder from the Sakimay Reserve. Apparently, this elder was well-informed about treaty issues on other reserves as well as the importance of passing on oral history. He advised M/A – 1: “You then, Mîkwan,<sup>16</sup> it is your responsibility to speak (act) on what is told to you. Your grandfather, Kâkisiwê, he was your great-grandfather, he was the one who made the treaty with the Queen. You are the one who must speak (act) on this responsibility.”<sup>17</sup>

The elder from Sakimay also mentioned to M/A – 1 where the survey stakes for the original Kâkisiwê Reserve might be found. “There on the side of the hill opposite Round Lake, on this side of the hill. Maybe that’s where the survey stakes are located, or maybe on top of the hill.”<sup>18</sup>

In a second brief narrative produced on an unknown date at the informant’s home, M/A – 1 discussed the importance and significance of reserves and the *Indian Act*. He said:

What we are talking about ... the reserves. These are treaty lands. Kâkisiwê made a treaty with the Queen. That’s why we have to hold on to it firmly. As soon as a child is born, even before he/she is born, the child is considered

a member. Kâkisiwê made this deal. If you love your children you don't take them off the reserve. That's a very good thing to know. Why do we have this reserve? It's for the children. ... When you deal with someone, just as Kâkisiwê did with the government, it is recorded in Ottawa.<sup>19</sup>

In regard to the *Indian Act* M/A – 1 expressed this opinion

The Indian ... *Indian Act* ... What does it state in the *Indian Act*? We have to know. The *Indian Act* always remains the same. If you have something, you don't own it. That's the way it is in the *Indian Act*. That's not a good thing. Also the deal that the Queen made is not to be broken. That's the treaty she made with the Indians. If anything (about the treaty) is presented in a court, the police are there right away. The police are supposed to oversee the reserves so the treaty is not broken. It is with the Queen. And that's the law.<sup>20</sup>

M/A – 1's words reflect how important it is for treaty Indians to know that reserves must be preserved for future generations, and to understand the contents of the *Indian Act* so the information can be used to maintain and protect their treaty rights.

Another informant, M/A – 3 is considered by most of the residents currently living on the reserve to be the most dependable source of knowledge about Treaty Four. He considers the terms of the treaty to be very important for Indian-White relations because they defined the obligations of both parties. He stated that the Indians remained true to the treaty while the Europeans, represented by their government, broke many of their promises. He claimed that, instead of implementing the terms of the treaty, the government developed programs and services to control the Indians.<sup>21</sup> In keeping with his understanding of the treaty, this informant believed that the term, 'spirit and intent' of the treaty:

refers to what our understanding of the treaty would be. So, when Kâkisiwêw signed or touched the pen at Fort Qu'Appelle, he had an understanding of what the treaty was about and what our obligations were and what our White brothers' obligations were. For our part of the treaty, the 'spirit and intent' was to share and live together side by side and not interfere with each others' lives. And from our White brothers'

point of view, they promised (us) that they would give us certain things which we say is our treaty rights.<sup>22</sup>

How does he interpret the provision of the 'medicine chest'?<sup>23</sup> He offered two interpretations, one from each of the two perspectives – Indian and European. The latter would have us believe that Treaty Four does not include the 'medicine chest' clause which precludes Indians from qualifying for health care. On the other hand, based on the information provided by other elders in the province, M/A – 3 is adamant in his belief in "just one big treaty (area)," encompassing all the numbered treaties. Based on the information of these elders, he understands that all treaty people are "entitled to the medicine chest," i.e., the provision for complete medical care.<sup>24</sup>

As far as benefits for non-Aboriginal Canadians are concerned, this informant stated that "anytime a treaty is signed between (two) nations, there are benefits that go to both." He pointed out that "our non-Indian brothers" have benefited tremendously by using the land and its resources. He holds hope that the treaty Indian people will someday realize the same opportunities to gain economically from the treaties so that they can become more self-sufficient.<sup>25</sup>

He reverted to the opinion of elders for his view on the extent of the surrender of land and mineral rights at treaty time. He commented:

According to our elders we agreed to share the land. But there was no discussion at treaty time about these natural resources. I suppose from the European standpoint, and this we have to understand, when they came over here and they negotiated the treaty, and we agreed to it, their understanding was they were taking everything, lock, stock and barrel. Our understanding was that we were just sharing the land. I've heard and I've seen numerous elders, when they are asked a question like, 'just what was agreed to about the natural resources or land?' And they always use (show) the depth of a plow and hold their fist like this with their thumb up, and they say that's the extent of what was agreed to (in relation to the surrender of land).<sup>26</sup>



The informant went on to mention that the treaty commissioner made a gesture with his hand to indicate the depth of soil that was needed and stated along the line, “[t]hat is the extent of what we require; we need it only for farming,” even though the Europeans had deemed that much of the land was unfit for agriculture. From these comments one can deduce that anything below the depth of a plow was not surrendered, i.e., the minerals. Likewise, the rights to timber and water were not given up, since all that the newcomers appeared to want at that time was land for agricultural purposes.<sup>27</sup>

This source also referred to the promise of hunting, fishing, trapping, and gathering rights that were promised in the treaty. According to his information, the Indians were assured that they would be able to continue these life activities as before.

M/A – 3 expressed the view that the amount of land that was allocated for reserves was not fully understood by the chiefs who signed the treaty. He observed that the Indians were promised 640 acres of reserve land for each family of five. The informant was not certain if the people comprehended the amount of land this was. With a chuckle, he said that the chiefs were asking for two-thirds of Manitoba. He has heard elders refer to their reserve as *iskonikan*. The English translation of this term refers to the land that the Indians kept for themselves, not land that was granted to them by the Crown’s act of benevolence as it contends. Elders understand that the land was shared with the Crown on behalf of the settlers.

In addition, the informant claimed that the Indians do not own their reserves because:

(A)gain from the elders, we were put on this land to look after it. And if we look after the land, the land would look after us. The elders would say that we are part of the land. The understanding is that we were put

here (on this land), not as owners, but to be part of it, to look after it, to have respect for it. It's not a question of anybody owning the land. We are stewards of the land. We were put here by our Creator, according to our elders, to look after the land and as such we can't say we are owners (of the land). In one story that I heard, the elders say that the Whiteman says (claims) that we ceded and relinquished and gave up all this land. Our elders say, "How can we cede, how can we relinquish something that doesn't belong to us." And the elders say that would be foolish on our part for us to do that because the land contains our brothers – the foxes, the squirrels, the gophers – everything that lives in (and on) the ground. They (the elders) said that we couldn't possibly have given up all this land because it would be like giving up the homes of our brothers. So, it's inconceivable that we would cede and relinquish all of this land when it wasn't ours to start with.<sup>28</sup>

With some reservations, M/A – 3 accepts that Indian reserves are 'enclaves of poverty.' He admits that Indians living on reserves like the Ochapowace Reserve are an impoverished people. Presently, reserves may be considered as enclaves of poverty because they have not developed their economies. The informant expressed optimism for the future if people can work together and support each other in economic enterprises. He does not blame the people for their plight; instead, he alleged that Indian agents, Indian Affairs, and the government, in their preoccupation to control the Indian people, are responsible for bringing this condition upon the people. However, circumstances are beginning to change. He argues that, "[i]f we make the right decisions we can move forward; we can do things we were never given the opportunity to do for ourselves. The Indian agent held total control over us. We are now able to do a lot of good things for ourselves and for our people."<sup>29</sup>

In the informant's view, the Ochapowace Reserve has a lot of potential for economic growth. He confidently expressed that the potential is there for the band to build the reserve economy. But it would require a collected effort by all members to work together to achieve this goal. He cited the examples of other groups such as the Chinese

who succeeded in building their economies within their communities by supporting one another. Likewise, he believes that it would be possible to build an economy on the Ochapowace Reserve within the Canadian economy with a cooperative effort by the band members. He maintains that “[if] we work together and support one another, we can keep our dollars circulating within our community” while creating jobs for the people.<sup>30</sup>

M/A – 3 claimed that the provision in Section 91(24) of the *British North America Act* which gave the Parliament of Canada jurisdiction over ‘Indians and lands reserved for Indians’ has helped to subject Indians to government control. This informant asserted that this legislation has enabled the government “to keep us down” by developing policies of assimilation implemented through the *Indian Act*.

According to this informant, the assimilation process began with the passage of the *Indian Act*. Along the way, measures such as the residential school system, and the permit and pass systems were implemented to help achieve this objective. In addition to the assimilation efforts, the government embarked on a course of action to destroy the tribal system. Its main component was the banning of ceremonies like the Sundance. Although government officials argued that the detribalization measures were for the benefit of the Indians, the Indians saw the government’s actions as measures of suppression.

The informant continued his view on assimilation and presented his conception of the so-called “Indian problem.” He stated that the Indian Affairs Branch was created by the government to deal with the treaties and to direct the assimilation process.<sup>31</sup> M/A – 3 believes that the reality is that the treaties constitute the “Indian problem” for Indian Affairs. He also believes that the *Indian Act* could have been used to implement

the treaties, but instead “as time went on they (Indian Affairs), started to change it (the *Act*) to reflect the assimilation policy.”<sup>32</sup> It is very clear that, from the beginning, the *Indian Act* was meant to assimilate Indians and undermine their sovereignty.

The informant expressed two views about how Indian Affairs is viewed by Indian people today. On the one hand, there are some Indian people that depend on the government to make decisions for them, because “[t]hey figure that the Department of Indian Affairs has been doing it for a long time, they should continue to do it.” In contrast, there are others that believe that it is time for the government to give them a chance to make their own decisions. In this way, “[i]f we make mistakes, at least we’ll learn from our mistakes.” He stated that some members of the former group even believe that Indian Affairs will implement the treaties. These people he said “don’t understand that the government has to follow the *Indian Act*. The *Indian Act* (the government) doesn’t contemplate treaty implementation.”<sup>33</sup> Contrary to the belief of many, treaty rights are not derived from the *Indian Act*.

M/A –3 is convinced that the people need to be educated so that they can better understand the concept of inherent rights. This understanding will facilitate their efforts to “get out from under the *Indian Act*,” which he considers a device to control and assimilate Indian people. According to this informant, if the government succeeds in assimilating the people, then it would not be compelled to honour the treaty promises. He also asserted that having more Indians within the offices of Indian Affairs would not make any difference in the way Indians are managed. This is because:

Indian Affairs is still Indian Affairs. They have their higher-ups; if you look at the higher-ups, they are white people. You can have all the Indian people, say at District Office or Regional Office; they get Indians (trainees) learning, but they still have to handle whatever Ottawa

says. Everything comes down from Ottawa, and until we get an Indian Prime Minister and an Indian Minister of Indian Affairs, there will always be something for the non-Indians to control.<sup>34</sup>

In gauging the effectiveness of the programs implemented by Indian Affairs, he said that “Indian Affairs would have you believe that they are effective.” Even some reserve people who are fearful of retributions from the government think the government-funded programs are effective. In his view, the ability of the government to levy caps on the funding provided to bands makes many programs less effective. As an example, the cap imposed on post secondary funding in 1987<sup>35</sup> deprived the students of their treaty right to education making it a band-aid solution instead of truly looking after their needs.<sup>36</sup>

In regard to the government’s attempt to transfer its responsibilities to provincial jurisdictions, the informant thought that it was another attempt at assimilating the Indians.

In his view, the process was:

part of the concept of devolution. The Crown was saying (to the provinces), “We’ll give you the money; you look after the programs and services (for the Indians). ... The way I look at it is – and I’ve made this comment numerous times before and upset the province (of Saskatchewan) – the provinces can’t get away from the fact that they are all part of the Crown. So whether you’re provincial or federal (government) you’re still a Crown. And as a result of that, you (will) still have (treaty) obligations to our people. And if we say we have a treaty, and (if) you’re accepting monies on our behalf, then you have to live up to those treaty promises as part of the Crown. So it’s a devolution process through which the federal Crown is hoping to avoid addressing our treaty rights. But it’s not going to be that easy, I know. At least I’m not going to let them (the federal government) off the hook....<sup>37</sup>

M/A – 3 reiterated his view of the *Indian Act* as a device for assimilation and added that the provisions in *Bill C-31* that was included in the *Act* in 1985 will have a major impact on Reserve populations. He pointed out:

A good example, a prime example of *Indian Act* assimilation, is *Bill C-31*. It's part of federal legislation that's going to – if we follow it through and continue to register our children under the *Indian Act* (we will see) in sixty years time, there will be very few treaty Indian people.<sup>38</sup>

This is because *Bill C-31* does not permit Indian bands to regulate their own membership codes. This writer speculates that M/A – 3 would prefer to have Ochapowace Band determine its own membership rather than allow the government to dictate who is a member of the band.

The informant was clear about his opinion of the *Indian Act*:

I'll tell you point blank, it's not really a good view. When we agreed, in good faith, to share our land with our White brothers, and they develop policy like *Bill-C31* to assimilate us and get rid of us, to get rid of our rights, it will result in our demise if it is allowed to happen. So I don't have a very good view of the Crown when it develops legislation like that. I feel sad that our non-Indian brothers would do that to us after all we have done for them.<sup>39</sup>

He was less certain about the *First Nations Governance Act*.<sup>40</sup> He conceded that he could not say if the new legislation would have been more just to the Indians than the *Indian Act*:

because I really didn't get to understand, or I didn't study, that legislation. But I guess my gut feeling is that anytime you have someone developing legislation for you, it's likely not going to be good for you. And that's sad to say. [It's] because of our history that I make that statement. You know our (White) brothers have not been that kind to us; they haven't been good to us. What in recent years would have caused them to make a 180-degree paradigm shift and start to be, all of a sudden, on our side? ... It might have been better than the *Indian Act*, but at least with the *Indian Act* we know where we're at. When we get into something strange (unfamiliar), we don't know what it could do to us. As I say, our non-Indian brothers haven't had our best interests at heart (before), so what will have changed?<sup>41</sup>

M/A – 4 agreed with M/A – 3 that the *Indian Act* was a means for the government to control the process of dealing with the Indians. He claimed that the *Act* regulates all

aspects of Indian life. It is of no benefit to the Indians except in cases where the government can be held accountable, such as honouring land claims. He believed that INAC Minister Robert Nault's proposal to replace the *Indian Act* with the *First Nations Governance Act* would not have been more equitable. In fact, he suspected, it may have given more control to the government. Furthermore, he said, that the proposed legislation did not address the real issues like social problems and economic development that face Indian people living on the reserves.<sup>42</sup>

The informant was definite in his conception of the terms, self-determination and self- government. His discussion follows:

First of all, I want to say what I've learned. I've heard the elders say that we should not say 'self- government' because, in our culture, in our language, words are very important. When you say 'self' it may appear that I, as Chief, when I'm pushing for self-government, I'm pushing for my government. And that is not something that our people would endorse, or should endorse. Now, if you talk about self-determination, it's a whole different concept. The use of 'Indian government' would be better than self-government. To me, self-determination is something that we, as leaders, have to try to instill in our people that we (as a people) have power. Nobody else has that power. They have the power to determine for themselves where they want to go, what they want to do, (and) what they want to happen on their territory. And this (means) simply that they have the authority to develop lands (and) a constitution like any other people in the world.<sup>43</sup>

This informant asserted that the four components of nationhood are people, language, land, and a system of government. He believes that all four elements are present on the Ochapowace Reserve. But because of the band's history of government domination and the assimilationist practices, the people on the reserve have not been able to maintain their own government. He claims that cultural ceremonies and traditions have not been extinguished completely: they have only been pushed to the back burner. People are once again beginning to realize the importance of their customs. These, he claims, are

important determinants for controlling the band's destiny. Although the path toward this goal is difficult, the determination of the people will get them to where they want to be.<sup>44</sup>

The elders have reminded the informant that building a nation is a difficult process. This difficulty is compounded by the fear of what perceptions the government and Indian Affairs will have of the people should they support efforts towards the establishment of Indian government. He is encouraged by the fact that the Canadian Constitution recognized and affirmed the inherent rights of Aboriginal peoples in Section 35. For the informant, it means the right to be a self-governing nation with the power to determine its own affairs embedded within the Constitution.

