

CHAPTER SEVEN

*“certain doubtful transactions”*¹

The Treaty 7 Region After 1877

EAST OF THE ROCKIES THERE WAS NO ARTICLE 13, NO RESERVE OR royal commissions, nor, for at least a generation after 1877, no federal-provincial conflict to restrain the Dominion’s liberal generosity. Yet, already in the first two decades following the meetings at Blackfoot Crossing, much greater levels of surveillance ensured that the conditions were already established that would permit the alienation of large portions of even the fragments of territory that the treaty allowed. Further, the concentration of reserve residents on ever-dwindling pieces of land served to simplify administration and surveillance.

In 1887, the *Calgary Herald* depicted able if cunning Indigenous populations who were, in contradiction, not sophisticated enough in the newspaper’s view to understand the actual value of reserve land.

When the treaties were first entered into between the Government and the different tribes of Indians the latter were to a certain extent masters of the situation and were sharp enough to secure to themselves the right to choose their own reserves and intelligent enough to choose them from the best and most fertile belts in the

country so that many thousand acres of rich and fertile land are lying utterly useless and unproductive and will remain so until thrown open for White settlement.

The paper recommended a policy of “persuasion not of compulsion” and so clearly attempted to present a generous face while demanding the further reduction of Indigenous territory.²

Each of the Treaty 7 First Nations faced different circumstances after 1877, but all were subject to the consequences of the kind of thinking illustrated by the *Herald*. All were confronted with various levels of legal and extra-legal “persuasion” to reduce their lands and their access to resources.

Nakoda

In regard to the westernmost of the Treaty 7 First Nations, oral evidence provided to John Larnier in 1971 indicates that one group of Nakoda indicated essential territories in Kootenay Plains immediately following the 1877 treaty discussions. Others chose territory further south in the Highwood River area at Eden Valley.³ When surveyor A.P. Patrick arrived at the Nakoda community at Morleyville, though, apparently only one of three Nakoda leaders, Chief Chiniquay, was present. Perhaps he presented himself as principal chief of the Nakoda “for the prestige and favour it won him with government representatives” as Nakoda Chief John Snow proposes. Perhaps he was agreeing to reserves for his people only, as Larnier argues. Either way, the tradition of allowing or encouraging one leader to speak for the three constituent Nakoda groups ensured that only land near McDougall’s mission at Morleyville was reserved.⁴ Even though Indian Commissioner Dewdney reported that these reserves were “to the satisfaction of the Indians,” this was at best the case only with Chiniquay’s people. Jonas Bigstony confirmed in 1909 that

it was not on account of this land [at Morley] that they took treaty in 77 at Blackfoot Crossing, but for the land which our fathers held up on the North Branch of the Saskatchewan in the Mountains—One of our Chiefs only John Chiniquay took treaty for this land...⁵

Bigstony wrote “to ask if you can allow us who are so inclined to leave here and to go up to live on the land...belonging to our fathers.” The DIA opposed the request stating that the treaty confirmed reserve lands at Morleyville

and that there was no evidence that any Nakoda leader requested a reserve at Kootenay Plains during the treaty negotiations. While Indian Commissioner Laird agreed with assessment, he reported that he was “decidedly of the opinion that they have a strong claim to more and better land than they now hold” because of an increase in the reserve population since 1877 and the poor quality of the land at Morley for agricultural purposes.⁶ In less than a year the department sent John McDougall to investigate. Here the missionary seemed to contradict both his earlier attempts to concentrate the Nakoda at Morleyville and also his land-reducing activity in British Columbia by supporting the request for a reserve on the Kootenay Plains.⁷

That the Nakoda would continue to press for land in the Kootenay Plains is not remarkable since, as McDougall reported, it “is the original home country of these people and they have always clung to it and in all the years of my acquaintance with them (dating from 1862) frequented this land in question.”⁸ The department noted that it was “averse to making changes if they can be avoided,” but noted that if a separate reserve were to be established, there would have to be an equal reduction in the reserve at Morley and that this would have to be agreed to “by all the Indians interested in the land to be surrendered.”⁹ The Nakoda interested in Kootenay Plains came very close to a resolution in 1910 when Minister of the Interior Frank Oliver was apparently willing to approve a reserve of up to 26,000 acres, but this plan was scuttled, apparently in favour of commercial resource extraction interests in the proposed area.¹⁰

In addition to these obstacles, others were thrown in the way of a reserve on the Kootenay Plains. First, DIA Secretary J.D. McLean stated that since the area requested was over the summit of the Rockies, it was probably in British Columbia. Next it was reported that the land was in the Rocky Mountains park, so not “at the disposal of the Department.” Neither of these was true, but the various forms of opposition to a reserve illustrate the contradictions in the application of DIA policy regarding self-sufficiency and the land base necessary to obtain it. All the Nakoda wanted was, as Agent Fleetham reported, “a small reserve on the Kootenay Plains at the head waters of the Saskatchewan” and that “their request to be dependent on themselves without any assistance which they claim they don’t require” be granted.¹¹ They wanted independence from the Dominion’s form of assistance, but it seems that self-sufficiency could only occur on liberal Canada’s terms. Even though the Nakoda’s ability to be self-sufficient in the Kootenay Plains area was recognized, the DIA’s efforts over the course of World War I and its immediate

aftermath were directed at concentrating all of the Nakoda at Morleyville. To this end, the value of improvements and the costs that might be incurred in transportation were calculated.

In 1918, the department stepped up pressure and warned that Canada would be within its rights to forcibly remove any Nakoda present in the Kootenay Plains area. There was a concern raised, though, that there would be insufficient feed for stock at Morley and this delayed the expulsion. The possibility of their removal was raised again over the next couple of years and yet again with the northward extension of Banff National Park in 1929, but since there was no immediate conflict and since the DIA was by then unwilling to employ overt force, the matter was dropped. The Nakoda raised the Kootenay Plains issue again in 1934 through the newly-formed League of Indians of Canada and finally a 5,000 acre ranch on the Highwood River was purchased in 1946 and converted into the Eden Valley reserve. Two years later, a further 5,000 acre “special” reserve was established at Bighorn by agreement between Alberta and Canada. In this case, Alberta retained all mineral rights, but the Nakoda did not accept it as a final solution.¹²

Tsuu T’ina

The other non-Blackfoot party to Treaty 7, the Tsuu T’ina, faced an entirely different set of problems. After their relocation to the Fish Creek area in the early 1880s, the Tsuu T’ina escaped the remainder of the nineteenth century with a reserve almost double the 640 acres per family of five formula. They did, though, find themselves under the most vehement verbal attack of any of the Treaty 7 nations.¹³ In 1883, John A. Macdonald referred to the Tsuu T’ina as the “least promising of any of the Bands within the territory covered by Treaty No.7.” The problem, according to Macdonald, was their proximity to Calgary.¹⁴ Clearly settlers in western Canada agreed, as the *Manitoba Free Press* illustrated:

Is it any wonder the settler kicks against the Government when he sees three townships of the finest land in the whole Northwest, within six miles of its largest town held by a tribe of a couple of hundred worthless Indians who are too lazy to work or do anything else but lie around town pilfering and breeding disease? The Sarcees are the filthiest and most disreputable Indians that ever eat government grub, and it is about time the Government moved them farther away from the whites and threw the reserve

open for settlement instead of allowing them to wander about among the settlements, killing cattle and stealing whenever they get the chance.¹⁵

Almost a decade later the *Calgary Herald* agreed that the Tsuu T'ina reserve included "some of the best agricultural land in all of Alberta" and that the location of the reserve near Calgary was a "serious blunder." *Herald* editors concluded that the reserve "should be sold for the benefit of the Indians and thrown open to white settlement."¹⁶

With the presentation of the Tsuu T'ina reserve as underutilized and underpopulated, the construction of the Tsuu T'ina themselves as unlikely candidates for "civilization," and with settlers, backed up by the Calgary Board of Trade, pressing for access to the land, all the pieces were in place by the turn of the century to drive the further alienation of this First Nation's territory.¹⁷ Still, the resistance by some Tsuu T'ina leadership frustrated the efforts, for a time at least, of those seeking to seize this land.

In light of potential resistance to a suggestion from Arthur Sifton, Commissioner of Public Works for the North-West Territories, that a portion of the Tsuu T'ina reserve "be thrown open to settlement," Assistant Indian Commissioner J.A.J. McKenna, who took a relatively cautious approach to reducing reserves in British Columbia, recommended to his superiors at Ottawa that some time should be taken to develop a plan that would illustrate the monetary advantages of a land sale to convince the Tsuu T'ina of its advisability. McKenna feared that a surrender proposal would be defeated and "make impossible negotiations for some considerable time."¹⁸ While the Calgary Board of Trade continued to press for the reserve to be opened for settlement in the few years after 1902, and while future DSGIA D.C. Scott was intrigued by the economic benefits that the sale of land would have for the DIA, and finally, while the local agent suggested initially that he might "be able to induce them [the Tsuu T'ina]" to accept a surrender, Ottawa exercised a degree of caution lest a larger alienation of this land at some point in the future would be made much more difficult.¹⁹ It is not that there was any real disagreement over the final goal that should be sought, rather the only differences, as they were in British Columbia, were related to tactics. Colonists on the ground were simply less patient than those in distant Ottawa. As in British Columbia as well, the potential for resistance was presented as not solely Indigenous in origin, but rather fomented by Whites. Here, though, it was not White advocates like O'Meara, Teit, or Christie, but rather local

rather local ranchers, beneficiaries of the grazing land that the reserve offered, who were opposed to any change in its status. Chief Bull Head, though, does not appear to have needed any agitation by Whites to influence his clearly reasonable argument that the reserve should be retained: “[w]e don’t want to quarrel about it, we don’t want to sell... The Treaty was made. We will try not to be cross about it. I am just as friendly as ever, I don’t want to quarrel.”²⁰

In response to pressure from other economic interests, the Tsuu T’ina were convinced, by spring 1906, to allow oil and gas exploration and the construction of wells in return for a fee of one hundred dollars for each well and an annual royalty of two percent.²¹ With this agreement between the DIA, A.W. Dingman, and the Calgary Natural Gas Company in the works, the Tsuu T’ina were pressured to relinquish further portions of their reserve and once again the services of the missionary John McDougall were called on to facilitate a surrender. McDougall reported, though:

I am afraid that the day for such a surrender is now past. The fact that there were such surrenders in the past very much militates at this time against any fresh surrenders.

The Indians all over the West have learned the value of land and the Department must expect to make altogether new concession in order to secure anything like consent on the part of the Indians.²²

When McDougall presented the idea of a surrender in February his efforts, as expected, were unsuccessful.²³

The following year McDougall was requested by Minister of the Interior Oliver again to “take up the matter of surrender,” but was somewhat affronted to find that Agent McNeill had apparently already been requested to begin working to this end.²⁴ When McNeill presented the idea of surrender to the Tsuu T’ina in November, only twelve of sixty-three community members permitted by the *Indian Act* to vote were in favour. These twelve were presented by the agent as the ones who were “sufficiently intelligent” to understand the benefits of reducing their holdings.²⁵ A little over a year later, in March 1909, Pedley requested that McNeill again present the possibility of a surrender to the Tsuu T’ina, and in August again the notion was rejected. This time the agent blamed the “fear and superstition” of the “old people.”²⁶ At this point Inspector Markle, who was instrumental in other Treaty 7 surrenders, under conditions that were quasi-legal at best, was asked for his views on the Tsuu T’ina situation and reported the Piikani surrender would provide a good example in this regard.²⁷

Continual pressure was applied on the DIA by both the City of Calgary and the Canadian military, and therefore by the DIA on the Tsuu T'ina, to secure a surrender. But it took another three and a half years, the growing effects of economic restrictions, and the death of the most vocal opponent, Chief Bull Head, for the DIA's efforts to remove significant portions of the Tsuu T'ina's reserve to come to fruition. In February 1913, Agent T.J. Fleetham was able to secure a surrender of 1,650 acres of the northeast corner,²⁸ and in August of the same year, he won a second surrender, this time of 5,000 acres of the northwest corner of the reserve.²⁹

None of this land though, was sold, nor was it, according to the DIA's annual reports, formally removed from the reserve which remained at 69,120 acres. As a result the minimum payments stipulated in the surrenders were not made to the Tsuu T'ina. However, much of this land, from the first surrender at least, ended up in the hands of the Department of the Militia and Defence, which had coveted the land for decades.³⁰

In 1951, a vote to sell the 1,174 acres of land that the Department of National Defence had leased was approved, but a subsequent aerial survey showed that the Bow River had changed course in several places and the area remaining north of the river was less than that surrendered. A new vote was taken in February 1952 that took the changed watercourse into account, and that excluded land already sold, to construct the Glenmore reservoir. The Tsuu T'ina argued that the sale was unlawful and in the late 1980s, the Department of National Defence land was returned to Tsuu T'ina control after the closure of Canadian Forces Base Calgary. The status of the land usurped by the City of Calgary remains unresolved.³¹

Kainai

Like the Tsuu T'ina, the Kainai moved to their current location during the early 1880s. To facilitate their relocation to the south side of the Belly River in 1884 they, like the Tsuu T'ina, were required to give up their interest in the reserve at Blackfoot Crossing. There seems little doubt that these moves were requested by the Kainai and Tsuu T'ina, but that the division was also desired by DIA authorities clearly helped expedite the exchange. As the SGIA wrote to the Privy Council, "It would obviously be politic to divide this large body of Indians; [the three Blackfoot Nations] as they will be much more easily managed when living on separate reserves than they would be were they to reside altogether on one Reserve."³² In addition, John A. Macdonald noted that railway construction "rendered it advisable to obtain from the

Indians a surrender” of these portions of the Blackfoot reserve because it was “a most important addition to the property of the Dominion, as there is very valuable land within it, and it possesses also desirable mineral resources.”³³ Further, the relocations allowed the Dominion to reconfigure the reserve at Blackfoot Crossing to better fit the goals of settler society. It seems unlikely that the government would have been so amenable to these moves had their own interests not coincided with the wishes of the First Nations involved.