This informant also expressed his views on probable obstacles that would hinder the achievement of self-determination. A major obstacle is:

... [f]ear. The fear (of continued government interference) that our people have gone through over the years. (The fear) that they can't do something without affecting (the relationship with Indian Affairs) or to be told (by Indian Affairs) that they can't do that – the Indian agent concept (psychology) that we have been forced to live under. The people are afraid to move ahead, afraid to do anything without the fear of reprisal. That came from the Indian agent (experience), the pass system, the permit system where you couldn't sell your hay or livestock without a permit. And our people have lived through that, for how many years? It becomes a generational thing that our people have lived under. That you can't do this without doing this. I guess that's the greatest thing (holding us back) – the fear of the unknown. The promise I made for myself is to educate the people and tell them that we don't have to be afraid. That we can move ahead. Tell them these things, including developing our lands. We just have to let go, let go of the fear, shed that fear, the blanket of fear, and move forward.<sup>45</sup>

Referring to the re-establishing of the Cêkacâs Reserve, M/A – 3 believes that the most important reason for reclaiming the reserve is based on the treaty that was completed in 1874. He was informed by an elder that one of the chiefs was apprehensive about signing the treaty because of the news he had heard about the treaties to the east.



He was fearful of being confined to the reserve. However, the Queen's representative (presumably Alexander Morris and his co-commissioners) assured him with words to the effect: "We will not ask you to change anything in your life. You will be free to live the way you have always lived. You will be free to move (hunt) through all of this land the way you have always done."<sup>46</sup>

M/A – 3 affirmed that Cêkacâs had in fact been granted his reserve at the time of the treaty negotiations. According to this informant, the government determined that the reserve was not needed because the chief and his band (who were still in hunting mode) were frequently absent. The Indian agent of the day recommended that the Cêkacâs band could be amalgamated with Kâkisiwê's band. A further understanding of the elders that was passed on to the informant indicated that the bands were never consulted on the matter. The Crown had acted unilaterally! Since then the two bands have lived together on the same reserve. Recently, members from both bands have inquired about a possible land claim involving the reserves that had been initially granted – Cêkacâs Reserve south of the Qu'Appelle River and Kâkisiwê Reserve north of Round Lake.<sup>47</sup>

Elders have mentioned that Kâkisiwê had selected all of Round Lake as his reserve. One of the elders mentioned to the informant that he had seen mounds where a survey stake had been located north of the valley. The same elder also had knowledge of another stake located on the south bank of the Qu'Appelle River near Round Lake. In the opinion of the informant, this information confirmed the existence of the two original reserves. M/A – 3 gave notice that consideration will be given to launch a specific land claim. He anticipates that the legal process would be the greatest obstacle to overcome. Otherwise, if the claim is successful, some compensation is expected.<sup>48</sup>

Many of the views expressed by M/A – 3 coincided with those of the other informants that were consulted. In particular, M/A – 4, another current band member who also has connections to the Cêkacâs band, provided timely information. This informant, by virtue of family connections and involvement and past experience in band politics, has significant knowledge about the history of the reserve.<sup>49</sup> During an interview he affirmed that when Kâkisiwê was granted his alternate reserve for his band in 1876 it was located south of Round Lake. The first reserve was surveyed to the north of the lake. Since reserves had already been surveyed for the Kahkewistahaw and Cowessess bands, the location of Kâkisiwê's new reserve necessitated a westward adjustment to the other two reserves. He asserted that the Cêkacâs Reserve remained at its original location south of the Qu'Appelle River.<sup>50</sup>

This researcher believed that the youth on the reserve should have an opportunity to contribute their knowledge to this project. The following understandings about the history of the reserve were obtained through written responses to a questionnaire.<sup>51</sup> The students were required to provide their knowledge about Treaty Four, the reasons for the treaty, when it was signed, who the signatories were, and some general questions about reserves. They were also asked to comment on Indian Affairs, the *Indian Act*, and the future of the reserve. The following is a sample of the feedback that some of the students at Kâkisiwêw School provided. Not all student responses were included in the thesis as some of the responses were deemed to be too general, too incomplete, or inaccurate by this researcher. For example, F/S – 11 identified Treaty Four as a time “when you get money.” M/S – 8 thought that Treaty Four was signed in 1947. M/S – 9 indicated that the reserve was named Ochapowace from the beginning of the treaty. Seventeen other

responses were selected randomly to participate in the survey. The students ranged in age from twelve to fifteen years.

F/S – 4 was the only one to correctly identify Treaty Four as an agreement between the First Nations people in this area and the government. Others characterized Treaty Four as: “an agreement between the Natives and the non-Natives,” or “a document giving us (the Indians) specific rights,” or “an agreement that is honoured on treaty day.” Still others merely stated that it was the day people received five dollars from the government.

Most of the students knew when and where the treaty was signed. F/S – 8 and F/S - 9 correctly stated that Treaty Four was signed in 1874 at Fort Qu’Appelle by the Cree and Saulteaux Indians and representatives of the Queen, as did M/S – 3 and M/S – 7. However, a few did not know. For example, F/S – 2 wrote that the treaty was signed in 1847 in Canada. M/S – 2 thought that the date was in the 1880s and was signed in the United States. Others were not certain about where the treaty was signed.

Reasons for the treaty were generally not well articulated. However, M/S – 6 wrote that the Indians wanted their own land where they could hunt. Another student, M/S – 4 indicated that the Indians signed the treaty because the buffalo were all dying and they needed the money to buy food. Several students, F/S – 3, F/S – 4, F/S – 6, F/S – 7, F/S – 9, M/S – 3, M/S – 4, M/S – 6 and M/S – 7 knew that the original reserve was known as Kâkisiwê Reserve and was located north of Round Lake.

Most of the students were aware that the Europeans were represented by Alexander Morris while the Cree and Saulteaux Indians negotiated the treaty. Some of these students were F/S – 3, M/S – 6, M/S – 4, and F/S – 5. Many of them did not seem to

know that Kâkisiwê and Cêkacâs were the Cree chiefs that negotiated the treaty on behalf of the Ochapowace people. Very few could identify any terms of the treaty that exist today. However, F/S – 6, F/S – 7, and F/S – 8, all stated that we get our education and medical and dental care for free.

The students were divided on the question of poverty. Five of them including F/S – 2, F/S – 6, F/S – 9, M/S – 2, and M/S – 6 thought that there was no poverty on the reserve. Six, F/S – 3, F/S – 4, F/S – 5, F/S – 7, F/S – 8 and M/S – 4, indicated that there were people living on the reserve that were poor. Some did not know if there was poverty on the reserve or not. Most of the students were not able to qualify their responses, although four of them, F/S – 3, F/S – 5, F/S – 7 and M/S – 4 mentioned that drugs and alcohol was the reason for the poverty conditions that people live in. M/S – 6 contended that people were not poor because they looked out for one another; that they helped each other out.

Many of the students were not certain about the role of Indian Affairs. Most did not know about Indian Affairs. Another six, F/S – 1, F/S – 3, F/S – 4, F/S – 8, M/S – 3, and M/S – 4 pointed out that Indian Affairs administered funds to the band. Three, F/S – 9, M/S – 6 and M/S – 7 mentioned that Indian Affairs provided medical care to the people. F/S – 5 stated only that the department worked for the government.

The students knew even less about the *Indian Act*. The vast majority, thirteen, F/S – 1, F/S – 3, F/S – 4, F/S – 5, F/S – 6, F/S – 7, F/S – 9, F/S – 10, M/S – 1, M/S – 3, M/S – 5, M/S – 6, and M/S – 7 knew nothing at all about the legislation. Another four, F/S – 2, F/S – 8, M/S – 2, and M/S – 4, provided vague answers including: “The *Indian Act* is the act of rights we have.”

Nine students were equally unknowledgeable about self-determination and self-government. They included F/S – 1, F/S – 4, F/S – 5, F/S – 9, F/S – 10, M/S – 1, M/S – 4, M/S – 5, M/S – 6 and M/S – 7. Another seven had a vague understanding of the terms. F/S – 2 stated that self-determination “is self within only” and self-government is “government of a group by its own members.” The best response was provided by F/S – 8 who stated: “Self-determination is the deciding by the people of a nation what form of government they are to have without reference to the wishes of any other nation. Self-government is the government of a group by its own members.” Twelve of the students had no idea in regard to their understanding of the possible future separation of the two bands. Eleven were not able to express any opinion. In response to the reason for separation, only F/S – 4 stated it had something to do with the land.

The research for this project also included information from David Mandelbaum’s visits to the Qu’Appelle reserves. The reports of these visits were located in the *Saskatchewan Oral History Film Project*. One account outlined Mandelbaum’s observation of the Ochapowace Band:

This band is insistently listed as Cree and in 1898 their chief industry seems to have been tanning skins and gathering snake root (seneca root). The next year we are told that fishing furnishes a part of their food supply. At about the same time they seem to have practiced bootlegging and to have given the agent trouble for some time. In 1905 they were still living in small log shanties covered with clay, taking no interest in school and subject to scrofula and tuberculosis. Their birth rate was considered low and in consequence there were many old people in the band. They continued as conservative pagan until long after 1913 and of all the bands under this agency were most inclined toward their original life. However, in 1906, the agent reports that no Indian dances were held during the year for the first time. However, such statements must be taken with some reserve.<sup>52</sup>

Mandelbaum's informants were Ochapowace members – Harvey Kenny, Charley Assiniboine, and Jack God's Child, Man'to-wasis. The latter was Jack Ochapowace, the younger brother of Walter.

Daniel Ochapowace, the son of Walter, provided this enlightening testimony to the Ochapowace counsel during a hearing for the Soldiers' Settlement land claim for the 1919 surrender on January, 1985. He testified:

The councilors received a notice that Mr. Graham wanted to see them. Old Kenny and Old Belanger, and I don't know who the rest of the councillors were, wouldn't go. But my father went to Regina to see Mr. Graham and also Mr. Taylor was there. That my dad stood for a long time but how many days I don't know. Mr. Graham was sitting in a chair. He told Walter, "Well Walter, I want to buy some land off you, off your reserve." My father replied, "I can't sell; I have got to ask my Indians." Mr. Graham said, "No Walter, you are the chief. Whatever you say goes ... Walter you will have lots of money. You won't have to work."<sup>53</sup>

In another segment from this source Daniel described what he observed during a meeting on the Ochapowace Reserve pertaining to the Soldier's Settlement land surrender. He recalled that W.M. Graham had brought bundles of money and laid them on a table in front of the Indians, not unlike an adult bribing a young child with candy. Mr. Graham's actions can be construed as a bribe.

This chapter afforded an opportunity for the Ochapowace residents, past and present, young and old, to express their personal views about the Ochapowace Reserve. A past elder has related his recollections of stories that were told to him. Strong views were expressed by the current chief and a past chief who criticized the bureaucratic Indian Affairs and its *Indian Act*. Indian chiefs have stated their opposition to Indian Affairs and their colonial policies for some time, but the federal government has not shown any interest or inclination to accommodate changes to the way they manage the Indians. It is

obvious that the explicit influence and control of the federal government is etched deeply into the psyche of the people. The chief is continually stonewalled in his efforts to lead the people to independence. Many of the residents still bear the fallout from the residential school experience, i.e., the lack of parenting skills. As the student responses indicated, it is clear that the parents have shared only a minimum of information, if any, about the history of the reserve with their children. It appears that the residential school experience has had a major impact on the parenting skills of the caregivers on the reserve.

Not much has been written about the story of the Ochapowace Reserve. Worse still, the story is not that familiar to the membership, especially the younger generations who appear to be apathetic, or perhaps simply unaware of their heritage. Informants expressed views that illustrated their knowledge of colonialism, and the attitudes and actions that the government and its officials exercised in dealing with the Ochapowace Indians. M/A – 1, for example, disclosed that the Indian Agent was assigned to act only as liaison between the Indians on reserves and the government in Ottawa. He understood that “this man should not be making laws (regulations) about anything. He is a hired man (atoskahâkan). ... He was not assigned to be the manager of the reserves.” He also expressed his concern about how Ochapowace gained his title as chief following Kâkisiwê’s death. He stated: “It has been very disturbing since Indian Affairs selected Ocâpahowês to be the chief. ... The white man (Indian Affairs) went ahead and did what they wanted to do.” He implied that the band members had no part in selecting the chief.

Likewise, M/A – 3 noted that the state of poverty and dependency that exists on the reserve can be attributed to the actions of the government. He does not blame the people for their plight; instead, he alleged that “Indian agents, Indian Affairs, and the

government, in their preoccupation to control the Indian people, are responsible for bringing this condition upon the people.” M/A – 3 also claimed that the control exercised by the government can be traced to the *1867 BNA Act* which gave the Parliament of Canada jurisdiction over ‘Indians and lands reserved for Indians.’ This informant asserted that this legislation has enabled the government “to keep us down” by developing policies of assimilation implemented through the *Indian Act*.

M/A – 3 also explained the reason why people on the reserve are not able to make any progress toward independence. He asserted that “the people are afraid to move ahead, afraid to do anything without the fear of reprisal. That came from the Indian agent (experience).”

M/A – 4 agreed with M/A – 3 that the government has used the *Indian Act* to control the Indians. The *Indian Act* provides the means by which the government controls or regulates all aspects of Indian life.

By and large, the young people reflected ignorance of colonization. The youth were generally not knowledgeable about Indian Affairs and the *Indian Act* or the programs Indian Affairs offered. This lack of information can be attributed to the failure of the parents and grandparents to share information with the youth. Reasons for this can be ascribed to either a lack of knowledge on their part or to the success of the assimilation efforts of the government through the residential school experience. As well, the history of the reserve has not been adequately addressed because of the lack of historical content within the school curricula.

Verna Kirkness observed: “First Nations children of today must know their past, their true history, in order to understand the present and plan for the future. First Nations



cultures must once again be respected and the traditional values must again be held in high esteem.”<sup>54</sup> It is imperative to give voice to the past so that the story may continue and be better understood by the Ochapowace people in particular. It follows that the better the residents of the reserve know and understand their history, the better they will be equipped to articulate their aspirations for the future development of the reserve.

This chapter offered Ochapowace people an opportunity to express their opinions about the colonial influences that they have experienced. They are looking forward with anxious anticipation for a chance to continue renewing their cultural identity and the autonomy that the Cree enjoyed in their historical past. They look forward to the opportunity to live side by side with mainstream society as self-sufficient participants.

The following chapter discusses what the leadership on the reserve hopes will be the solution to the problems that confront the Ochapowace residents. The chief believes that self-government and self-determination offers hope and promise for the Ochapowace Reserve and is what will assist them to reach this goal. The quest for self-government and self-determination is the subject of the following chapter.

## **CHAPTER 4: VISIONS OF THE PEOPLE**

This chapter illustrates that the Ochapowace Band is not totally colonized. The Chief and his Council have demonstrated that they are prepared to fight for their inherent rights in court cases to make the Government of Canada more accountable for past injustices. The section highlights the Ochapowace Band's aspiration to be allowed to assert its natural right to govern its own affairs on the Ochapowace Reserve. It is anxious to break away from the colonial control that has plagued the people for so many years. The band is determined to improve the life conditions for the people.

The achievement of self-government and self-determination rank high among the priorities of the Ochapowace First Nation #71 as manifest in the oral statements recounted in the previous chapter. The Chief and Council believe that it is their inherent right to make their own decisions based on their needs.

The concept of inherency to self-government is not new. When Europeans first encountered the Aboriginal peoples of North America, and from these people's perspective, they had title to their land and were self-governing. The Indians had long developed their own societies which "provided for the sustenance of their members, regulated relations internally and with their neighbours."<sup>1</sup> Aboriginal peoples in practice and thought were sovereign and self-governing prior to European contact, and had a firm belief that they never lost the pre-existing right to self-determination. However, since Treaty Four the people of Ochapowace First Nation have been thwarted by various government legislation and policies which not only confined them to their reserve, but at the same time, deprived them of the opportunity to govern themselves.

First Nations peoples in Canada have long realized that the federal government and its *Indian Act* exercised too much control over their lives. As early as 1918 Fred Loft, a Mohawk from Brantford, Ontario, began the work of organizing Indians across Canada to do just that by establishing a national organization, *League of Indians*. The group adopted its constitution in 1919. The *League* had four major goals:

To claim and protect the rights of all Indians in Canada by legitimate and just means; second, absolute control in retaining possession or disposition of Indian land; third, that questions and matters relative to individual and national well-being of Indians should rest with the people; and fourth, that they should be consulted and their wishes respected in their dealings with the government.<sup>2</sup>

Loft wanted Indians to be in position to improve their overall status – morally, socially, politically, and industrially. In other words, he wanted them to achieve self-government.<sup>3</sup> Brian Titley described Fred Loft's aspirations:

The vision of F.O. Loft, that all Indians shared common experiences and that only by creating an organization that transcended tribal boundaries could they overcome their disabilities, was potentially the most serious difficulty encountered by the department in Scott's day. It suggested that that Indians were attempting to cast off the shackles of subjugation and reassert their autonomy and importance of their own traditions. In these circumstances, the reserve was no longer a mere "pied a terre" as Scott called it, but an embryonic national homeland.<sup>4</sup>

By the 1930s and 1940s a number of Indians began seriously to consider taking control of their own affairs. In Saskatchewan, John Tootoosis, from the Poundmaker Reserve, was a supporter of Fred Loft. In order to advance his efforts to promote Indian participation in this movement leaders like Tootoosis:

had to depend on their own meager resources or whatever supportive relatives and friends could spare to cover (his) transportation costs as (he) traveled from reserve to reserve trying to raise political consciousness and forge organizations that could promote First Nations issues with the Department of Indian Affairs."<sup>5</sup>

The Department of Indian Affairs did its utmost to discourage Loft from continuing his campaign to organize the Indians in Western Canada. Because the Indian associations were not creations of the Department of Indian Affairs, the government threatened Loft's status as an Indian. The government considered him to be a dangerous agitator and had its Department's officials and RCMP officers monitor his movements. Even lawyers and doctors who supported Loft's campaign were considered self-serving activists.<sup>6</sup>

### **Land Claims**

It has taken decades for the Ochapowace Band to address the asymmetrical relationship with the federal government. In recent years, however, the band administration, namely, the Chief and Council, has decided that it is time to make the Government of Canada more accountable for the inequities it has exercised over the band and which has placed the people in a subordinate position.

Treaty Four had allocated reserves for both Kâkisiwê and Cêkacâs in 1874. However, neither chief immediately occupied the reserve that was surveyed for them in 1876. It was not until the chiefs were certain that the buffalo were no longer to be had that they decided to settle in 1881. By this time Kâkisiwê's reserve had been relocated from north of Round Lake to the south side. Shortly after the two Cree bands had decided to occupy their reserves in the area of Round Lake the government decided to place them both on the same reserve, the Kâkisiwê Reserve. Even though it was contrary to the terms of Treaty Four, the government had already eliminated the Cêkacâs Reserve and created a joint reserve without consulting either chief. Under these circumstances the members currently living on the Ochapowace Reserve filed a three-pronged claim: first, to

reestablish the Cêkacâs Reserve and petition for a recompense for the land taken, second, to investigate the possibility of seeking compensation for the original Kâkisiwê Reserve and third, to re-examine the claim for the land surrender pertaining to the implementation of the Soldiers Settlement. The process for the claim began with an Examination of Discovery to determine the circumstances surrounding the alleged surrenders.

Three groups of people from the Ochapowace Reserve are in the process of investigating the possibilities of retrieving lost reserve lands and/or receiving adequate compensation for the lands. The descendants from Chief Cêkacâs are looking to secure the land and/or compensation for the original Cêkacâs Reserve that was opened for settlement after the people were merged with the Ochapowace people. Another group, the descendants of Chief Kâkisiwê, are interested in finding out if the original Kâkisiwê Reserve that was located north of Round Lake was legally acquired by the government of Canada before it was opened up for settlement after the band was relocated to the south of the lake. The third group, representing the Ochapowace people, is pressing the government for a more equitable settlement for the land that that the government sold to the Soldiers Settlement Board. This process involved three separate examinations for discovery.

The initial set of hearings,<sup>7</sup> recorded as Court File No.: T-2463-91, Court File No.: T-2153-00, and Court File No.: T-2155-00, were legal actions undertaken on behalf of the three plaintiffs from the Ochapowace Band and were recorded by Royal Reporting Services. The first witness, Alois James Gross appearing on behalf of the government of Canada on July 30 was examined by Mr. Doug Kovatch, representing the Cêkacâs Band. Mr. Gross testified that he was aware of the three actions, representing the Ochapowace

First Nation, the Chacachas First Nation, and the Kakisiwew First Nation respectively, which were launched against the Government of Canada.<sup>8</sup> Mr. Kovatch informed the witness that the counsel for each of the three First Nations would be examining him on different issues.

Mr. Gross said he began dealing with the Ochapowace First Nation in the '70s while he was still an employee with INAC as a negotiator. Al Gross was aware that he would be queried about the amalgamation of the two historic bands, the Chacachas and the Kakisiwew First Nations.<sup>9</sup> He also indicated that he had knowledge of the Saskatchewan Formula of 1976 to which the Federal Government agreed in principle to in 1978. He mentioned that he did work on the '92 TLE Framework Agreement. Soldier Settlement Claims<sup>10</sup> were dealt with under this agreement. He agreed that these claims came about as a result of "the unlawful surrender of lands for the purpose of getting lands for the Soldier Settlement Board."<sup>11</sup> The witness testified that he had been working on<sup>12</sup> "two claims of the Ochapowace First Nation: the Treaty Land Entitlement as part of the Framework Agreement, and the specific claim related to Soldier Settlement."<sup>13</sup>

According to Mr. Gross, the outstanding Treaty Land Entitlement was calculated on the basis of how much land the Band was allotted at the time the joint reserve was surveyed, less the amount that was surrendered to the Soldier Settlement Board.<sup>14</sup> Even though he knew of the two historic bands, he said that the government took the position that it would negotiate with only Ochapowace, thus avoiding the question of the Chacachas Reserve: "I believe the approach that we took in the negotiations was we'll settle with Ochapowace. If the bands wish to divide in the future, then there is a process under legislation to do that, and band division would be something that would be dealt

with after the claim was settled. ...”<sup>15</sup> He confirmed that there had been no “agreement to accept the amalgamation” but agreed that since Chief Ochapowace did not sign Treaty Four, “Canada owed its Treaty obligations to those two bands” – Kakisiwew and Chacachas – “the First Nations that signed treaties (sic).”<sup>16</sup> If this was in fact the case, this would also mean that the government would be obliged to recognize the two bands as two separate entities. The government’s treaty obligations would then also mean two separate reserves.

Mr. Gross indicated that the negotiations did not deal with the historical and technical questions of the amalgamation, because “a full and final release” of the Ochapowace claims – the TLE claim and the Soldiers Settlement claim – were the main objectives at that particular time in the negotiations. Incidentally, the witness claimed he could not recall “whether Canada could amalgamate the two First Nations without their consent.”<sup>17</sup>

This position seemed paradoxical to Mr. Kovatch, the examiner,<sup>18</sup> who questioned the witness, Mr. Gross, that if the Treaty obligation was to the two historical bands, how was it possible to negotiate a “Treaty Land Entitlement without resolving the question of who the Treaty bands are that have the entitlement”?<sup>19</sup> The explanation led to the assertion “that the Treaty Land Entitlement of the two historic bands, Kakisiwew and Chacachas, became vested in the Ochapowace First Nation by reason of an amalgamation of those two historic bands.”<sup>20</sup> When Gross was asked if Canada could unilaterally amalgamate the two First Nations he stated that he did not “recall a discussion on that.”<sup>21</sup>

A second paradox occurred when the examiner pointed out that when the combined population was determined in “1879 or 1880, the date of first survey, ... the

Ochapowace First Nation was not yet in existence.” Mr. Gross agreed with this observation, but could not explain it, except to say:

we came to an agreement with the Ochapowace First Nation on the date of first survey and we went ahead and completed the Treaty Land Entitlement on that basis. And, as I indicated, the issue of the amalgamation was there, but was not resolved. It was meant to be resolved at a future date as a band separation or however the people wanted to handle it. That’s my recollection of that.<sup>22</sup>

Mr. Gross was adamant in his position that the final agreement was with the population that included both Chacachas and Kakisiwew bands as constituting portions of the previous generations of the present population. Later in his testimony he commented, “if we counted people from these two groups in the Ochapowace First Nation, then their entitlement is fulfilled.”<sup>23</sup>

It is interesting to note that he again avoided the question of an unlawful amalgamation. Gross presented the following opinion: “My understanding was that the bands had been amalgamated. We didn’t debate the legality one way or the other. ... We had dealt with the Ochapowace Band as a whole, completed the settlement ... and left the whole business of band division ... for something in the future.”<sup>24</sup> Later, he commented again that “[w]e knew there was an issue among the two groups, but I didn’t explore the issue because we were dealing with Treaty Land Entitlement.”<sup>25</sup> Although Al Gross admitted that the other issues around mineral rights, water bodies, and road allowances may have been discussed during the negotiations, he claimed he did not recall how they were resolved.<sup>26</sup> This is a cop-out on the part of the witness as he could have offered to find out. Someone else at the negotiation table must have known how this issue was resolved.



Mr. Gross was next examined by Ms. Sandra Mitchell on behalf of the Kâkisiwêw Band also at Regina on July 30, 2003. He was examined for his knowledge of the Soldiers Settlement land surrender claim. He testified that the Ochapowace claim was one of a group of three Treaty Land Settlement (TLE) claims which also included Piapot and Kawacatoose that involved *Soldier Settlement Act* interests in surrendered lands.<sup>27</sup> The bands were represented by their solicitor, William Pillipow. The submissions were reviewed by the Department of Justice. When they were approved they were given over to the federal negotiators for resolution, with Mr. Gross as the chief negotiator for the federal government.

He described the procedure for processing claims. He revealed that a “model agreement” which was offered to other bands was drafted for convenience and consistency. He described it as “a Band Specific Agreement that bands could take and adapt. ... it would contain the substance of the Framework Agreement and major clauses and major provisions, and then the bands could take that in their negotiations with the Regional Office and adapt it to reflect individual band circumstances.”<sup>28</sup>

The Ochapowace Band had submitted its claim in 1985 and was finally accepted in July 1991.<sup>29</sup> In August 7, 1992 a briefing note from a Richard Van Loon, indicated that:

The Department of Justice (DOJ) has recommended acceptance of the claim on the basis that the Crown was in a position of conflict of interest and the band did not receive fair market value for the land or improvements. DOJ also confirmed that the band was not paid for the road allowances between the surrendered sections.<sup>30</sup>

Mr. Gross went on to describe how Canada determined the validity of a claim. He

gave evidence that generally the surrenders require the informed consent of the members of the First Nation.... and you're looking compliance with the *Indian Act*, ... the policies of the day and the honour of the Crown.<sup>31</sup> The claim encompassed five heads of damage, including the Phin lease. P.J. Phin and Company<sup>32</sup> held a closed 5-year lease of approximately five sections on the surrendered land. To the first of July, 1920 there were three years remaining on the lease. The other heads of damage included traditional values encompassing hunting and trapping, the destruction of medicinal herbs, and the loss of timber value (There were two mills that once operated at nearby Percival that provided a market for timber). The forfeiture of mineral rights on the land purchased by the Soldiers' Settlement Board rounded out the heads of damage.<sup>33</sup> Mr. Gross explained that traditional loss was the damage incurred to the habitat of medicinal plants and animals that were harvested for non-commercial purposes.<sup>34</sup> Two other elements for which the Band was not compensated were the value of timber and the improvements including buildings on the surrendered lands as they were not considered traditional losses.<sup>35</sup> Improvements included buildings. The witness testified that at the time of the negotiations, traditional loss was not included in settlements. Further, he indicated that "traditional loss is where things like medicines, the harvesting of animals for non-commercial purposes, that sort of thing."<sup>36</sup> The witness verified that "a Settlement of Agreement between Her Majesty in Right of Canada and Ochapowace Band" was dated December 8, 1994.<sup>37</sup>

The third examiner was Mr. Merv Phillips, representing the Ochapowace Band. The hearing was conducted at Regina on July 30, 2003. Mr. Al Gross testified that Bill Pillipow represented Kawacatoose, Piapot, Mistawasis and Ochapowace Bands in their Soldiers Settlement claims in 1990. He confirmed that Kawacatoose was the first

settlement.<sup>38</sup> He testified that “before Kawacatoose was settled, there were Kawacatoose, Piapot, Ochapowace that were all outstanding.” He was evasive about what impact “the first settlement was going to have on the later two settlements,”<sup>39</sup> but agreed that 1991 was the settlement date for Kawacatoose.<sup>40</sup> He also indicated that Kawacatoose settled for “roughly 3 million bucks” and the Piapot for 12 million in 1993.<sup>41</sup> He testified that “they were all unfair compensation cases.”<sup>42</sup>

The second round of hearings,<sup>43</sup> again recorded as Court File No.: T-2463-91, Court File No.: T-2153-00, and Court File No.: T-2155-00, were held at Saskatoon on September 16, 17, and 18, 2003. This time Mr. Reinard Kohls, also a federal negotiator for the government was the witness. The first examiner was Mr. D. Kovatch on behalf of the Kâkisiwêw group. The witness confirmed that both Chief Kakisiwew and Chief Chacachas were signatories to Treaty Number 4 and that the government of Canada owed land to them on the basis of the Treaty land obligation.<sup>44</sup>

Kohls agreed with Mr. Kovatch that the “Ochapowace Indian Band or First Nation was not in existence when Treaty 4 was executed.” However, Mr. Kohls explained that the Treaty land obligation was fulfilled to “a Band known as Ochapowace.” He also asserted that the Crown had arranged to survey “sufficient land” for the two bands at the time that lands were being surveyed as reserves to fulfill its obligations.<sup>45</sup> The informant acknowledged that the “original Reserves for Chiefs Chacachas and Kakisiwew were never formally or legally established as Indian Reserves.”<sup>46</sup> This was an assertion that an Order-in-Council had not officially created them as reserves beyond the 1876 survey.

He described the joining of the two bands as a merger rather than an amalgamation, (he did not know when the merger took place and did not differentiate between a merger and an amalgamation), and from the time the two bands were merged, they “were treated as a single entity or single Band following that date.”<sup>47</sup> The bands occupied the same reserve in 1881 but were not placed on a single pay list until 1884 when they were amalgamated.<sup>48</sup>

He agreed with the legal counsel that the “Treaty rights of – Kakisiwew and Chacachas then became invested in Ochapowace.” He was of the understanding that the Crown had “fulfilled its Treaty obligations to Chacachas and Kakisiwew when it ultimately fulfilled its Treaty obligations to Ochapowace”<sup>49</sup> However, he was not clear about whether or not the Ochapowace Reserve was surveyed before the two bands were merged even though he agreed that “Canada did take some steps to establish Reserves for Chiefs Chacachas and Kakisiwew” after 1874.<sup>50</sup>

The witness agreed that lands were surveyed for both Kâkisiwêw and Cêkacâs Bands.<sup>51</sup> He confirmed that an Order in Council was “required to legally establish an Indian Reserve,”<sup>52</sup> but indicated that “there was no Order in Council passed to establish those Reserves (the Cêkacâs and Kâkisiwêw Reserves were surveyed in 1876).”<sup>53</sup> The legal counsel stated that “the first Order in Council confirming Indian Reserves on the prairies was dated May 17<sup>th</sup>, 1889.”<sup>54</sup> He added:

the practice of using the Order in Council was developed so that the Department of the Interior Survey’s Branch would know of the Indian Reserves that had been surveyed by the Department of Indian Affairs, and that Order in Council wasn’t until 1889 a requirement for the establishment of a Reserve.<sup>55</sup>

In regard to the disposition of the “old Kakisiwew and Chacachas Reserves”

Mr. Kohls was of the opinion that there was “never a formal surrender to my knowledge. The Government position being that none was required.”<sup>56</sup> Furthermore, he argued, “That position was based upon the actions that were taken to survey a new Reserve, superceding the land that had been identified earlier.”<sup>57</sup>

Moreover, the spokesman for the Department of Indian Affairs agreed that since the Ochapowace Reserve was not legally established and since dissatisfaction had been expressed with regard to the (original) Kakisiwew Reserve, the Government of Canada did not need to comply with the surrender requirements.<sup>58</sup> Mr. Kohls also concurred with the suggestion that when the Indians expressed dissatisfaction with their selection, a simple exchange was all that was required to fulfill the Treaty land entitlement.<sup>59</sup> There was no evidence found to indicate that either Chief Kâkisiwê or Chief Cêkacâs had expressed any dissatisfaction of their reserves.