The underestimating of the Kainai population by nearly 1,000 individuals, as discussed in Chapter Two, reduced the size of the reserve to which they were entitled, according to the 640 acres per family of five formula, by close to 200 square miles.³⁴ In addition, as the result of considerable confusion regarding reserve boundaries, and under conditions that remain somewhat unclear, another several hundred acres was lost to the reserve with the “Akers Surrender” of 1889.³⁵ While this was relatively small compared to later attempts to alienate portions of this reserve or the Siksika and Piikani surrenders in the twentieth century, it begins a pattern of such land reductions in which pressure to surrender was applied in various ways to obtain consent of dubious quality and quantity and in which pertinent information was withheld from the First Nation concerned. All of this was parallel to what was occurring in British Columbia even if the specific strategies varied.

By the turn of the century, the DIA had come to recognize the potential value of the Kainai reserve to settlers since it included the “finest grazing lands of this cattle-grazing district.”³⁶ But while considerable pressure was applied to turn the reserve over to newcomers, the land alienation policy of the DIA and its exuberant inspector Markle met formidable, and in the end insurmountable, opposition from the Kainai.³⁷ In 1896, a request to open the land for settlement was forwarded to Ottawa by M.P. and future SGIA Frank Oliver. At this point though it was recognized that the necessity of acquiring Kainai consent presented an insoluble problem.³⁸ But in less than three years, as the result of further demands from settler representatives, “suggestions” regarding surrenders and leases were again presented to the Kainai. As was expected, there was indeed opposition, concerns regarding improprieties, and suspicions about the intentions of the government.³⁹ Still, when Crop Eared Wolf, unanimously selected as chief, wrote to the Prince of Wales to articulate his concerns regarding the potential alienation of the reserve, he was told by Indian Commissioner Laird in 1902 that the department had no intention of asking for a surrender of any part of the reserve.⁴⁰ Three years later, though, Reverend John McDougall was hired “to negotiate with certain bands for a

surrender of their land” in the North-West Territories. The following year the DIA in Ottawa requested that McDougall determine what portion of their reserve the Kainai would be willing to give up since “settlement is pressing on the southern boundary of the reserve.” This began what became a concerted effort to reduce the remaining Kainai lands.⁴¹

In spring 1907, Agent R.N. Wilson was informed of the DIA’s wish to alienate a portion of the reserve, but when Inspector Markle presented the proposal to the Kainai on May 15, he met almost unanimous opposition led by Chief Crop Eared Wolf. To penalize him for his resistance Markle attempted to have the chief deposed.⁴² When Chief Crop Eared Wolf wrote to Laird to remind him of the promise made only a few years before, that Canada had no intention of reducing this reserve, Laird replied that “this, however, was five years ago, and a new Superintendent General has since come into office, and he may see reasons for now asking the Blood Indians to surrender a portion of their reserve.” Laird confirmed, though, that the approval of a majority of the male voting members of the Kainai would be required for such a surrender.⁴³ Clearly, Crop Eared Wolf did not consider that the DIA’s assurance rested on the political whims of a particular cabinet minister and asked to go to Winnipeg to visit Laird, apparently for clarification. When Laird said this would be too expensive, the chief and other Kainai leaders approached the RNWMP with Laird’s 1902 letter. In response to their request for police assistance Superintendent Primrose at Fort Macleod merely “assured them that the Indian Department Officials had their welfare at heart” and stated that “they may have changed their minds since then,” and suggested that Crop Eared Wolf write to Laird.⁴⁴

Apparently realizing the circularity of the appeal procedure available through the institutions provided by liberal Canada, Crop Eared Wolf and those opposed to the surrender recruited Fort Macleod lawyer Colin Macleod to their cause and together they seem to have had an impact. The surrender was defeated on June 5 by a vote of 109 to 33. According to Agent Wilson the defeat of the surrender was not a thoughtful response to an unreasonable proposal, but rather a problem created when Macleod “filled them up with nonsensical ideas” and when Crop Eared Wolf “bought” some and “frightened [others] in various ways.”⁴⁵ While the Kainai were not able to convince the Dominion to live up to its 1902 assurances, the determined resistance of their leaders did permit the retention of their reserve and their chief.

This does not mean that there were no further attempts to wrest away the limited control that the Kainai had over this fragment of their territory.

Following the failed surrender attempt there were constant requests from individuals and groups requesting information on what progress the DIA was making toward opening the reserve to settlers, and in September 1909 Markle was again requested to present the issue of surrender to the Kainai.⁴⁶ In 1910, a further resistance led by Crop Eared Wolf arose, this time in opposition to the DIA's attempt to lease reserve land to oil interests. Here, the DIA broke another of the 1902 promises, that the majority of the voting members be consulted, and the lease was approved with only sixty-eight individuals voting in favour.⁴⁷ Still, the pressure continued in the years leading to World War I.

In 1913, when the Kainai wanted to establish an additional farming area on the reserve, in a move that would seem to have fit with the department's long-term objectives, their agent was told by his superiors that, "they had better make up their minds to part with some land down near Cardston, where it is valuable and where it is at present practically of no use to the Indians."⁴⁸ This is the area that Oliver was lobbying to have removed from the reserve more than a decade before.

In November of the same year DIA accountant Frederick Paget reminded DSGIA D.C. Scott that of all the First Nations in southern Alberta the Kainai were the only one that had "not surrendered a portion of their lands and relieved the Government to a considerable extent of supporting them."⁴⁹ Former chief accountant Scott, always swayed by fiscal arguments, wrote to Inspector Markle to reaffirm that "our permanent policy will be to get the Blood Indians to surrender some land to provide for their subsistence." The Inspector was instructed to "[t]ell [Agent] Dilworth quietly that pressure will be in this direction, as we cannot ask the country to continue indefinitely feeding these Indians." Markle needed very little urging and sent a cipher code to Scott that could be used to ensure security of correspondence between himself and Ottawa so that local ranchers, who benefited from unfettered access to the reserve, would not get notice of the surrender and work to scuttle the deal.⁵⁰ After spending a few days on the reserve though, Markle reported that it would "take a year or more to educate these people up to the point" where they could "safely test the opinion of the band on the surrender of land question." To do otherwise would risk longer term rejection of the idea. Scott agreed that the issue should not be rushed, but at the same time "pressure must be constant."⁵¹

At the beginning of 1914 the DIA reduced rations on the reserve to convey what Markle referred to as "an earnest warning." This was correctly received

by the Kainai as an attempt to starve them into submission despite DIA claims to the contrary. Agent Dilworth reported that “the Bloods are bitterly opposed to any mention of surrender and are not at all pleased with the results obtained on the Blackfoot and Peigan.” All the same, Markle reported that he had identified 181,000 acres that could be surrendered “with the least inconvenience to the Indians,” but Scott advised him not to press the issue.⁵² Later, the inspector stated that those in favour of the surrender were waiting to see how the ration reduction would affect their opposition.