With respect to the Chacachas Reserve the witness denied the assertion that the Indian Agent McDonald wanted to amalgamate the two bands when the Chacachas people moved to the Ochapowace Reserve.<sup>60</sup> Further he stated, “I do not recall any indication of Chacachas being dissatisfied with their lands, that part is correct.”<sup>61</sup> He contended that the two Bands ended up together on one reserve “when they were put together on one pay list at some point in time.”<sup>62</sup>

Mr. Kohls explained how the Ochapowace Reserve was established. He said that the surveyor, Nellson (sic), had consulted with the people that were involved and selected new lands. This necessitated a realignment of “some other lands.” The survey was completed according to established procedures or “survey plans.” Subsequently, the reserve was “ratified by an Order in Council” as Ochapowace Reserve Number 71.<sup>63</sup>

In contrast, Reinard Kohls stated that he “had no recollection of any document that indicated that he (Surveyor Wagner) had a conference with the Kâkisiwêw people in selecting that land.”<sup>64</sup>

Another difference was that the original reserve was not ratified by an Order in Council.<sup>65</sup> This begs the question, “How could the reserve be ratified by Order-in-Council 1876 when the policy wasn’t established until May 17, 1889?” Mr. Kohls pointed out that the Ochapowace Reserve was not legally a reserve until that date. He also testified that the government was justified in selling the land from the original reserve because, “([i]t wasn’t considered to be a Reserve by Canada at that time.”<sup>66</sup> Moreover, he explained that even though the new reserve was not occupied by the Kâkisiwêw Band until after it was surveyed in 1881, the original reserve was “in essence abandoned as Reserve lands.”<sup>67</sup> Apparently, the government believed that the land that was surveyed as reserves was not acceptable when it was left behind by the bands during their buffalo hunts. Nevertheless, one might ask, “Abandoned by whom?”

The witness was shown a listing of the reserves in the Treaty 4 area. This list included Reserve Number 43 for Kâkisiwêw or Loudvoice and Reserve Number 54 for Chacachas. Mr. Kohls denied that “lands surveyed north of the Qu’Appelle River were not acceptable to the Indians and other lands were surveyed in their place.”<sup>68</sup> This is in reference to the assertion that the original Kâkisiwêw Reserve was lacking in timber.<sup>69</sup> He did not offer an explanation for the Chacachas Reserve except to say that the Chacachas people voluntarily moved to the present-day Ochapowace Reserve.<sup>70</sup> He explained that the Chacachas Band may have been merged or amalgamated with the Kâkisiwêw Band during the 1870s and 1880s and was an acquiescence of the people involved. But he also

believes that the merger could have been done by ministerial order, but that he didn't think that was what happened: "It was just a matter of being placed on the same pay list and being treated as one Band, and by acquiescence of the people involved..."<sup>71</sup> In reality, there was no evidence that the chiefs acquiesced. It was merely a case of not understanding the implications of their actions. Had the government officials informed them that if they left their reserves, even temporarily, while they continued to hunt buffalo, the government would have considered the reserves abandoned. If they had been informed that they would end up losing their reserves they would no doubt have done things differently. It would appear that the government failed to meet its fiduciary responsibilities and, consequently, was in breach of upholding the honour of the Crown.

Reinard Kohls was then examined by Ms. Mitchell on behalf of the Kâkisiwêw group on September 17, 2003. This segment of the inquiry attempted to establish the course of events that led to the selection of the second Kâkisiwêw Reserve. Early in the examination, the examiner presented a review of the provisions of Treaty Four. She quoted from a memorandum prepared by the Surveyor General Deville which stated:

In setting apart any Reserves, the interest of the Indians should be considered so far as to give them all the necessary frontage upon a river or lake, to include an abundance of land for farming purposes for the Band, at the same time, the track should be made to run back and include a fair share also of land which might not be so desirable for farming, but would be valuable for other purposes connected with the Band such as hunting and so on.<sup>72</sup>

The questioning was then directed to the correspondence between Mr. Meredith, the Deputy Minister of the Interior, and Mr. Christie. This exchange of communication described the protocol that Christie was to follow in placing the Indians on the reserves. In part the correspondence said:

Each Reserve should be selected, as the Treaty requires, after conference with the Band of Indians interested, and should, of course, be of the area provided by the Treaty. The minister thinks that the Reserves should not be too numerous, and that, so far as may be practical, as many of the Chiefs of the Bands speaking one language, as will consent, should be grouped together on one Reserve.<sup>73</sup>

The witness was unable to explain why the Deputy Minister of the Interior would say that the reserves should not be too numerous. On another letter, dated July 21<sup>st</sup>, 1875, the Surveyor General wrote to the Dominion Lands Office in the Department of the Interior stating:

should the Indians of any Band entitled to a Reserve under a Treaty desire to effect any change in the locality as the same may be described in the agreement entered into with the government, and such change be agreed to by the Minister, it should be confirmed by Order in Council.<sup>74</sup>

This begs the question about the degree to which the government followed its own guidelines in relocating the Kâkisiwêw Band. Clearly, it did not. Mr. Kohls confirmed that Wagner had marked out individual reserves for both Bands. The Kâkisiwêw Reserve consisting of 42,724 acres was located north of the Qu'Appelle River and the Chacachas Reserve was located on the south side of the river. This reserve contained 24,298.5 acres.<sup>75</sup> He testified that Surveyor Wagner indicated that Kâkisiwêw wanted his reserve moved to the Moose Mountain area.<sup>76</sup> This request was rejected by Surveyor General Dennis in a letter to the Minister of the Interior on April 8, 1878 and the decision was supported by Department of the Interior on April 26, and was officially confirmed to Wagner on April 30, 1878.

Meanwhile John Nelson reported on January 10th, 1882, that he “was instructed to survey suitable Reserves on the south side of the valley for the Bands of Mosquito (Sakimay), O’Soup (Cowessess), Kahkewistahaw, Kâkisiwêw and Chacachas.”<sup>77</sup>



Apparently, the directives were issued by someone in the hierarchy who might have been “a commissioner or Minister.”<sup>78</sup> Even though Nelson’s report made no mention that the Kâkisiwêw Band and the Chacacas Bands would be combined, John Nelson surveyed a joint reserve for the Kâkisiwêw and Chacachas Bands in 1881 with an area of 52,864 acres which was 14,158.5 acres less than the combined acreage of the original reserves. On 19 January, 1882, Agent McDonald stated in a letter to the Superintendent General of Indian Affairs that “[t]he area of each Reserve has been allotted to each Band in proportion to the pay sheets of 1879. The year in which the largest number of Indians were paid their annuities.”<sup>79</sup>

To date the land claims are on hold as the litigants contemplate their next move. At the present time they are still waiting on the federal government and the Supreme Court to decide whether the original Cêkacâs Reserve will be re-established as a separate reserve. In the meantime, Ochapowace has already purchased much of the original reserve using funds from the TLE settlement of the mid-1990s. Likewise, the courts have not yet made any decision about the original Kâkisiwêw Reserve. The options available are limited to pursuing all three claims, or advancing only one or two. A fourth option is to drop all litigations.

### **The PFRA Dam Dispute**

Meanwhile, there is a third land claims issue looming on the legal landscape for the Ochapowace Band. This is the continuing dispute arising from the construction of a dam at the east end of Round Lake. The dam was constructed in 1942 under the auspices of the Prairie Farm Rehabilitation Administration (PFRA) to ensure that there would be ample water for agricultural purposes in the event of similar drought conditions that had

occurred during the “dirty thirties.” Once again the federal government agency constructed the dam without consulting the Ochapowace Band.

The Band is one of six that have organized under the name of the Qu’Appelle Valley Indian Development Authority (QVIDA) to recover damages from the federal government caused by dam flooding.<sup>80</sup> They are seeking compensation for loss of traditional land use – hunting, fishing, trapping, medicinal plants and herbs, gathering berries, maple syrup, birch bark, and porcupine quills for craft materials. The group is also seeking damages for loss of recreation and tourism opportunities. In the typical government mode of dealing with Indian concerns, it refused to negotiate a settlement with the collectivity. Instead it proposed to negotiate only with individual bands. Only Ochapowace and Sakimay remain from the original group. The decision to continue its efforts to negotiate a resolution to the dispute is an indication that the Ochapowace Band is prepared to follow up on its resolve to make the government more accountable for its policies and decisions.

Influenced by American legislation, Canadian governments – provincial and federal – have persisted in their policy of making decisions affecting Indians without consulting them. For example, only thirty three years after Treaty Four was signed, the federal government enacted the *Migratory Birds Convention Act* in 1917 which curtailed the hunting of birds at any time of year for purposes of taking birds, their eggs, feathers or nests. This was contrary to the terms of the treaty. Under these regulations Indians have been prosecuted for infractions incurred under this law. In 1930, the government in Ottawa enacted the *Natural Resources Transfer Agreement* without any discussion with treaty Indians. The accord, in effect, deprived the Indians of any benefit accruing from

the development of the natural resource revenues which only the provincial government enjoys. These revenues would most certainly have assisted the Indian people along the path of self-government.

Another issue that has had an impact upon the Ochapowace Band is the amendment to the *Indian Act*, *Bill C-31*, which was implemented in 1985 without much dialogue with the people that were to be affected. Poorly disguised, as restoring status to individuals that had lost their status, this legislation forced Indian bands to accept additional members, many of them their relatives. This put a strain on the bands' already limited resources. J.R. Miller has described the effects of *Bill C-31*:

The federal government's "solution" to gender discrimination in the *Indian Act*, *Bill C-31* in 1985 conferred a minimum of relief and a maximum of difficulty. While the amendment to the *Indian Act* did cut out the language that discriminated against Indian women who married out, it introduced many other problems.<sup>81</sup>

The problems included the potential return of married women with children who could put greater stress on programs and facilities such as housing that were already inadequate. There was also a concern that many of the returnees were individuals that were away from the reserve for so long that they would have lost all connection to the reserve and thus lost their identities as status Indians.<sup>82</sup> More importantly, it seems that the government had found a mechanism for eliminating status Indians in a matter of a few short generations. The goal of the government was consistent with its past policy of eliminating the "Indian Problem." For status Indians living on reserves, the legislation was aimed at reducing their number in order to absolve the government of its fiduciary responsibilities to them. The scheme obliged them to be divided into two groups or classes of status Indians – those who possessed status before 1985 and those who acquired status after that date. The system was set up so that the offspring of post-1985

status Indians would lose their status if they married someone without status after two consecutive generations. This became known as the “double grandmother rule.” It is expected that the full impact of the legislation will begin to be realized by 2025. By this time the status Indian population will be in rapid decline until Indian status disappears. Obviously this was not an act of benevolence the government would want the Canadian public to believe. Rather it was what the late Harry W. Daniels, the former president of the Congress of Aboriginal Peoples, aptly described as ‘the Abocide Bill.’<sup>83</sup>

More recently, the Saskatchewan government unilaterally removed the Provincial Sales Tax (PST) exemption for status Indians on off-reserve purchases in 1999. This was done contrary to Section 87(b) of the *Indian Act* which states that any personal property of an Indian cannot be taxed.<sup>84</sup> For many years this legislation has been broadly interpreted to include all purchases made off-reserve by treaty Indians. These purchases were considered to be personal property whether the Indians were living on- or off-reserve. However, the New Democratic Party government under Premier Roy Romanow removed the exemption of the provincial sales tax (PST) on all purchases made off-reserve.

The Indians in the Treaty Four area had claimed the removal of Provincial Sales Tax (PST) exemption on the basis of the promise made to the Indians in Treaty Eight. When that treaty was signed in 1899, it was promised in an attached memorandum that the Indians would not be subject to any taxation of any kind or forced military service.<sup>85</sup> Indians in the other treaty areas were of the understanding that the terms of all the numbered treaties are equally applicable to every other treaty area.<sup>86</sup> According to

M/A – 3, the Indians understood that whatever was granted in one treaty area it was equally applicable to the other treaty areas. Therefore, the PST exemption was taken to apply to all treaty Indians in Saskatchewan in the same way the “medicine chest” clause from Treaty Six was interpreted.

### **The Kelowna Accord**

The Kelowna Accord excited all Aboriginal groups across Canada. It was an unprecedented initiative which the Aboriginal peoples saw as step toward a new Aboriginal and government relationship. During 2004 and 2005, a national process of policy negotiation was carried out between the government of Canada and leaders of Canada’s Aboriginal peoples. The exercise produced an ambitious and promising plan to close the gap between the Aboriginal and non-Aboriginal populations in Canada. The unprecedented course of action was highly publicized and generated lively discussions among Canadians. The exercise was unprecedented because Indian leaders were allowed to participate in the dialogue. The new Indian-government relationship discussions began in April 2004 between the government and Aboriginal leaders, under the direct authority of the Prime Minister, Paul Martin. The discourse led to a First Ministers’ Meeting in Kelowna on November 24 and 25, 2005. During the conference, a ten-year plan, with a proposed allotment of 5.085 billion dollars, was developed that was intended to improve the socio-economic conditions of Aboriginal peoples. The meeting was adjourned with a great deal of optimism from Aboriginal leaders even though the respective responsibilities of the federal, provincial, territorial and Aboriginal governments still needed to be worked out. However, the timing was not favourable as the possibility of a new government loomed ahead. The Accord became a political football during the

federal election campaign leading to the election. As well, the multi-billion dollar budget had not yet been approved by government when Parliament was dissolved in late November. Consequently, the newly-elected minority Conservative government, led by Stephen Harper, rejected the Accord. Within a short time, all hopes the Indians had of improving living conditions in their home communities disappeared. Drafting the agreement had been seen as progress, especially from the First Nations' perspective. It was disappointing to see the prospects of a new Indian-federal government relationship disappear without any positive results, as it does not appear that Stephen Harper is going to pursue it anytime soon.

To compensate for the failure to implement the Kelowna Accord the Harper government brought forward other initiatives. These include the Residential Schools Settlement and apology, Housing financing, new Claims Targets and a new Claims Process Tribunal. This was an admirable gesture, but it fell short of appeasing Aboriginals across the country who had hoped to reap the benefits that would have moved them closer to economic independence.

Even when the Ochapowace people tried to establish their independence from the government, the Band encountered resistance and heavy handed tactics to undermine their effort. In this particular instance, Chief and Council attempted to establish the Band's right to self-government by implementing the Ochapowace Services Tax (OST) to replace the federal GST, only to have the exercise quashed by a provincial court. The Court declared that the Ochapowace Band did not produce enough evidence to demonstrate a strong legal case to prove its sovereignty to make decisions independently of the *Indian Act*.

## **The Ochapowace GST Tax Case**

This case was contested between Her Majesty the Queen as represented by the Minister of Revenue and three defendants – Ochapowace Ski Resort Inc., 594265 Numbered Company, and Ochapowace Band, all represented by the Chief. Counsel for the Crown was Mr. Horst Dahlem. The team of Mervin Phillips, Mervin Ozirney, and R. Milne were the counsel for the accused.