Finally, at the beginning of 1917, Markle reported that “a greater number than ever before” could now be counted on to support a surrender. Still, he admitted that even though he had tried to convince the Kainai that they should be “ashamed” to accept rations and that it was “their duty” to relieve the Dominion of the expense of caring for the aged and infirm, especially since wounded soldiers would soon be returning to Canada, he was “not enamored with the work of securing a surrender of land from the Blood Indians.” Markle comes very close to admitting defeat here when he acknowledged that there were a growing number of objections to a surrender and was pleased when Scott told him not to press the issue.⁵³

In April though, Agent Dilworth worked up some terms for a potential surrender of 90,000 acres. While he stated that he would like Markle’s advice, there was such a feeling of suspicion against the inspector that his entrance into the negotiations would “have a tendency to queer the project.” In May, Dilworth was authorized to proceed with a surrender vote.⁵⁴ While the department clearly tried to restrict access to information regarding their plan to request a surrender, somehow the Kainai got wind of it and Chief Shot on Both Sides, son of Crop Eared Wolf, sought legal advice. The department did not respond to queries from their lawyer for well over a month, and then only after the surrender vote had been taken on June 7, 1917.⁵⁵

According to Dilworth, the majority had voted in favour of the surrender. But almost immediately there were claims of irregularities. In a petition forwarded through another lawyer, Shot on Both Sides and six other Kainai chiefs claimed that there was insufficient notice of the vote, that many were off the reserve working, that no one was allowed to remain in the room where voting took place to scrutinize the proceedings, and that Agent Dilworth exerted “undue influence” to sway the vote. Several Kainai serving with the Canadian Expeditionary Force even wrote to confirm that they had not been duly notified of the surrender attempt. In a complaint to the police, Shot on Both Sides further complained that Dilworth turned away voters opposed to

the surrender while allowing votes to be recorded from proponents not present. Dilworth, though, defended the legitimacy of the surrender and claimed that many of those who voted in opposition had, a week later, changed their minds. Later he also claimed that the Kainai were influenced by the outside agitation of former agent R.N. Wilson. The problem for Dilworth was, though, that there were 295 on the voters list and according to new instructions issued by Scott in May 1914, a majority of those on the list had to vote in favour and be present at the surrender meeting, which meant that Dilworth was twenty-four votes short.⁵⁶

A further surrender was presented at the end of February 1918 and again there were claims of irregularities though once more these were denied by Dilworth.⁵⁷ There were other issues of perhaps more importance to the department this time though. Dilworth had apparently made alterations to the surrender agreement without the authority of the department. For example, he inserted that the lands would be sold “at public auction” so they could not be held for returning soldiers. He also struck out the maximum for rations, which Scott feared would require excessive provision of food indefinitely. W.M. Graham agreed and recommended that the surrender be held in abeyance until it could be revised.⁵⁸

In the meantime, Scott received the legal opinion that the *War Measures Act* enabled the department to “take the lands required without the consent of the Indians” for the purposes of increasing agricultural production on a temporary basis even though he wrote that he hoped that consent would be forthcoming.⁵⁹ Nevertheless, an amendment to the *Indian Act* was adopted to reinforce the *War Measures Act*. While the surrender of 1918 was ruled unacceptable by the DIA, then, the department still moved to secure leases on this new basis and by the end of 1918 there were at least thirty-eight Greater Production leases on this reserve.⁶⁰

On March 23, 1918, another much smaller surrender, this time of 6,080 acres, was arranged by Agent Dilworth for a Greater Production Farm that once again contained conditions that were unsatisfactory to Graham and Scott. Although this surrender appears to have been accepted by the Kainai, Graham amended a number of its conditions, including the amount and conditions of an annuity, and resubmitted it to the Kainai on May 30, which they were unduly pressured, if not coerced into accepting.⁶¹ Former agent Wilson reported that Graham arrived at the reserve with a police escort and informed the Kainai that any opponents would “be arrested and severely

punished under the 'War Measures Act.' This has naturally placed an effective muzzle upon the Indians."⁶²

At the end of 1918, W.M. Graham, Commissioner for Greater Production since the previous February, reported after a meeting with the Kainai:

in all my thirty-odd years of dealing with Indians, I never listened to a more dissatisfied lot of people. In fact many of them were at a point where they threatened to take matters into their own hands, claiming that the agent was dishonest, untruthful and incompetent and requesting to have him replaced at once.⁶³

Still, in less than two months, Scott requested that Graham resubmit to the Kainai the February 1918 surrender for 93,000 acres and an additional 58,000 acres as well. Graham was told to correct the apparent concession made by now former agent Dilworth regarding rations and to attempt to ensure that the DIA had maximum flexibility regarding selling the land to the Department of the Interior for soldier settlement or at public auction. While Graham went as far as drawing up the conditions for a surrender of 152,000 acres, the surrender did not proceed.⁶⁴

The Kainai clearly had every reason to keep up their resistance to the fraudulent attempts to gain control of their reserve and to the general mismanagement of their affairs by the department. In a letter to W.L.M. King, Liberal Prime Minister from the end of 1921, they wrote "[w]e, Sir, are not children and can distinguish between right and wrong, and we think that you will agree with us that we have room for complaint and that a great injustice has been done us." Through a lawyer they presented a twenty-one page memorial to the department outlining their concerns, and within a couple of years the memorial was published by former agent R.N. Wilson as *Our Betrayed Wards*.⁶⁵ Predictably, Graham's solution to the problems on the reserve was to propose selling 160,000 acres to build houses, farm buildings, fences, and wells, to purchase stock to provide rations to the "old people" and to instill a sense of individuality. While the proposal was agreed to by Meighen, this attempt too was unsuccessful.⁶⁶

Some scholars have attempted to paint these events in a light more flattering to Canada and its DIA. Hana Samek, for example, argues that the 1914 guidelines established by Scott "reflected a persistent concern on the part of some DIA officials to preserve the Department's reputation for honesty

in dealing with the Indians” and that this sentiment caused him to veto the 1917 Kainai surrender. Certainly Scott and others were interested in the appearance of benevolence, but the various extra-legal attempts at obtaining surrenders of this reserve discussed above, the positive public presentation of the Graham’s Greater Production efforts that Scott clearly viewed as a failure, and the withholding of important information seem to be more illustrative of a liberal façade than of a forthright Canadian government, even when compared to the tactics practiced in the United States.⁶⁷ Still, the Kainai were, by a combination of aggressive resistance, overly antagonistic tactics employed by departmental officials, and a measure of good fortune, able to retain almost all of the territory they had left after their move to the Belly River.

Piikani

The nearest Indigenous neighbours of the Kainai, the Piikani, got through the first few decades after 1877 without the constant struggle to regain territory like the Nakoda, and they did not suffer the gross under-assignment of reserve land, even by the standards outlined in the treaty, as the Kainai did. This seems to be thanks partly to geographic locale and also to frequent changes in DIA personnel. Still, they had to deal with the unsympathetic agents like Wm. Pocklington who stated boldly, “I believe the Piegans can out lie any Band of Indians in the North West.”⁶⁸ This denigration of the Piikani, the obvious stock-raising potential of the reserve, and a reserve population that declined by half between the 1880s and the first decade of the twentieth century ensured that there would soon be pressure to reduce this remaining land base as settlement approached.⁶⁹

It is on this reserve, in 1904, where newly appointed inspector J.A. Markle got his first instructions to reduce reserve land in the Treaty 7 region. While the Piikani were spared temporarily as the Canadian Pacific Railway (CPR) determined where it wanted to build its rail line through the reserve, the surrender idea was presented again by Markle at the beginning of May 1908.⁷⁰ By then the department was clearly determined to reduce expenditures with the proceeds of land sales.⁷¹ As on the Kainai reserve, there was significant opposition to the surrender. Some of those opposed sought legal counsel and even those in favour demanded much more than Markle thought reasonable. Over the spring and summer of 1909, Markle continued to assess the opposition by conducting “test” votes and working to promote the surrender by emphasizing the goods and livestock that could be purchased if the land was sold. Finally, on the August 18, Markle reported that he had secured

agreement to surrender thirty-six sections, or 23,500 of the 116,000 acres, of remaining Piikani land.⁷² Even though only forty voted in favour of the surrender out of an adult male population of 117, within ten days the surrender was accepted by the governor general.⁷³ Already, though, there was trouble looming concerning the propriety of the surrender.

The Piikani sent a petition to Ottawa in protest and lawyer Colin Macleod, who claimed to represent a majority of the Piikani community, stated that he had attended two meetings in which this majority opposed any land sale. "Unless Mr Markle's instructions are that he may take a vote on this question every day in the week and report upon the first expression that is favourable to the selling of these lands," then the policy of the department had been ignored in this case and the lands taken in a way in "which every honourable white man is bound to oppose." While NWMP Constable Fyffe later confirmed that there had been three votes, Markle, of course, denied any impropriety, claimed falsely that he had taken only one vote and that the surrender was in the "best interest" of the Piikani. This explanation was simply accepted uncritically by the department.⁷⁴

In October, Macleod called the surrender a "fraud" and threatened to expose the matter through the courts and the press. He also forwarded sixty affidavits from reserve residents, twenty more than the number who had voted in favour of the surrender. These folks claimed, among other things, that they had received no notice that the vote was to take place and that it was fraudulent in any case. They demanded, therefore, that the planned auction of the surrendered land not proceed.⁷⁵

The irregularities were raised in the House of Commons, but the arrangements were defended by SGIA Frank Oliver who argued that the majority of those present at the meeting were in favour of selling this "very valuable land" which had "practically no value to the Indians."⁷⁶ Oliver refused to postpone the sale, but he was concerned enough about the appearance of propriety to ask Markle to send any additional signatures of those in favour of the surrender immediately.⁷⁷ On the day before the auction of this land was to be held, MacLeod joined Piikani opponents to the surrender and circulated and posted notices warning prospective purchasers that the land had not been legally surrendered and so any patents issued would be overturned by the courts. Still, the auction went ahead and 12,196 acres were sold for just over \$200,000. Markle reported that if the price was reduced on the unsold land, then buyers could be found for it as well.⁷⁸

The protest against the surrender was not quelled with the sale. Markle argued that many of those who signed Macleod's affidavits only did so because of pressure that the lawyer brought to bear, though he did not expand on what that pressure consisted of.⁷⁹ The DIA recommended that the Piikani leadership who signed the notices posted prior to the sale be warned against such "insubordination" and that "if they continue to interfere with the action of the department, they will render themselves liable to deposal."⁸⁰ In addition to the obvious attempts by the department to quell any potential resistance to its objectives, the reports of NWM Policeman clearly illustrate the irregularities involved in the surrender.

Constable Fyffe reported that there were three meetings concerning the surrender and only at the third were a majority of those present in favour. He stated further that Chief Butcher, the only chief present at the third gathering, asked that the meeting be postponed to allow those who were not present the opportunity to vote. This was refused by Markle, who also asked the constable to "warn off" lawyer Colin Macleod if he attempted to attend the meeting. He reported as well that even before the third meeting a survey party was doing work on the reserve, apparently in preparation for a surrender. Finally, he noted that all of the chiefs were opposed to the sale.⁸¹ NWMP Constable Fyffe made some initial inquiries regarding the disquiet on the reserve, but the police were clearly not prepared to question the legality of the surrender.⁸² The NWMP Comptroller reported that he filed Fyffe's report and related correspondence,

in a sealed envelope, because I do not think it is a matter in which the Police ought to interfere... I do not think Mr. Oliver would be pleased if he knew that the Police were making inquiries through the R.C. Mission or any other channel affecting either the policy of the Department in dealing with Indian lands, or the relation of the Agents with their Indians.⁸³

Through May 1910, the Piikani continued to consult lawyers and began to make requests of those who had purchased reserve land to cease farming operations. At the same time, the department continued to advance the fallacious position that the surrender was legitimate and that the majority supported it. As Secretary McLean wrote "[t]he Indians should remember that the majority of their Band must rule and that all the public business of the white communities is conducted on this principle."⁸⁴ The DIA alerted

the police that they might be required to intervene in support of the settlers and asked at least one missionary to try to calm the Piikani. Reverend Haynes assured the department that he would do everything he could to this end, that the Piikani chiefs were “useless,” and that “the easiest course to adopt is to depose them and appoint younger go ahead men.”⁸⁵ Clearly, he supported the objectives and the tactics of the DIA. Still, this was not the end of the problems faced by the Piikani.