The Ochapowace Ski Resort was initially established as Last Oak Ski Resort in 1972 by the Ochapowace, Kahkewistahaw, Cowessess, and Sakimay Reserves. The resort was located on the Ochapowace Reserve. Sole direction of the resort was transferred to the Ochapowace Band in 1985 at which time it became the Ochapowace Ski Resort Inc. In the beginning, the Band had been remitting the GST. The band incorporated the resort operation for the purpose of securing a loan and to provide banking services. Another numbered company was formed in order to obtain another loan. While the Ochapowace Ski Resort Inc. was responsible for the daily operation of the resort, the numbered company was not. The Band assumed the actual operations of the resort and its financial management. The Band had reported a revenue of approximately \$350,000 and had also applied for GST rebates.

Because the loans were paid off, both the Ochapowace Ski Resort Inc., and the numbered company were dissolved by the Chief and Council in 1993 at which time the Band ceased paying the GST by submitting no returns as it did not consider itself an agent of the Government to collect the tax. It also refused to allow an audit on the operation of the ski resort; however, a notational audit was performed by the Department, which indicated a liability of approximately \$100,000. Revenue Canada began to recoup

the monies owing by way of garnishee. In response, the Band imposed its own OST in 1995. In 1996 the Revenue Department began a series of demands for GST returns without the desired results. In 1997 another demand was issued and when it received no response, the government (the Crown) laid charges for failure to abide by the provisions of the GST tax legislation.<sup>87</sup>

The charges consisted of “some 15 counts of failing to file Goods and Services tax returns pursuant to demand issued under section 282 of the Excise Tax Act contrary to section 326 of the said act.” The first count alleged that Ochapowace Ski Resort Inc. and its director, Denton George, failed to remit returns for the period, May 1<sup>st</sup>, 1995 to April 30<sup>th</sup>, 1997. The next seven charges alleged that the numbered company, 594265 Saskatchewan Ltd. and the director, Denton George, failed to file returns from January 1<sup>st</sup>, 1991 to May 31<sup>st</sup>, 1997. The last seven charges alleged that the Ochapowace Band and its chief did not report any GST proceeds from January 1<sup>st</sup>, 1991 to May 31<sup>st</sup>, 1997.<sup>88</sup>

The Counsel for the Crown began by challenging the Band’s claim that it was immune from taxation on reserve. In this regard Horst Dahlem, the Crown Prosecutor, cited cases that supported his claim that the right to tax exemption does not exist. He quoted from the judgment of Justice Kirvin in the *Francis* case that pertained to application of the *Income Tax Act*. The *Act* states that, “No one is exempted from any duties or taxes or anything whatsoever unless specifically exempted.” However,

if Your Honour finds that in the Elder evidence there is sufficient credible evidence that they were promised to be free taxation along the same lines as ... as all the other promises, then I suppose we have to concern ourselves with that at that point and that still doesn’t deal with the issue because taxation is not at stake here. The only thing that’s at stake are the... is the Canadian (Income Tax Act) a valid



taxation statute applicable in the sense that they must comply with some of its terms?<sup>89</sup>

The Prosecutor drew attention to the fact that the *Indian Act* allows Indian people to tax their own people on their own land, but does not permit the taxation of non-Natives. Clearly this is a reference to the collection of the OST from non-Natives by the Band. He held that “the power of Natives to tax non-Natives does not exist.”<sup>90</sup> According to the Crown Counsel, “the only thing at stake is whether or not the Government of Canada can tax white people or non-Natives wherever they may be in Canada ... and whether the Natives can be required to act as agent of Her Majesty the Queen.” He attempted to dispel any arguments about the relevance of any tax exemption arising from a Treaty right or Aboriginal right. He stated:

[T]he Tax Court of Canada decided that since taxation was not in the contemplation of the parties at the time of Treaty-making ... it cannot be elevated to a Treaty right or an Aboriginal right or any other right and therefore the businesses carried on the Reserve have to comply with the legislation in relation to non-Natives only.<sup>91</sup>

The Prosecutor pointed out that the purpose of the government in this case was “not asking any tax in relation to Natives.”<sup>92</sup> Instead his focus was on the legislative requirements for the administration of the GST. The Crown cited section 168 of the GST legislation that states that the recipient of the service is required to pay the tax while section 221 requires the vendor to collect the tax and remit it to the Government of Canada. He also alluded to section 330 which specifies that an officer/director who knowingly fails to abide by section 221 “is a party to the offence” and is thus guilty of the offence.<sup>93</sup>

Another argument Dahlem posed was to deny the elders’ evidence based on Morris’s report. He argued that:

[T]here's no reference of any sort to any of the things that the ... the Elders allege to have happened ... certainly nothing about sharing of the land, nothing about the fact that they were going to be left alone on their Reserves. I think the ... the whole thing is totally misconstrued in that regard because Morris really wanted the Natives ... apart from ... from relinquishing their land and obeying Her Majesty's law, he wanted them to become farmers. There's nothing whatever in there that says, 'Once you pick the land, you are absolutely free from any impact of any legislation that may ever come down because the reality of today is ... and I think that's the ... the difficulty in all of this, Your Honour.'<sup>94</sup>

In continuing his prosecution strategy, Dahlem also argued that the Indians were not exempt from abiding by Canada's laws based on the Poitras decision. In that case Mr. Justice Barclay ruled: "In my opinion, the Indians have agreed to obey and abide by our law and therefore they are bound by all Canadian and provincial laws unless they contradict the Treaty."<sup>95</sup> The Prosecutor elaborated on his argument:

The reality of today is there are many, many laws that are in operation on the Reserve. ... Unless they're specifically exempted, they are subject to all federal laws and by virtue of Section 88 provincial laws, so where is this ... where is this ... where is this promise in the ... in the Treaty negotiations that they are free from any interference?<sup>96</sup>

Mr. Dahlem also challenged the Band's right to an Aboriginal right to self-government. But Justice Rathgeber pointed out to him that when the Indians talk about self-government they are referring to their position that the treaty was a nation-to-nation agreement. From the point of view of the Indians, only self-governing nations can make treaties with other nations. Although treaty and Aboriginal rights are recognized in the Constitution the government has yet to recognize the right to self-government and by extension "sovereignty has not been accepted by the courts." He contended that the sovereignty that the Indians enjoyed during pre-Treaty times was terminated when the treaty was signed.<sup>97</sup> As well, the prosecution argued that the treaty is silent on the issue of self-government.<sup>98</sup> The Prosecutor further argued that if self-government is an issue,

You're ... looking at the establishment of an inherent right to self-government which no Canadian court has ever accepted. The Supreme Court repeatedly talks about that and says it may exist, but it doesn't appear that it is something that you can get from the courts because it is not ... it is a concept that has to be given to them by the federal government and I think they're currently trying to do that except it doesn't appear to be even close to working, but the sovereignty has not been accepted at all...<sup>99</sup>

Mr. Milen, defense counsel, prefaced his remarks by outlining six principles upon which he would present his defense. The defense took the position that Indian tribes were independent and self-governing nations that exercised sovereignty over their territories prior to the treaty. This sovereignty was never surrendered and the chiefs took it to the treaty negotiations.<sup>100</sup> First, he asserted "that Treaty 4 recognized and affirmed a nation-to-nation relationship between the First Nations who signed it and the Queen and Canada."<sup>101</sup> First Nations believe that it takes two nations to make a treaty. Secondly, he put forward the fact that Treaty 4 represented a "fundamental and enduring relationship between the First Nations who signed it and The Queen and Canada." Third, he posited that the relationship between the First Nations and The Queen and Canada is one of co-existence, mutual benefit and full respect. Indians that signed the treaty were of the understanding that they were sharing the land with the newcomers. Fourth, the treaty recognized "the sovereignty of the First Nations and the right of First Nations to govern themselves." The chiefs who signed the treaty were of the opinion that they were sovereign nations. Fifth, he referenced that the treaty included an understanding of non-interference by The Queen and Canada with the First Nations living on reserved lands. The Indians believed that they would live side by side with their white brothers in peaceful coexistence without interfering in each other's affairs. Lastly, he argued that the

treaty is a right within the meaning of Section 35(1) of the *Constitution* which recognized and affirmed the existing and Aboriginal treaty rights.

Justice R.A. Rathgeber launched his decision by citing the 15 charges that were being laid against the Ochapowace Band and its Chief for failing to file Goods and Services tax returns as required by the *Excise Tax Act*. He then alluded to the section of the GST legislation, Section 286(2) or Section 291(2), that the defendants were alleged to have contravened. He next summarized the sections of the GST legislation on which the Crown based its charges. Section 282 states that a person must file a return when a demand is executed by the Minister, and Section 326 specifies that if a person fails to file a return or fails to comply with the order of the Minister, he/she is guilty of an offence subject to a fine of between \$1,000 and \$25,000, or both a fine and imprisonment for a term not exceeding twelve months.<sup>102</sup>

The Justice responded to several arguments from the defense including the allegation that the Government of Canada breached its fiduciary duty by “forcing an amalgamation of two bands without consultation.” He ruled that the breach in the amalgamation was unrelated to the problem of failing to file returns. Consequently, he dismissed the argument.<sup>103</sup> The Justice also dismissed the claim that the Band was not a person so it “cannot be charged with an offence.” He disagreed because “the Band has taken on many attributes of a corporation or co-operative” which falls under the domain of the *Excise Tax Act*.<sup>104</sup>

The argument that the Band was not an agent for the Crown was also rejected because he considered that the Band was operating a business and thus was required to collect and remit in accordance with the *Excise Act*. It was ruled that since the

Ochapowace Band was running a business, it was required to comply with the regulations of said *Act*.<sup>105</sup> Furthermore, the court ruled that the Band cannot be excluded from the application of the GST legislation because it was a law of general application consistent with Section 85 of the *Indian Act* and applied to Indians equally to other citizens of Canada.<sup>106</sup>

The court ruled that the Band cannot be excluded from the application of the GST because it was a law of general application consistent with Section 85 of the *Indian Act*. It was decided that “in order to be non-applicable to Indians, the act must affect an Aboriginal or a treaty right. Although the act imposes a duty on vendors to collect and remit tax and file returns, it applies to all vendors.” It was argued that since the Ochapowace Band was running a business, it was required to comply with the regulations of the GST legislations.<sup>107</sup> In response to the Band’s claim that the *Indian Act* does not require the band to collect taxes for the government (i.e. the Band is not an agent for the Crown), the presiding justice cited a Supreme Court decision that stated “... except to the extent that immunity from general legislation ... is to be found in the *Indian Act*, the terms of such general application apply to Indians equally with other citizens of Canada (*Francis v. The Queen* 1956 SCR 618 @ 631).<sup>108</sup>

The magistrate, Justice Rathgeber, absolutely dismissed the demand by the defense for a ruling on whether the Band is an agent for the Crown. The Band’s counsel had written a letter indicating that they may comply if it received a ruling from the government to indicate whether the Band was an agent of the government. It was ruled that “a person on whom a demand is made cannot impose conditions on his response.”<sup>109</sup>

Based on his knowledge of *Delgamuukw* and other decisions, the judge conceded that “oral histories are admissible as evidence where they are both useful and reasonably reliable.”<sup>110</sup> However, he was not convinced that the Elder witnesses satisfied both conditions. Consequently, he opined: “Oral history limitations include the problem that if the original message is not correct, the accuracy of the memory does not matter.”<sup>111</sup> With the exception of one, “most of the other elders, were not able to date events of history.”<sup>112</sup>

The Justice also rejected the argument for First Nations sovereignty. He put forth the example that having laws to regulate buffalo hunts did not imply sovereignty.<sup>113</sup> In support of his point of view the judge wrote, “After consideration of the evidence ... both written and oral in its historical context, and the legal precedents, I must conclude that by 1874 the Crown had established sovereignty over the Treaty 4 area both in law and fact. Indian nations or individuals were not sovereign at that time, but were subjects of the Queen.”<sup>114</sup>

Justice Rathgeber was also satisfied that there was nothing in the text of the treaty that indicated that the Indians had a right to self-government. “Bands govern by delegated authority,” he wrote.<sup>115</sup> This was in reference to the fact that the band’s governing authority that existed before the treaty was now superseded by the *Indian Act*.

In regard to the claim of tax exemption, the judge could not find any reference to it in the text of Treaty Four. In fact, he pointed out that the only mention of it was in Section 87 of the *Indian Act*.

Justice Rathgeber noted that “If a band imposes a tax on its own such as the Ochapowace Sales Tax (OST) which displaces the GST, the result is a transfer of tax revenue from the Canadian or Provincial Governments to the Indian Band.” For this reason both the GST and OST cannot likely exist side by side.<sup>116</sup> As well, he noted that “there is nothing in the evidence of the elders to conclude that this law (the GST legislation), which requires vendors to collect and remit tax from customers” could affect any cultural or Aboriginal or treaty right. “Furthermore,” he wrote, “neither the courts nor the government have as yet recognized Indian governments as a third level of government such that it would be exempt ... from having to collect and remit for another government.”<sup>117</sup>

After consideration of the defense arguments the Justice brought down the decision of the court on September 12, 2002. The chief, M/A – 3 was found guilty of counts 9 to 15 inclusive. Counts 1 to 8 were stayed because “[t]he Crown has indicated that in the event of a conviction of the Band, that a conviction of the companies is not being requested. Judge Rathgeber noted that “but for the position of the Crown, a conviction would have been recorded.”<sup>118</sup>

The decision rendered by the Court of Queen’s Bench serves to illustrate just how far the Ochapowace Band is from reaching its objective in becoming a self-governing nation. Nonetheless, the Chief and Council of the Ochapowace Reserve have decided that some action must be taken to relieve the deplorable conditions of poverty. They feel that it is time to break away from the colonial control and free themselves from the dependency on the federal government handouts.

This chapter demonstrates that the Ochapowace Band is not prepared to remain passive while the Government of Canada continues to exert its colonial agenda. The Band is determined to resist the colonial tactics by employing the same judicial system (the courts) that the government has used to its advantage. The government's recent dealings over land claim issues with the Ochapowace Band have opened the door to challenge those dealings. For example, the amalgamation of the two bands was clearly a violation of the treaty because both Chief Kâkisiwê and Chief Cêkacâs were allocated a reserve in 1874. Alexander Morris's record shows that both chiefs had signed the treaty.

This chapter also illustrates a classic example of the 'divide and conquer' method of negotiation that the government used during the dam dispute. As well, the removal of the PST exemption and the amalgamation of the two reserves demonstrates the lack of consultation by both the provincial and federal governments. 'Control' is the government's 'modus operandi' that the residents of Ochapowace Reserve have endured and continue to endure today.

Much still needs to be done in order to overcome the state of dependence and poverty that continue to exist on the reserve. Although the Government of Canada succeeded in putting a halt to the effort to become self-sufficient, the current chief, has no doubt gained from this experience and is determined to resume his efforts to assert his beliefs pertaining to self-government. With his determination and experience, the chief will lead his band in the pursuit of new or revised self-governing projects. He would like nothing better than to succeed in leading his people toward his goal of achieving first, self-determination and self-government, and then, independence from the neocolonial regime that is so pervasive in the lives of the people.



## CHAPTER 5: SUMMARY AND CONCLUSIONS

This final section will summarize how colonialism has affected the people living on the Ochapowace Reserve. The research also offered an opportunity to demonstrate how the Ochapowace Band has resisted colonialism. The research had a triple purpose. First, it examined how colonial practices have impacted the lives of the descendants of Chief Kâkisiwê and Chief Cêkacâs. From the time they finally settled on their reserves in 1881, they had to submit to government control and have endured the oppression under the *Indian Act* regulations and policies. Secondly, the study sought to fill the void, at least partly, in the literature pertaining to the Ochapowace Reserve. Aside from the general references to the Plains Cree, the literature is limited in its scope relevant to the Ochapowace Reserve. Thirdly, this account was written to make that part of the history of the reserve since 1874 more public, and thus more accessible, in the hope that it will generate meaningful dialogue to create a greater and better understanding between Euro-Canadians and the residents of the reserve.