The purchasers of the land were required to make a down payment of 10 percent of the total price and then make annual installments on the principal and interest, but often, for a variety of reasons, purchasers did not always keep up with the installments. By 1918, the amount in arrears attributed to those who neglected to respond to DIA late notices alone amounted to well over 40 percent of the total proceeds expected by the department. This resulted in a substantial setback for planned upgrades on the reserve. Finally, in 1923, the department cancelled the purchases of over 4,500 acres. Still, the Superintendent General assured elected politicians that “no action will be taken by the Department which might prove prejudicial to settlement or a further discouragement to the farmers of the Province of Alberta.”⁸⁶ Once again, the advance of liberal Canada, not the interests of its Indigenous wards, was the priority of the Department of Indian Affairs.

Siksika

While it is evident from the experiences of the other Treaty 7 First Nations that neither the treaty nor the self-proclaimed generosity of the Dominion would protect the fragments of territory retained by Indigenous people after 1877, it was the Siksika who suffered the greatest loss of reserved land. As a result of the establishment of separate reserves for the Kainai and Tsuu T’ina, the reserve at Blackfoot Crossing was reduced, according to SGIA John A. Macdonald, by the amount assigned to these two nations.⁸⁷ But the reduction was far greater than this might indicate. Firstly, the “temporary” strips on the Bow and South Saskatchewan rivers that were to be held until 1887 were relinquished early. Further, while Siksika lands were increased in compensation, the new reserve included only a fraction of the valuable river frontage identified in the treaty.⁸⁸

Also by 1882, Agent Denny reported that the Siksika were “uneasy” about the CPR rail line situated along the northern portion of the reserve. NWMP Commissioner Irvine reported that they were “not yet in a most satisfied mood,” that the railway was causing “sour excitement” and recommended

the police force at Macleod be increased by seventy-five officers. He argued that “such a measure will have a most beneficial effect on the Indians.”⁸⁹ Despite this, and the reduction of the reserve’s value and quantity, the Dominion was able to secure a surrender for the rail line in 1884. Crowfoot again seems to have believed that acquiescence was in the best interests of the Siksika. As Macdonald reported, “Chief Crowfoot had, in this instance, as in many others, shown a disposition to meet, as far as possible, the wishes of the Government.”⁹⁰ By 1892 however, the reserve was in jeopardy again when Indian Commissioner Hayter Reed began agitating to further reduce its size, noting that “they can very well spare at least a township.” Reed recommend that the Siksika “spare” the southeast corner, which straddled the Bow River, reporting that this was a desirable piece of land and that there were few other such valuable pieces in the area.⁹¹

Even before his appointment as inspector and before the idea of a surrender was first presented to the Piikani, Markle was requested by his superiors to seek a surrender of valuable coal land on the Siksika reserve.⁹² While the arrangement did not go forward, the commercial value of the reserve to settler society, adjacent to both the railway and the Bow River, meant that it, like other Treaty 7 lands, would soon be under significant pressure.

At the beginning of 1907, Winnipeg-based Malcolm’s Western Canneries offered to purchase a section of land for five dollars an acre. Agent Markle not only considered this offer to be much less than the land’s market value, but felt that the Siksika would not agree to sell it even if the offer was much higher. While he agreed that a surrender of land “would be in their own interests,” to push the issue at that time would mean a “loss of influence with them” and mitigate against the possibility of a larger scale surrender later. Laird believed that Markle took “too gloomy a view” of the Siksika’s position in this regard, and while he recognized that the presence of Malcolm’s employees would be a negative influence on reserve residents, he stated that “it scarcely seems fair to stand in the way of a Company whose business would undoubtedly help to develop the cattle industry.”⁹³ While Laird’s view regarding the preeminence of the settler economy seems to have remained consistent in the three decades since the meetings at Blackfoot crossing, a single square mile of land was soon the least of the problems facing the Siksika.

In May 1908, the DIA reported that “it is not the intention of the Department to open any portion of this reserve for homesteading,” but less than two months later, Inspector Markle was given authority to pursue a “surrender of whatever portion of the reserve that they [the Siksika] may be willing to

grant.”⁹⁴ Markle did indeed have bigger things in mind than the mere 640 acres requested a year and a half earlier. He first proposed the surrender of 138,200 acres, valued at about \$1,500,000, and then a slightly more modest 115,200 acres with an approximate value of \$1,400,000. As he would later with the Piikani, Markle spent some time meeting with the Siksika to determine what those in favour of a surrender would be willing to accept. Once satisfied that he had his finger on the pulse of Siksika expectations, he presented headquarters with a detailed accounting of what would be required to obtain a surrender. These included, in part, the construction of a few hundred buildings, a supply of agriculture implements and domestic goods, livestock, and a weekly food issue.⁹⁵

While DIA accountant D.C. Scott admitted that the “influence of such a surrender upon the Bloods and Peigans would no doubt lead them to throw open their lands upon similar terms” and that the proposal should be given careful study, he believed that Markle’s valuation was too high and that his estimates of what could be delivered would have to be reduced. Scott and others in the department were, for example, clearly wary of obligating themselves to deliver rations in perpetuity, and Markle was advised not to present this idea to the Siksika.⁹⁶ Markle responded that the prospect of regular rations was the primary reason that the surrender was being considered. In fact, he and Agent Gooderham were of the opinion that no surrender of any size would be accepted without a ration component and even with this it would be difficult. In March 1909, Markle, apparently frustrated by the reduced valuation calculated by Scott, reported that it was not possible to acquire a surrender on the conditions stipulated and returned blank surrender forms to Ottawa.⁹⁷

By March of the following year though, he had arranged the Piikani surrender and stated that informants there assured him that there was “a strong sentiment” among the Siksika for a similar arrangement. He told his superiors that the sale of 115,000 acres, 90 percent of which was “as choice as can be found in Alberta,” would enable a return of \$1,600,000 million. From this amount, rations could be paid for, buildings constructed, and of course the department’s 10 percent, or \$116,000 management fee, could be extracted.⁹⁸

As with the Piikani arrangement, Markle viewed democracy as an obstacle to be overcome. He reported that he had the votes to secure a surrender, but he had to act quickly so that those opposed would not be able to influence the others. While the department stated that it believed it a better policy in the long run to persuade First Nations that surrenders were in their best

interests, the surrender was presented a month later and passed by a narrow margin of sixty-nine to sixty-four.⁹⁹ With 184 males of twenty-one years of age or older identified on the Siksika reserve by the DIA, those in favour represented rather less than a majority of even those the department determined qualified to vote. Still, the surrender was accepted by the Governor General and the Siksika reserve was reduced by over 37 percent.¹⁰⁰