The residents on the reserve have lived under the involuntary tutelage of a colonial government for more than 130 years. This has had appalling consequences for the people. From the beginning of reserve life, it was clear that the government was intent on keeping the Indians in its control. The government wasted little time in asserting its power over Kâkisiwê and his band. Within two years of signing Treaty Four, the administration of Indians as colonized people was implemented with the passage of the first *Indian Act* in 1876. As Brian Titley stated, the *Act* “created the legislative framework for an Indian policy that was applied more or less uniformly across the country. It granted considerable powers to the superintendent general and his representatives and ensured

that Indians were increasingly subjected to bureaucratic regulation.”<sup>1</sup> Although it was revised several times, the last revision in 1951, its intent remained the same – to assimilate and control the Indians. Interestingly, the revisions were meant to enhance government control rather than to benefit the Indians.

To enforce the *Indian Act* regulations, the government created a special department to manage the affairs of the Indians – the Department of Indian Affairs – in 1880.<sup>2</sup> (No other group of Canadians has separate regulations to direct their affairs!) The *Act* was designed to assimilate the Indians into Canadian mainstream society. Noel Dyck elaborated, “the subsequent passage of the federal *Indian Act* in 1876 consolidated the policy of assimilation and extended the administrative powers available to federal officials for its enforcement.”<sup>3</sup>

Eight generations of Chief Kâkisiwê’s descendants have called the Ochapowace Reserve home. The first and second generations were the first to endure the colonial practices of the government. They were the ones who had to experience the permit system and the pass system during the 1880s. They were the first to send their children to the residential school at Round Lake.

The third generation of Ochapowace Indians had to go without a chief from 1891 to 1911 when the traditional chief, ‘Ochapowace’ was deposed in 1891. During this period, band affairs were entrenched under the control and management of the Farm Instructor and the Indian Agent. It was also during this time period when the people tried to resist the pressure to surrender some of their reserve land to the Soldier Settlement Board. In 1919 the Indians surrendered some of the southern portion of their reserve.

The fourth generation of Ochapowace Indians declined economically as only a few members persisted in their efforts to farm. Because they did not attain self-sufficiency, reserve Indians continued to rely heavily on the ration dole which had also continued from the 1880s. More and more people were living in dependency and poverty.

The fifth generation of Ochapowace Indians was traumatized by the events that were taking place around them. It was a period of rapid economic growth for the province which began during the 1950s. While people in the European community were enjoying better times economically, reserve Indians remained far removed from any of this new found prosperity. The detribalization policy during the residential school period ensured that the Indians would not be ready to enter the highly industrialized work force to participate in the economy on equal terms with other Euro-Canadians. It was a stark period for Ochapowace Indians as they began to give up hope to attain a better life for themselves. They were resigned to living the standard of life that the welfare system provided for them.

The sixth, seventh, and eighth generations who range in age from forty-five years or younger are in a state of uncertainty and confusion. Many have turned to drugs and alcohol, and some have taken their own lives in frustration.

The effects of colonial practices were felt early on the Ochapowace Reserve. The colonizers embarked on their policy of assimilation rather than allow the Indians to keep important aspects of language, culture, and spirituality. The assimilation of Indians became a key element in Canada's Indian policy. Schools under the direction the major religious denominations became the vehicles for accomplishing this goal. In the early 1880s Hugh McKay established a school, which later became known as the Round Lake

Indian Residential School on the Ochapowace Reserve along the northeast shore of Round Lake. Many residents from the reserve attended this institution as well as others from neighboring reserves.

Three studies were undertaken by the government that revealed the colonized conditions of the people of the Ochapowace Reserve. These were the Hawthorne Report (1966), the Penner Report (1982), and the *Royal Commission on Aboriginal Peoples* (RCAP, 1996). Though the studies dealt with issues on the national level, all of them made recommendations that would have benefited the Ochapowace people. Recognition of the 'Citizens Plus' status conceivably could have placed Indians on the same footing as their European counterparts at an earlier time, especially if they were provided the training and resources needed to function in the mainstream society. Recognizing the inherent right to a unique form of self-government would have given the Indians a chance to manage their own affairs and would have given them an opportunity to develop their economic independence. The most promising study was RCAP. It would have given the Ochapowace inhabitants recognition as equal partners to share economic opportunities with other European Canadians while independent in controlling their own affairs. Instead, the government ignored the proposals. The Hawthorne Report and the Penner Report died without fanfare; the verdict on the full recognition of the recommendations of RCAP is still out.

Although the government created an impression that they were addressing "Indian problems," its responses to the reports reflected its attitude that the government knew what is best for the Indians. The recommendations offered were categorically ignored and the Indian conditions were left unchanged. The studies may have benefited the people of the

Ochapowace Reserve if the government had exercised a better understanding of the needs of the people.

As well, there were two pseudo attempts to create the impression that the government was going to do something to address the so-called Indian problem. These were *The Statement of the Government of Canada on Indian Policy* (the *White Paper*, 1969) and *The First Nations Governance Act* (FNGA, 2001). Because the Indians were left out of the discussions in the formulation of the documents they soundly rejected both proposals.

The Ochapowace Indians were left out, too, on a number of issues that had a direct impact on them. In 1917 the federal government enacted the “*Migratory Birds Convention Act*” which prevented them from hunting migratory birds out of season. This was contrary to the treaty which they understood allowed them to continue hunting at any time for food. The “Natural Resources Transfer Agreement” was enacted by the Canadian government in 1930 without any discussion with treaty Indians. The accord, in effect, deprived the Ochapowace Indians of any benefit accruing from the development of the natural resource revenues which only the provincial government enjoys.

Then in 1985 the federal government implemented *Bill C-31* without much discussion with the Ochapowace government. This forced the band to reinstate members who had lost their status placing pressure on the already limited resources and housing.

In 1999 the band lost the tax exemption that the band members enjoyed when the Saskatchewan government unilaterally removed the Provincial Sales Tax (PST) on off-reserve purchases. This was contrary to the understanding of the provincial chiefs that the provision for tax exemption from Treaty Eight applied to all treaty status Indians in the

province. The Ochapowace Band was subsequently denied their right to implement their own Ochapowace Sale Tax (OST) on goods and services charged to non-band members, and to act as a self-governing nation. This was intended to generate own-source revenue to replace the federal Goods and Services Tax (GST). Because the band had registered to collect GST on the fees charged for goods and services on the reserve and because they subsequently replaced the GST with its own OST the band stopped remitting the GST to the government coffers. In consequence the Band, represented by the chief, was charged under the *Excise Act*. The judge, basing his decision on the *Indian Act*, found the chief guilty of the charge.

More recently the federal government dismissed the recommendations from the “Kelowna Accord.” This was an agreement that was negotiated between the government of Canada and leaders of Canada’s Aboriginal peoples in late December 2004. The exercise produced an ambitious and promising plan to close the gap between the Aboriginal and non-Aboriginal populations in Canada. All Aboriginal peoples including those on the Ochapowace Reserve held hope that their needs were to be finally addressed. But in typical colonial fashion and to the disappointment of the Aboriginal population, Stephen Harper who won the federal election in early 2005, rejected the Accord.

Several studies, including the Hawthorne Report and the Royal Commission on Aboriginal Peoples and statistics accumulated over the years, demonstrate the poor life conditions that the people of Ochapowace and other reserves across Canada are experiencing. Despite these findings, the actions of the government clearly show that, even after all these years, it still does not get it. Instead, the federal regime continues to proceed with its colonial program of control.

An issue that continues to simmer on the Ochapowace is the unresolved question of the Cêkacâs Reserve. The problem arose when the Cêkacâs Band was amalgamated with the Kâkisiwê Band. Due to hunger, the chief and band members vacated their reserve and moved onto the Kâkisiwê Reserve. Seizing the opportunity to join the two bands, the government ordered John Nelson, D.L.S. to survey a single reserve for both bands. This allowed the government to open up the Cêkacâs Reserve for settlement. By taking this action, the government was in violation of the terms of Treaty Four which had allocated a reserve to each chief that signed the treaty. Moreover, neither chief was consulted about the amalgamation. This is a clear example of the power that the government exercised over the Ochapowace Indians. Although the Cêkacâs Band portion of the Ochapowace membership wants to reclaim their original reserve, the federal government, to date, has rejected their claim.

The Indians on the Ochapowace Reserve remain mired in the grips of colonialism. Oral history and written sources, both, confirmed that the people on the Ochapowace Reserve, like other First Nations communities, have been dominated by the policies of a colonial government which failed to provide the needed support for the people to thrive and prosper along with their Euro Canadian counterparts. Without consulting the Indians as to their needs, the government implemented policies, programs and social services which did little to solve or alleviate their problems that originated from the time of the treaty. It seemed like the government and its Department of Indian Affairs knew what was best for the Indians. The Department and its army of bureaucrats continue to make decisions that greatly limit the Ochapowace Indians' ability to be masters of their own

destiny. Is self-determination and self government the answer for Indian people to free themselves from the colonial bondage that plagues them? The chief believes that accomplishing this goal is definitely the answer for the predicament in which the band finds itself. He continues to work toward this end so that the band can be a self-sufficient nation.

The oral history that remains on the Ochapowace Reserve supports the evidence found in Euro-Canadian written sources. A new interpretation revealed from the oral history was the concept of what constituted a treaty area. Alexander Morris put his interpretation on the record when he wrote his book on the treaties. He differentiated each of the seven geographic areas where he completed a treaty by assigning a number to each. In contrast, the Indian people consider all the numbered treaties as a single entity – a single treaty area. The treaty chiefs also believe that the treaty terms were universal across all the treaty areas.<sup>4</sup>

An apparent contradiction between the oral accounts and the written accounts is related to the extent of the land surrender. The written sources, including Alexander Morris's account, suggest that it was a total surrender. The text of his account states that the signatories "do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada for Her Majesty the Queen and her successor forever, all their rights, titles and privileges whatsoever to the lands included within the following limits..."<sup>5</sup> The oral history of 24 out of 31 elders clearly states that only the topsoil to the depth of a plowshare needed for agriculture was given up.<sup>6</sup> This testimony indicates that nothing below this depth was surrendered. Significantly, an elder from Keeseekoose



Reserve mentioned that minerals were not given up. Other elders also indicated that the timber and water were not surrendered during the treaty discussions.<sup>7</sup>

Indian people have had to endure and continue to experience the controls exercised by a centralized colonial regime to the present time. Although this study has revealed that the Ochapowace people were and are a colonized people, it also disclosed that they have, in the past and continue to the present time, resisted the government and its colonial policies. The court cases that have taken place to date, demonstrate that the band is prepared to do whatever it takes to assert their inherent rights. The government's recent dealings over land claim issues with the Ochapowace Band have opened the door to challenge those dealings. For example, the amalgamation of the two bands was clearly a broken promise because each chief was allocated a reserve in 1874. Furthermore, Morris clearly recorded that both Kâkisiwê and Cêkacâs had signed the treaty.

Moreover, the evidence provided by the Crown's witnesses during the Examination for Discovery hearings in 2003 is open to dispute. The responses they gave to some of the questions were less than conclusive. For instance, Mr. Kohls, in not remembering how the issue around timber and mineral rights was resolved, leaves the door open for challenge. Also, the government is open to be challenged in its decision to amalgamate the two bands.

It is time that Indians be given the opportunity and resources to govern themselves so that they may determine the direction for their development for themselves. Only in this way can the Indianness be put back into the Indian. Only in this way can the Indians be given the opportunity to determine their own fate. Effective change affecting Indian people cannot be accomplished without their participation in the

decisions affecting their lives. This means that Indian organizations and governments must clearly articulate what they want to accomplish in order to remove poverty and dependence that plague them, and Euro-Canadian governments must be willing to relinquish or, at least relax, the controls which they have exercised over the Indians (and which they have religiously guarded in the past) and allow them the opportunity to do what is needed to free themselves of their predicament. Much still needs to be done. However, the Ochapowace Band is determined to continue its quest to break away from the shackles of colonial control. What remains to be seen is whether or not the colonial government will be prepared to relinquish its control and allow the people to exercise their inherent right to govern themselves and to determine their destiny in their own time. This reality is long over due.

## ENDNOTES

### INTRODUCTION

1. Arok Wolvengrey. *Nêhiyawêwin Itwêwina. (Cree Words)*. (Regina: Canadian Plains Research Center, University of Regina, 2001.): 54.
2. An alpha-numerical system is used in this thesis to refer to the informants that provided pertinent information. M/A designates male adults, F/A designates female adults, M/S designates male students, and F/S designates female students. Each gender of adults and students are further identified numerically.
3. This information was passed on by Alex George to his sons.
4. Sarah Carter. *Aboriginal People and Colonizers of Western Canada to 1900*. (Toronto: University of Toronto Press, 1999.): 5.
5. Eric Cheyfitz. "The Post (Colonial Predicament of Native American Studies. In *Interventions* Vol. 4(3), 1 November 2002: 405-427.
6. Howard Adams. *Prison of Grass: Canada from a Native Point of View*. (Saskatoon: Fifth House Publishers, 1989.): 6.
7. Helen Buckley. *From Wooden Ploughs to Welfare: Why Indian Policy Failed in the Prairie Provinces*. (Montreal: McGill-Queen's University Press, 1992.): 23.
8. Murray L. Wax. "Poverty and Interdependence" Cited in Eleanor Burke Leacock, (ed). *The Culture of Poverty: A Critique*. (New York: Simon and Schuster Inc., 1981.): 338.
9. Ibid.: 339.
10. Vic Satzewich and Terry Wotherspoon. *First Nations: Race, Class and Gender Relations*. (Scarborough: Nelson Canada, 1993.): 249.
11. James S. Frideres. *Native People in Canada: Contemporary Conflicts, Fifth edition*. (Scarborough: Prentice-Hall., 1998.): 3.
12. Helen Buckley. *From Wooden Ploughs to Welfare: Why Indian Policy Failed in the Prairie Provinces*. (Montreal: McGill-Queen's University Press, 1992.): 78.
13. Sarah Carter. *Aboriginal People and Colonizers of Western Canada to 1900*. (Toronto: University of Toronto Press, 1999.): 102-103.
14. James S. Frideres. *Aboriginal Peoples in Canada: Contemporary Conflicts, Fifth edition* (Scarborough: Prentice hall, Allyn and Bacon, 1998.): 2.

15. Paul Havemann, editor. *Indigenous Peoples' Rights in Australia, Canada, and New Zealand*. (Oxford: Oxford University Press. 1999.): 1.
16. James S. Frideres and René R. Gadacz. *Aboriginal Peoples in Canada: Contemporary Conflicts, Sixth edition* (Toronto: Prentice Hall, 2001.): 3.
17. Eric Cheyfitz. "The Post(Colonial) Predicament of Native American Studies." *Interventions*, Volume 4(3): 406.
18. Jacki Thompson Rand. *Kiowa Humanity and the Invasion of the State*. (Lincoln: University of Nebraska Press, 2008.): 4.
19. M/A – 5 wrote a letter to the FSIN Chief to see if a meeting could be convened to consolidate information about the treaties.
20. Judge David M. Arnot. *Statement of Treaty Issues: Treaties as a Bridge to the Future*. (Saskatoon: Office of the Treaty Commissioner, 1998.): 60.

#### CHAPTER 1 – TREATY FOUR AND THE CREATION OF THE OCHAPOWACE RESERVE

1. Lockhart & Associates Consulting. "Quotation and/or Summary Document," Date unknown: 3.
2. Alexander Morris. *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*. Coles facsimile edition. (Toronto: Coles Publishing Company, 1979.): 331. Also cited in Tyler & Wright Consultants for the Federation of Saskatchewan Indians. "Report on the Treaty Land Entitlement of the Ochapowace Band, 1978": 3.
3. RG 10, Vol. 3642. File 5007.
4. Ibid.
5. Ibid.
6. Annual Report for the Year ending 30<sup>th</sup> June, 1875: pp. 25-26.
7. RG 10, Vol. 3642, File 7581, pp. 37-39.
8. Annual Report for the Year Ending 31<sup>st</sup> December, 1882: 224.
9. Sessional Papers. 1884, No. 4: 69-70.