In the text of the surrender document, the Dominion agreed to sell the land “for a sum aggregating not less than \$1,600,000” on “terms as the Government of the Dominion of Canada may deem most conducive” to the welfare of the Siksika. Of the surrender money remaining after the DIA’s 10 percent management fee was deducted, a \$50,000 fund would be established from which money could be borrowed by individuals for seed or agricultural implements. The surrender agreement included a maximum, but no minimum, for rations and also the condition that these would be delivered in a manner that the Dominion saw fit as, again, “most conducive to our [Siksika] welfare.” The Dominion, then, had a considerable amount of flexibility with virtually no risk. While the Siksika would no longer have access to a significant portion of their reserve from which to secure a living, Canada did not have to provide anything beyond the \$50,000 fund until it felt the receipts from the sale were adequate. While it did agree to a food distribution, there was no minimum stated. Further, it retained the right to choose what was in the best interest of the Siksika.¹⁰¹

As with the Piikani sale, this land would be sold on the basis of 10 percent down and the remainder in nine equal annual installments.¹⁰² While the Siksika would derive some benefits from the interest on the sums held in trust by the DIA, and while interest of 5 percent was to be charged on outstanding balances, there seems to be no indication that the department had any intention of turning over this latter interest to the benefit of the Siksika. To make matters worse, the sale did not go as well as expected. Even after, or if, all purchases were paid for, only \$941,872 of the projected \$1,600,000 would be realized.¹⁰³ To make matters worse, as with the Piikani reserve, purchasers were tardy with their payments, and the department found it necessary to utilize the loopholes built into the text of the surrender to reduce disbursements on behalf of the Siksika.

In May 1911, Agent J.H. Gooderham was reminded not to exceed the maximum rations dictated by the surrender. Less than a year later Scott was more direct in reporting to DSGIA Pedley that the interest account from which the cost of rations was drawn was already in overdraft and if there were

no more sales of land the interest available would not cover the costs of the rations. He noted further that the text of the surrender gave the department a pretext to reduce expenditures. The surrender document stated that the housing and other improvements on the reserve were to be financed "within five years of the date of the sale or as soon after as the receipts from the sale warrant." Scott recommended that no other expenditure be considered since receipts did not "warrant" any outlay. Later in the year Scott reminded Pedley that the surrender document identified a "maximum" only and no guarantee of any specific or minimum amount of rations. Further, he identified that it was generally believed by the purchasers that "it is not necessary to pay the principal so long as the interest is paid," but this was "fatal" for the department's plans for the "improvement of these Indians." For Scott, the problem arose "solely from the failure of the purchasers to meet their installments when due." He recommended a further auction of the unsold surrendered lands and that rations be reduced to pre-surrender levels.¹⁰⁴

The department first made moves to reduce rations "with the consent of the Indians," but Agent J.H. Gooderham reported that the agreement, as he understood it, was that these would be provided "for all time" or until the Siksika agreed to accept something else in their place. He stated further that any suggestion that rations be reduced would only fuel the opposition on the reserve. Nonetheless, in April 1915 Gooderham was ordered to revert to the pre-surrender policy of providing rations.¹⁰⁵

Almost immediately there was Siksika resistance to the new arrangement. Reserve residents argued that they "were definitely promised" rations, that they had lived up to their end of the bargain by surrendering the land, and that they were not responsible for the inability of the DIA to collect overdue payments.¹⁰⁶ Agent Gooderham pointed out that there was "improved health and appearance" as a result of the regular rations and that to discontinue them would "completely disorganize all farm work" since the Siksika insisted that they agreed to the surrender "largely on the ground that they were promised rations, not only for themselves, but for succeeding generations. They have been assured of the certainty of this again and again, by the Inspector, the Agent and Staff as well as by the Missionaries on the Reserve, and by Members of Parliament and by visiting Officials."¹⁰⁷

At the end of April, Inspector Markle reported that there had been a meeting on the reserve at which local missionaries Stocken and Lavern expressed their understanding that the rations were guaranteed for all time. The inspector reported further that the Siksika's lawyer presented the view that the

department did not exercise due diligence in arranging to sell the remaining land. This unsold land, Markle stated, had made it impossible for speculators to resell lands purchased at the first sale and reminded Scott that he himself had recommended a second sale, which was scheduled for the summer of 1912, but then cancelled.¹⁰⁸

Markle seems to have fallen out of favour here and Scott insisted on an explanation regarding exactly what the inspector had promised at the surrender meeting and demanded to know whether he let statements claiming promises of indefinite rations go unchallenged. While Scott conceded that “it may be too much to expect” to return to the pre-surrender ration policy, “we should at least reduce the ration to a living ration and not leave it on the present extravagant basis.”¹⁰⁹ Markle responded that he and Gooderham, as well as local missionaries, were convinced that once the rations were started they would continue indefinitely. He went on to present his view that if the Siksika had the same understanding as Scott the majority would have refused the surrender.¹¹⁰ In the end, Scott backed down and asked Gooderham what “a reasonable ration” might be. Gooderham recommended, and Scott agreed to, a reduction in beef and tea, but an increase in flour.¹¹¹ The underlying problem, though, the arrears in purchase payments, as identified by the Siksika themselves, and certainly understood by the department in its decades of dealing with such arrears elsewhere, was an ongoing problem.

In October 1913, Scott was informed that the “threatening letters” sent to delinquent purchasers “had no effect.” Of just under \$350,000 interest and principal that should have been received to that point, under \$225,000 had been submitted. One purchaser alone, F.A. Kilbourn, was almost \$40,000 behind in payments on principal for his 11,000 acre purchase.¹¹² Kilbourn, a land speculator, complained that because of bad harvests across the west he was unable to sell any of his land and so did “not find it convenient” to make a payment on the principal owed.¹¹³

In addition to arrears in lands sales, there were also difficulties collecting for lands leased under Graham’s Greater Production scheme during World War I.¹¹⁴ Graham believed that the scheme had run its course with the end of the war anyway, and he held further that the leases were “a serious hindrance” to the project of securing surrenders of “reserves which are much too large for the small number of Indians scattered over them.” Land sales would, he thought, force a concentration of reserve residents and so simplify administration and surveillance, which would in turn lead to “the rapid civilization of the Indians.”¹¹⁵ In 1922, Scott notified Graham that he too thought it was

best to acquire surrenders and put “idle” lands on the market and that the Greater Production Farms should be closed.¹¹⁶

There were a number of problems for Indigenous interests with the department’s conduct of land sales generally, and the large Siksika sale is a striking example. First of all, that the surrender would be accepted with such a slim majority, even of those who voted, was a recipe for confrontation. Selling land to speculators, despite the pleas from local settlers that this not occur, ensured that the land would be held, unused and unpaid for, until a profit could be assured. Further, low interest rates meant that purchasers were drawn to invest their capital elsewhere rather than make payments on their land purchases.¹¹⁷

In the attempt to resolve some of the financial difficulties on the reserve, the DIA decided to hold a second sale of the unsold surrendered land in June 1917. George Gooderham, who succeeded his father J.H. Gooderham as agent, wrote later “[a]gain the sale was quite a success.” Indeed, the auction was attended by several hundred settlers and, according to the elder Gooderham, realized prices 40 to 50 percent higher than the sale of 1910. All of the remaining land was sold and again the interest rate was set at 5 percent. The problems of arrears continued, and some accounts remained open to the 1950s at least.¹¹⁸