10. RG 10, Vol. 3582, File 889.
11. Noel Dyck. *What is the Indian 'Problem': Tutelage and Resistance in Canadian Indian Administration*. (St. John's: The Institute of Social and Economic Research, 1991.): 25.
12. Sarah Carter. *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy*. (Montreal: McGill-Queen's University Press, 1992.): 247.
13. Ibid.: 252. Under pressure from William Graham the Ochapowace Band surrendered 18,240 acres of their reserve in 1919.
14. Indian Claims Commission "Report on the Mediation of the Kahkewistahaw First Nation 1907 Surrender Claim"2003: 7.
15. Richard Berg. "Part I, History of Surrender Attempts at Crooked Lake Agency, 1889-1907."1986: 9.
16. Ibid.: 10.
17. Ibid.: 11.
18. Ibid.: 25.
19. Ibid.: 26.
20. Ibid.: 26-27.
21. Ibid.: 47-48.
22. Ibid.: 48.
23. Ibid.: 49.
24. Ibid.: 51-52.
25. Ibid.: 53.
26. Ibid.: 56.
27. Ibid.: 57.
28. Ibid.: 59.
29. Ibid.: 61.

30. Ibid.: 68.
31. Ibid.: 70.
32. Ibid.: 64-65.
33. Ibid.: 65-66.
34. Ibid.: 71.
35. Ibid.
36. Ibid.: 73.
37. Vic Satzewich and Terry Wotherspoon. *First Nations: Race, Class and Gender Relations*. (Scarborough: Nelson Canada, 1993.): xi.
38. H.A. Hawthorne. *A Survey of the Contemporary Indians of Canada: Economic Political, Educational Needs and Policies*. (Ottawa: Indian Affairs Branch, 1966.)
39. H.A. Hawthorne. Cited in James S. Frideres and René Gadacz. *Aboriginal Peoples in Canada: Contemporary Conflicts, sixth edition*. (Toronto: Prentice Hall, 2001.): 355.
40. Alan C. Cairns. *Citizens Plus: Aboriginal Peoples and the Canadian State*. (Vancouver: University of British Columbia Press, 2000.): 161-162.
41. Ibid.: 161-162. Cairns stated that the Hawthorne Report asserted that the concept of "Citizens Plus" encompassed the claim that Indians should be regarded as having the "normal rights and duties of citizenship." In addition "Indians should possess certain individual rights as charter members of the Canadian community." Hawthorne had "both anticipated and advocated a future in which there would be a continuing distinctive Indian presence in Canada." Because of this reality he "asserted that assimilation was neither an unquestioned goal nor an appropriate policy. Indians should be given the educational and other tools they need to make meaningful choices of how they wished to live."
42. Augie Fleras and J.L. Elliott. *The Nations Within: Aboriginal-State Relations in Canada, the United States, and New Zealand*. (Toronto: Oxford University Press, 1992.): 21.
43. Pierre Trudeau's liberalism was grounded in a notion of democracy where all rights should be uniform and precise, and not unequal.

44. Augie Fleras and J.L. Elliott. *The Nations Within: Aboriginal-State Relations in Canada, the United States, and New Zealand*. (Toronto: Oxford University Press, 1992.): 43.
45. Sally M. Weaver. *Making Canadian Indian Policy: The Hidden Agenda, 1968-1970*. (Toronto: University of Toronto Press, 1981.): 3.
46. Augie Fleras and J.L. Elliott. *The Nations Within: Aboriginal-State Relations in Canada, the United States, and New Zealand*. (Toronto: Oxford University Press, 1992.): 44.
47. Ibid.
48. "Minutes of Proceedings of the Special Committee on Self-Government," House of Commons, Issue No. 40, 12 October. 1983. Keith Penner was the chairperson of the Committee that produced the report.
49. J.R. Miller. *Lethal Legacy: Current Native Controversies in Canada*. (Toronto: McClelland & Stewart, 2004.): 82.
50. Alan D. McMillan. *Native Peoples and Cultures in Canada: An Anthropological Overview, 2<sup>nd</sup> edition*. (Toronto: Douglas & McIntyre, 1995.): 332.
51. Ibid.
52. Ibid.
53. John H. Hylton. *Aboriginal Self-Government in Canada: Trends and Issues, 2<sup>nd</sup> edition*. (Saskatoon: Purich Publishing Company, 1999.): 3.
54. Alan D. McMillan. *Native Peoples and Cultures in Canada: An Anthropological Overview, 2<sup>nd</sup> edition*. (Toronto; Douglas & McIntyre, 1995.): 333.
55. John H. Hylton. *Aboriginal Self-Government: Current Trends and Issues, 2<sup>nd</sup> edition*. (Saskatoon: Purich Publishing Ltd., 1999.): 21.
56. Ibid.: 24.
57. James S. Frideres and René Gadacz. *Aboriginal Peoples in Canada, 6<sup>th</sup> edition*. (Toronto: Prentice Hall, 2001.): 165.
58. J.R. Miller. *Lethal Legacy: Current Native Controversies in Canada*. (Toronto: McClelland & Stewart, 2004.): 276-283.
59. Marlene Brant Castellano. "Renewing the Relationship: A Perspective on the Impact of the Royal Commission on Aboriginal Peoples." Cited in John H.

Hylton. *Aboriginal Self-Government: Current Trends and Issues*, 2<sup>nd</sup> edition. (Saskatoon: Purich Publishing Ltd., 1999.): 93.

60. Ibid.: 98.
61. Interview with M/A – 3 in his office on October 15, 2005, commenting on the proposed *First Nations Governance Act*.
62. <http://kairoscanada.org/e/aboriginal/fnga-analysis.asp>; date consulted, November 2006.
63. Bradford Morse. “Inherent Right of Aboriginal Governance.” Cited in John H. Hylton. *Aboriginal Self-Government: Current Trends and Issues*, 2<sup>nd</sup> edition. (Saskatoon: Purich Publishing Ltd., 1999.): 23.
64. J.R. Miller. *Lethal Legacy: Current Native Controversies in Canada*. (Toronto: McClelland & Stewart, 2004.): 53.

## **CHAPTER 2: LIFE ON THE OCHAPOWACE RESERVE**

1. [http://www.abheritage.ca/pasttopresent/opportunity/opening\\_west.html](http://www.abheritage.ca/pasttopresent/opportunity/opening_west.html); date consulted, December 2008.
2. Robert Alexander Innes. “The Importance of Family Ties To Members of the Cowessess First Nation.” Doctoral Dissertation, Graduate College, University of Arizona, 2007: 87.
3. Helen Buckley. *From Wooden Ploughs to Welfare: Why Indian Policy Failed in the Prairie Provinces*. (Montreal: McGill-Queen's University Press, 1992.): 3.
4. Ibid.: 51.
5. James S. Frideres and René R. Gadacz. *Aboriginal Peoples in Canada: Contemporary Conflicts*. (Toronto: Prentice-Hall, 2001.): 355.
6. Yngve Georg Lithmann. *A Community apart: A Case Study of a Canadian Indian Reserve Community*. (Winnipeg: University of Manitoba Press. 1984.): 42.
7. E. Brian Titley. *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*. (Vancouver: University of British Columbia Press, 1986.): 3.
8. Ibid.



9. Ibid.: 8.
10. David T. McNab. "Herman Merivale and Colonial Office Indian Policy in the Mid-Nineteenth Century." Cited in Ian A.L. Getty and Antoine S. Lussier (eds.) *As Long as the Sun Shines and Water Flows*. (Vancouver: The University of British Columbia Press, 1983.): 85.
11. Yngve Georg Lithmann. *A Community Apart: A Case Study of a Canadian Indian Reserve Community*. (Winnipeg: University of Manitoba Press. 1984.): 42.
12. Ibid.: 43.
13. Ibid.
14. Alexander Morris. *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*. Facsimile Edition. (Toronto: Coles Publishing Company, 1979.): 293.
15. Ibid.
16. E. Brian Titley. *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*. (Vancouver: University of British Columbia Press, 1986.): 13.
17. Gerald Walsh. *Indians in Transition: An Inquiry Approach*. (Toronto: McClelland and Stewart Lt., 1971.): 134.
18. Joanne Hoople and J.W.E. Newberry. *And What About Canada's Native Peoples?* (Ottawa: Canadian Council for International Cooperation, 1974.): 7.
19. Sarah Carter. *Aboriginal People and Colonizers of Western Canada to 1900*. (Toronto: University of Toronto Press, 1999.): 117.
20. E. Brian Titley. *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*. (Vancouver: University of British Columbia Press, 1986.): 13-14.
21. Blair Stonechild and Bill Waiser. *Loyal Till Death: Indians and the North-West Rebellion*. (Calgary: Fifth House Limited, 1997.): 36.
22. Ken Coates. "The 'Gentle' Occupation: The Settlement of Canada and the Dispossession of the First Nations." Cited in Paul Havemann (editor). *Indigenous Peoples' Rights in Canada and New Zealand*. (Oxford: Oxford University Press, 1999.): 141-142.

23. E. Brian Titley. *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*. (Vancouver: University of British Columbia Press, 1986.): 75.
24. Alexander Morris. *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*, Facsimile Edition. (Toronto: Coles Publishing Company, 1979.): 296.
25. Ibid.
26. E. Brian Titley. *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*. (Vancouver: University of British Columbia Press, 1986.): 15.
27. David G. Mandelbaum. *The Plains Cree: An Ethnographic, Historical and Comparative Study*. (Regina: Canadian Plains Research Center, 1979.): 184.
28. In a narrative video-taped at the home of M/A – 1 on July 31, 1994.
29. In this research a generation is considered to be between 25 and 30 years.
30. John L. Tobias. "Indian Reserves in Western Canada: Indian Homelands or Devices for Assimilation." Cited in Bruce A. Cox (ed.). *Native Peoples, Native Lands: Canadian Indians, Inuit and Métis*. (Ottawa: Carlton University Press, 1991.): 151-153.
31. John L. Tobias. "Government of Canada and the Ochapowace Band, 1870-1933: An Interim Report." 15-17.
32. Jeremy Hull. *Natives in a Class Society*. (Saskatoon: One Sky, 1983.): 12. and J. Rick Ponting and Roger Gibbins. *Out of Irrelevance; a Socio-political Introduction to Indian Affairs in Canada*. (Toronto: Butterworth and Co. Ltd., 1980.): 12.
33. Isabel A. Andrews. "The Crooked lakes Reserves: A Study of Indian Policy in Practice From the Qu'Appelle to 1980." Masters Thesis (Regina: University of Regina, 1972.): 201.
34. Ibid.: 219.
35. The traditional chief, Walter Ochapowace, had been deposed in 1917.
36. E.P. Patterson. *The Canadian Indian: A History Since 1500*. (Don Mills: Collier-McMillan, 1972.): 3.

37. James S. Frideres. *Native Peoples in Canada: Contemporary Conflicts*, 2<sup>nd</sup> edition. (Scarborough: Prentice-Hall Canada Inc., 1983.): 30.
38. Jeremy Hull. *Natives in a Class Society*. (Saskatoon: One Sky, 1983.): 12.
39. John S. Milloy. *A National Crime: The Canadian Government and the Residential School System, 1879 to 1986*. (Winnipeg: The University of Manitoba Press, 1999.): 9.
40. Regina Leader-Post. October 11, 2005. B8.
41. <http://www.wSDL.org/nijmahkwa/ojibweprophecy.html>; date consulted, October 2006.

### CHAPTER 3 – VOICES OF THE PEOPLE

1. A generation in this thesis is arbitrarily defined as a span of 25 to 30 years. By this convention M/A –1 was born sometime between 1910 and 1920.
2. In a narrative video-taped at the home of M/A – 1 on July 31, 1994.
3. Ibid.
4. Ibid.
5. Alexander Morris. *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*. Facsimile edition. (Toronto: Coles Publishing Company, 1979.): 121.
6. Arthur Ray. *Indians in the Fur Trade: Their Role as Hunters, Trappers and Middlemen in the Lands Southwest of Hudson Bay, 1660-1870*. (Toronto: University of Toronto Press, 1974.): 39.
7. In a video-taped narrative by M/A – 1 at his home, July 31, 1994.
8. Note: According to M/A – 1, Cêkacâs and his band had been aware that Kâkisiwê was issued rations to share.
9. Ibid.
10. Ibid. This information was also passed on to the writer by his father.
11. In a video-taped narrative by M/A – 1 at his home, July 31, 1994.
12. Annual Report for the Year Ended 31 December 1887, DIA: 195.

13. <http://www.mnisose.org/profiles/chippewa.html>; date consulted, January 2007. This site indicates that Chief Rocky Boy was not yet granted a reservation in 1887, but one was granted him, (now known as the Chippewa Cree Reservation), by an executive order of the President in 1916.
14. In a video-taped narrative by M/A – 1 at his home, July 31, 1994.
15. Ibid.
16. Ibid. "Mikwan "was the elder's nickname for M/A – 1.
17. Ibid.
18. Ibid.
19. In a second narrative video-taped at the home of M/A – 1.
20. Ibid.
21. Interview with M/A – 3 in his office on October 15, 2005.
22. Ibid.
23. Note: The medicine chest clause was included in Treaty Six in 1876.
24. Interview with M/A – 3 in his office on October 15, 2005.
25. Ibid.
26. Ibid.
27. Ibid.
28. Ibid.
29. Ibid.
30. Ibid.
31. Note. Assimilation was the strategy that the government pursued to get rid of the "Indian problem" which was discussed in parliament by D.C. Scott in 1920.
32. Interview with M/A – 3 in his office on October 15, 2005.
33. Ibid.

34. Ibid.
35. Blair Stonechild. *The New Buffalo: The Struggle for Aboriginal Post-Secondary Education in Canada*. (Winnipeg: University of Manitoba Press, 2006.): 140.
36. Interview with M/A – 3 in his office on October 15, 2005.
37. Ibid.
38. Ibid.
39. Ibid.
40. Note: Indian Affairs Minister Robert Nault had announced that a draft legislation on *Indian Act* amendments would be forthcoming in March 2001. Due to the fierce opposition and criticism from the Conservative Party and Aboriginal leaders across the country, Nault finally acknowledged that the proposed First Nations Governance Act was effectively dead.
41. Interview with M/A – 3 in his office on October 15, 2005.
42. Interview with M/A – 4 at his home on April 14, 2004.
43. Interview with M/A – 3 in his office on October 15, 2005.
44. Ibid.
45. Ibid.
46. Ibid.
47. Ibid.
48. Ibid.
49. Interview with M/A – 4 at his home on April 14, 2004.
50. Ibid.
51. Note: Students provided information on written questionnaires administered at Kâkisiwêw School on April 11, 2006. Pertinent responses were selected from a summary of all responses.
52. David Mandelbaum. I-HDM 113. Not dated, but the location is listed as Crooked Lake, Saskatchewan.

53. Affidavit of Daniel Ochapowace, 1991.: 5-9.

#### CHAPTER 4 – VISIONS OF THE PEOPLE

1. John H. Hylton. *Aboriginal Self-Government in Canada: Trends and Issues, 2<sup>nd</sup> edition*. (Saskatoon: Purich Publishing Company. 1999.): 94.
2. Jean Goodwill and Norma Sluman *John Tootoosis*. (Winnipeg: Pemmican Publications, 1984.): 29.
3. Ibid.
4. Brian Titley. *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs*. (Vancouver: University of British Columbia Press. 1986.): 202.
5. J.R. Miller. *Lethal Legacy: Current Native Controversies in Canada*. (Toronto: McClelland & Stewart Ltd., 2004.): 78.
6. Noel Dyck. *What is the Indian 'Problem': Tutelage and Resistance in Canadian Indian Administration*. (St. John's: The Institute of Social and Economic Research, 1991.): 93.
7. The first round of proceedings were conducted in Regina, Saskatchewan on July 30 and July 31, 2003.
8. "Record of Evidence: Examination for Discovery." Regina, Saskatchewan on July 30 and July 31, 2003.: 4.
9. Ibid: 8.
10. The Soldiers Settlement Act was passed on August 29, 1917.
11. "Record of Evidence: Examination for Discovery." Regina, Saskatchewan on July 30 and July 31, 2003.: 13.
12. Mr. Al Gross retired from INAC, but continued to work for the Department as a consultant.
13. "Record of Evidence: Examination for Discovery." Regina, Saskatchewan on July 30 and July 31, 2003.: 13.
14. Ibid.: 15.

- 15 Ibid.: 16.
- 16 Ibid.: 22-23.
- 17 Ibid.: 26-27.
- 18 Doug Kovatch is now a Provincial Judge.
- 19 "Record of Evidence: Examination for Discovery." Regina, Saskatchewan on July 30 and July 31, 2003.: 13.
- 20 Ibid.: 23.
- 21 Ibid.: 25.
- 22 Ibid.: 27.
- 23 Ibid.: 33.
- 24 Ibid.: 64.
- 25 Ibid.: 20.
- 26 Ibid.: 55.
- 27 Ibid.: 17-19.
- 28 Ibid.: 135.
- 29 Ibid.: 143-145.
- 30 Ibid.: 152.
- 31 Ibid.: 165.
- 32 Mr. J.P. Phin was a member of the provincial legislature while he held the lease.
- 33 Ibid.: 168-169.
- 34 Ibid.: 169-170.
- 35 Ibid.: 170.
- 36 Ibid.: 171.
- 37 Ibid.: 174.

38. Ibid.: 319.
39. Ibid.: 321.
40. Ibid.: 322.
41. Ibid.: 327-328.
42. The second round of proceedings were conducted in Saskatoon, Saskatchewan on September 16 and September 18, 2003.
43. "Record of Evidence: Examination for Discovery." Regina, Saskatchewan, July 30 and 31, 2003: 13.
44. Ibid.: 13-14.
45. Ibid.: 14.
46. Ibid.: 15.
47. According to the Submission on the Ochapowace Surrender Claim, "The Kakishaway and Chacachas Bands occupied the reserve in 1881, and in 1884, the two bands were amalgamated under the leadership of Kakishaway's son, Chief Ochapowace.: 3.
48. Royal Reporting Services Ltd. "Record of Evidence: Examination for Discovery." Regina, Saskatchewan, July 30 and 31, 2003: 15.
49. Ibid.: 16-17.
50. Ibid.: 27.
51. Ibid.: 18.
52. Ibid.: 21.
53. Ibid.: 19.
54. Ibid.: 20.
55. Ibid.: 33.
56. Ibid.
57. Ibid.: 34.



58. Ibid.
59. Ibid.: 35.
60. Ibid.
61. Ibid.
62. Ibid.: 36.
63. Ibid.: 36-37.
64. Ibid.: 37.
65. Ibid.: 38.
66. Ibid.
67. Ibid.: 39.
68. Indian Agent, A. McDonald, in his Annual Report, 19 January, 1882 stated "these bands (sic) had been allotted reserves (sic) on the north side of the Qu'Appelle River (sic); owing to the want of timber for building and fencing purposes, it was advisable to move them to the south side." (This assertion is contrary to the claim that the Band wanted the reserve to be relocated.) This was accomplished in 1881 when John Nelson, D.L.S. surveyed another reserve on the south side of Round Lake.
69. "Record of Evidence: Examination for Discovery." Regina, Saskatchewan, July 30 and 31, 2003: 40.
70. Ibid.: 41.
71. Ibid.: 8.
72. Ibid.
73. Ibid.: 8-9.
74. Ibid.: 12.
75. Ibid.: 22.
76. Ibid.

77. Ibid.: 34.
78. Ibid.
79. Ibid.
80. In the mid-1980s, Ochapowace was one of four Indian bands to submit a claim to the Federal government under the Specific Claims Policy for damage to and loss of Reserve Land caused by flooding associated with a water control project at Round Lake and Crooked lake. (Source of information: [http://www.fotq.ca/pdfs/QVIDA\\_History\\_per\\_www.qvida.ca\\_2008.pdf](http://www.fotq.ca/pdfs/QVIDA_History_per_www.qvida.ca_2008.pdf)); date consulted, September 2008.
81. J.R. Miller. *Lethal Legacy: Current Native Controversies in Canada*. (Toronto: McClelland & Stewart Ltd., 2004): 43.
82. Ibid.: 43-44.
83. Ibid.: 45.
84. Donna Lea Hawley. *An Annotated Indian Act*. (Toronto: Carswell Publications, 1990.),
85. INAC. "Report of Commissioners for Treaty No. 8, September 22, 1899. A memorandum posted on the Internet.
86. M/A – 3 made this statement in his oral testimony at his office on October 15, 2005.
87. Judge R.A. Rathgeber. Queen's Bench Court, Melville Saskatchewan, September 2202, in "Judicial Decision, Ochapowace GST Tax Case,": 1.
88. Ibid.
89. Ibid.: 3827.
90. Ibid.
91. Ibid.
92. Ibid.: 3810.
93. Ibid.: 3815.
94. Ibid.: 3819.
95. Ibid.

96. Ibid.: 3824.
97. Ibid.: 3822-3823.
98. Ibid.:
99. Ibid.: 3826.
100. Mr. R. Milen explained why he did not use the usual expression, "The Queen in Right of Great Britain."
101. Ibid. "Proceedings of Ochapowace GST Tax Case: 3697.
102. Judge R.A. Rathgeber. Queen's Bench Court, Melville Saskatchewan, September 2202, in "Judicial Decision, Ochapowace GST Tax Case,": 1.
103. Ibid.: 2-3.
104. Ibid.: 3.
105. Ibid.
106. Ibid.: 3-4.
107. Ibid.:
108. Ibid.: 3-4.
109. Ibid.: 4.
110. Ibid.
111. Ibid.
112. Ibid.: 6.
113. Ibid.: 8.
114. Ibid.: 20.
115. Ibid.: 21.
116. Ibid.: 23
117. Ibid.:

118. Ibid.:

## CHAPTER 5 – CONCLUSIONS AND SUMARY

1. Brian E. Titley. *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*. (Vancouver: University of British Columbia Press, 1986.): 13.
2. Ibid.
3. Noel Dyck. *What is the Indian 'Problem': Tutelage and Resistance in Canadian Administration*. (St. John's: The Institute of Social and Economic Research, 1991.): 5.
4. M/A-3 made this claim during an interview in his office on October 15, 2005.
5. Alexander Morris. *The Treaties of Canada with the Indians of Manitoba and the North-West Territories facsimile edition*. (Toronto: Coles Publishing Company, 1979.): 331.
6. Federation of Saskatchewan Indians, Indian Rights & Treaties Research Program, "Elders' Interpretations of Treaty Four", August 31, 1978: 12.
7. Ibid.: 12 – 23.

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## **LIST OF APPENDICES**

**APPENDIX A. Ethical Research Clearance**

**APPENDIX B. Band Council Resolution**

**APPENDIX C-1. Adult Questionnaire**

**APPENDIX C-2. Youth Questionnaire**

APPENDIX A

OFFICE OF RESEARCH SERVICES

Regina, Saskatchewan  
Canada S4S 0A2  
phone: (306)585-4775  
fax: (306)585-4893  
www.uregina.ca/research

DATE: April 16, 2004

TO: Mr. Andrew George  
Box 628  
Moosomin, SK

FROM: J. Roy  
A. Chair, Research Ethics Board

Re: The History of Ochapawace Reserve: The Aftermath of Treaty Four. (67S0304)

Please be advised that the University of Regina Research Ethics Board has reviewed your proposal and found it to be:

- ☒ 1. ACCEPTABLE AS SUBMITTED. Only applicants with this designation have ethical approval to proceed with their research as described in their applications. The *Tri-Council Policy Statement on Ethical Conduct for Research Involving Humans* requires the researcher to send the Chair of the REB annual reports and notice of project conclusion for research lasting more than one year (Section 1F). **ETHICAL CLEARANCE MUST BE RENEWED BY SUBMITTING A BRIEF STATUS REPORT EVERY TWELVE MONTHS.** Clearance will be revoked unless a satisfactory status report is received.
- ☐ 2. ACCEPTABLE SUBJECT TO CHANGES AND PRECAUTIONS (SEE ATTACHED). Changes must be submitted to the REB and subsequently approved prior to beginning research. Please address the concerns raised by the reviewer(s) by means of a supplementary memo to the Chair of the REB. Do not submit a new application. Please provide the supplementary memorandum\*\*, or contact the REB concerning the progress of the project, before **July 16, 2004**, in order to keep your file active. Once changes are deemed acceptable, approval will be granted.
- ☐ 3. UNACCEPTABLE AS SUBMITTED. Please contact the Chair of the REB for advice on how the project proposal might be revised.

Dr. Joan Roy

C. D. Miller, supervisor  
B. Stonechild, supervisor

JR/sm/ethics2 dot

\*\* supplementary memorandum should be forwarded to the Chair of the Research Ethics Board at the Office of Research Services (AH 505) or by e-mail to [research\\_ethics@uregina.ca](mailto:research_ethics@uregina.ca)

# OCHAPOWACE FIRST NATION

P.O. Box 550 WHITEWOOD, SK S0G 5C0

PH: (306)696-3160 FX: (306)696-3146 TOLL FREE: 1-888-706-2427

*Office of the Chief & Council*

## BAND COUNCIL RESOLUTION

The Council of the	OCHAPOWACE	Chronological No.	Ochap BCR 07/08 # 05
Agency	SET4TC	File Reference	
District			
Province	SASKATCHEWAN		
Place	Ochapowace		
Date	26	Apr. 1	2007
	Day	Month	Year

### DO HEREBY RESOLVE:

**WHEREAS** Andrew George is developing a thesis for a Special Case Masters Degree program based on the history of the Ochapowace Reserve and its people, and;

**WHEREAS** he will conduct archival and oral research concerning Ochapowace Reserve and its people, and;

**THEREFORE BE IT RESOLVED**, pursuant to a resolution passed at a duly convened at a duly convened meeting of the Ochapowace Chief and Council, at the office of the Ochapowace Chief and Council, on the Ochapowace Reserve No. 71, on April 26, 2007 that this Band Council does authorize Andrew George to have access to information from any source pertaining to Ochapowace for the purpose of developing a thesis for his Masters Degree, and;

**FURTHER BE IT RESOLVED** that he is authorized to take copies of any documents for the purpose of performing his research and preparing his thesis, and;

**FINALLY BE IT RESOLVED** that includes any documentation held in Ottawa at the Department of Indian Affairs which includes our Treaty Land Entitlement Agreement.

A quorum for this Band
consists of <b>FOUR</b>
Council Members

Chief Denton I. George

Councillor F. Ross Allary

Councillor Lila K. George

Councillor Gerald Kenny

Councillor Petra F. Leisanger

Councillor Audrey J. Isaac

Councillor Kris Henry

FOR DEPARTMENTAL USE ONLY

## APPENDIX C-1

### ADULT QUESTIONNAIRE

#### I. TREATY FOUR

1) Have treaty rights for Ochapowace Reserve Indians had an effect on Indian-White relations?

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2) Treaty Six provided for a "medicine chest" while Treaty Four did not. How is this provision interpreted on Ochapowace Reserve today?

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3) In his book *Ruffled Feathers*, William I.C. Wuttenee, a Calgary lawyer from the Red Pheasant Reserve wrote about "the treaty mentality of dependence". What do you think he meant by this?

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4) In a speech by Pierre Trudeau on August, 1968, he told his Vancouver audience: "It's inconceivable, I think, that in a given society one section of the society have a treaty with the other section of the society. We must be all equal under the laws, and we must not sign treaties amongst ourselves." Why would he make such a statement and was it a fair viewpoint?

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## II. THE RESERVE SYSTEM

1) In his book, *The Treaties of Canada With the Indians*, Alexander Morris described reserves as “the allotment of lands to the Indians, to be set aside as reserves for them for homes and agricultural purposes, and which cannot be sold or alienated without their consent, and then only for their benefit; the extent of lands thus set apart being generally one section for each family of five. I regard this system as of great value.” (p. 287 Facsimile Edition) Do you agree or disagree? Explain.

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2) Reserves have been described as ‘enclaves of poverty.’ How did this happen?

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3) How can the problem of poverty be addressed on the Ochapowace Reserve?

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4) Some people have moved off the reserve. Why is this happening?

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### III. INDIAN AFFAIRS

1) Under Section 91 of the *British North America Act*, exclusive legislative authority was given to the Parliament of Canada over "Indians and land reserved for Indians." Explain the implications of this provision.

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2) Why was the Indian Affairs Branch created by the Canadian government?

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3) How has it been viewed by Indian people to the present time?

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4) Some Indian people believe that more Indians should be given a chance to manage Indian Affairs instead of non-Indian bureaucrats. Would it make any difference in the way the affairs of Indians are managed? Explain.

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5) Are programs implemented by Indian Affairs (Education, Economic Development, Housing, Social Services, Health, etc.) effective? Why or why not?

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6) The Department of Indian Affairs has attempted to transfer some of its responsibilities for Indians to the provincial government. Comment on this strategy.

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#### **IV. THE INDIAN ACT**

1) What is the purpose of this legislation?

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2) What is your view of the legislation?

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3) The former Minister of Indian Affairs, Robert Nault, proposed legislation (the First Nations Governance Act) to replace the Indian Act. Would this have more equitable to Indians? Explain.

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#### **V. THE FUTURE**

1) Are the concepts of **self-determination** and **self-government** important for the future development of the reserve? Explain.

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**What are the obstacles to the achievement of self-determination and self-government?**

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**2. What are the grounds or reasons for reclaiming the Chacachas Reserve?**

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**What are the obstacles or problems that would prevent this from taking place?**

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**What changes would a separation of the two bands bring about? What details would have to be worked out?**

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APPENDIX C-2

**YOUTH QUESTIONNAIRE**

Date: \_\_\_\_\_

Are you a Band Member? \_\_\_\_\_ Gender: \_\_\_\_\_ Age: \_\_\_\_\_

**1. Treaty Four**

What is Treat Four?

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Both the Indians and the Europeans had reasons to make the treaty. Why did the Indians sign it?

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Why did the Europeans sign it?

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When was Treaty Four signed? \_\_\_\_\_ Where was it signed? \_\_\_\_\_

What group of Indians negotiated it?

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Who negotiated it for the Europeans?

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Who was Kâkisiwê (Kakisheway)?

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Who was Cêkacâs (Chakachas)?

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What are some of the terms of the treaty that still exist today?

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Every year Treaty Day is observed or celebrated on the reserve. What do you believe is the importance of this tradition?

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## **II. Indian Reserves**

What was the reserve, on which you live, first named?

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Where was it located?

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Do the people on the Ochapowace Reserve own the reserve?

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It has been stated by both Indian and Canadian leaders that many Indians on reserves live in poverty. Do you agree?

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If this is true, why do you think this is so?

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## **II. Indian Affairs**

What is the Department of Indian Affairs?

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What are some of the programs that are operated by the Department (INAC) for the Indian people?

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Do you believe that the programs are working for the good of the Indian people in Canada? \_\_\_\_\_

Why do you believe this is the case?

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## **IV. Indian Act**

What is the Indian Act?

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What is Bill C-31 and when did it come into being?

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The Government of Canada has made at least two attempts to get rid of the Indian Act but were rejected by the Indian people in Canada each time. Why do you think the government would want to get rid of it or change it?

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## **V. The Future**

What is the meaning of the terms **self-determination** and **self-government**?

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There has been some discussion around the separation of the Cêkacâs (Chakachas) members from the Ochapowace Band. Why do you believe this is happening?

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What do you think of this possibility?

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Why do you think this way?

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