In 1921, W.M. Graham proposed that the department seek a further surrender of 77,760 acres. While Scott concurred with the suggestion, Graham was unable to secure the consent of the Siksika and decided against even putting the matter to a vote. In this instance, the missionary Canon H.W. Gibbon Stocken, who according to Graham felt that he was “called upon to protect the Indians from those on the Reserve, whose business it is to advise them,” was blamed for the failure.¹¹⁹

Continued pressure was applied, but the Siksika were able to hold on to most of what was left after the surrender of 1910. In 1930, for example, the Siksika were able to demonstrate that they could earn more from leases than from interest on the proceeds of a sale when a further surrender of 19,000 acres was proposed.¹²⁰

Reserve Reductions and the Nature of Consent

Well before the meetings at Blackfoot Crossing or the travels of the first reserve commission in British Columbia, it was already clear that the territory of First Nations would be alienated for the benefit of non-Indigenous settlers and that Canada’s “civilizing” project would be financed by the further

alienation of Indigenous lands. Between 1818 and 1838, for example, nine groups in eastern Canada surrendered over eleven million acres of land for future annuity payments.¹²¹

By the end of the nineteenth and beginning of the twentieth centuries, a number of factors came together to significantly augment this policy and the levels of surveillance employed to implement it. Primarily, the increased demands put on land in the prairie west and the few agricultural zones of British Columbia by immigrants that followed the Liberal victory in 1896 and the aggressive immigration policy begun by Clifford Sifton, led to changes in the *Indian Act* and alterations in DIA policy to facilitate the removal of reserve land from Indigenous control.¹²² Significantly though, as Hugh Dempsey has stated for Treaty 7, “[i]n the end, those reserves which surrendered lands showed no noticeable advancement or long-term benefits over those which did not.”¹²³

Clearly it was not the benefits Indigenous people might derive but the determined effort to reduce costs combined with the increasing value of land to settler newcomers that was all the impetus needed for the DIA to drive its employees to persuade, coerce, or find extra-legal means to obtain surrenders of portions of the fragments of land retained by the Treaty 7 First Nations. Without a doubt, these efforts were assisted by the dire position in which these nations found themselves. There is also some validity in the Hanks’ assertion that to these factors should be added the personality and actions of DIA Inspector J.A. Markle.¹²⁴ Markle’s influence and methods have already been discussed, but while his vehemence and enthusiasm were noteworthy, and while his role was significant, it should not be overstated. Markle, like inspectors Cummiskey and Megraw in British Columbia, was merely a part of a bureaucratic apparatus that was designed to “reform” Indigineity and remove First Nations from as much land as possible, while at the same time keeping expenses and overt resistance to a minimum.

In western Canada east of the Rockies, there was not the same degree of political encumbrance to limit Canada’s generosity as there was in British Columbia. Still, Peggy Martin-McGuire has rightly termed the period between 1896 and 1911 in the prairie west as “brief and shameful” and noted that 21 percent of land reserved by treaty only a few decades earlier was removed from even the limited First Nation control that the treaties and the *Indian Act* allowed.¹²⁵ By way of example, and while only a detailed cross-border comparative land use analysis could determine the relative value of these lands to settlers and First Nations, even though the notorious *General*

Allotment (Dawes) Act was in operation since 1887, the American Blackfeet retained almost twice the quantity of land per capita as did their counterparts in Canada.¹²⁶

Also helpful in the attempt to understand the relationship between Canada and First Nations is the issue of consent. While Hana Samek recognizes some of the contradictions illustrated above, she argues that consent was required and presents these inconsistencies as the result of “a lack of agreement” between Canadian officials that was rectified by Scott’s 1914 instructions.¹²⁷ Section 26 of the first *Indian Act* of 1876 stated that any “surrender shall be assented to by a majority of the male members of the band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose.” But immediately there was difference of opinion regarding whether or not this meant the majority of those who the DIA determined were eligible to vote or the much lower standard of the majority of those who actually voted. Minister of the Interior Laird favoured the latter interpretation and this became the standard, at least in the Treaty 7 region, for almost four decades.¹²⁸ By 1914, as discussed above, there was an about-turn in this policy as evidenced by Scott’s 1914 instructions, which stated that any “surrender must be assented to by a majority of the Indians whose names appear upon the voters’ list, who must be present at a meeting or council summoned for the purpose.”¹²⁹ The quantity of consent, then, is at issue for most of the period under discussion here. Peggy Martin-McGuire offers an important addition to Samek’s analysis here in asking us to consider both the quantity and quality of consent.

While determining quantity of consent is not a straightforward problem and it will be a difficult one for land claims specialists to unravel in the twenty-first century, far more complicated is the quality of consent that was given. Certainly the alleviation of poverty would seem reason enough for Treaty 7 leaders to seek some immediate and radical solution that might include the sale of their land.¹³⁰ But the interrelated issues of consent and security in relation to land sales are far more complicated than they might appear. At least in the Treaty 7 area, the federal government and its representatives were rarely clear about their plans for the future or transparent in any aspect of their machinations in obtaining a surrender. While First Nations believed that they had arranged for future security, and while their agent may have upheld this understanding, Ottawa often had different views.

The tactics, including surveillance activities, that Canada employed to reduce reserves and neutralize opposition in the Treaty 7 region demonstrate

how liberalism operated to exclude Indigenous people from the individual liberty and protection of private property that it guaranteed to others. That it simultaneously operated to advance the interests of non-Indigenous settlers demonstrates Canadian liberalism's selectivity and its lack of interest in promoting equality. These machinations, which at best navigated questionable legal and moral grounds, were of course hidden from Indigenous people and from sympathetic non-Indigenous observers, both in the moment and after the fact. This reduced the potential of a swell of protest entering the public view, it protected Canada's reputation as a benevolent patriarch, and it allowed those citizens who might be concerned about such things to remain morally untroubled.

There was resistance of various sorts advanced to meet the specific circumstances surrounding the reduction in territory of each First Nation and this was at least sometimes successful. Considering the DIA's control over band governance and Canada's ability and willingness to choose and depose Indigenous leaders, the degree of challenge to unilateral colonial rule is remarkable. The form of this opposition was sometimes more organized than what scholars of resistance in other colonial situations have referred to as "everyday resistance," but it was still primarily localized in nature and usually in response to immediate threats to survival. Liberal Canada was mostly successful in masking its objective of removing land from Indigenous control by employing a shifting array of tactics all of which were based on surveillance and the construction of a particular knowledge network concerning Indigenous people. As in British Columbia, the First Nation signatories to Treaty 7 have little choice but to continue in their struggle for justice even today, more than 130 years after the meetings at Blackfoot Crossing.