

THE SILVER CREEK SURRENDER OF 1892 AND 1898:
GAMBLERS INDIAN BAND

Roger Townshend

SUMMARY

This report is a narrative of historical events pertaining to the history of land transactions regarding the Gamblers Band Reserve No. 63 at Silver Creek, Manitoba. The focus is on two major land surrenders, in 1892 and 1898. To place these in an appropriate context, previous and subsequent events, mostly falling in the period 1870-1980, are examined. Following is a summary of events covered by this report.

The band which became known as the Gamblers Indian Band had entered Treaty Number Four at Fort Ellice in 1874. At that time the government thought that there was only one band represented at the treaty--the "Fort Ellice Band" under Chief Waywayseecappo. The "Fort Ellice Band" was later to become the Waywayseecappo, Gamblers, Valley River, Rolling River and Sakimay bands. At the time of treaty, there were at least three distinct groups present: Sakimay, Rolling River, and Waywayseecappo/Gamblers. It is not completely clear whether the Valley River people formed a distinct group at that time. The main motive of the government in recognizing only one group appears to have been to reduce administrative costs. By 1881 the government realized that this policy was futile, and the "Fort Ellice" Band was split into the five groups. Meanwhile, in 1876, a reserve had been surveyed for the Sakimay group, and in 1877 another reserve on Birdtail Creek (Lizard Point) had been surveyed for the balance of the "Fort Ellice Band." The location of the reserve had been altered by unauthorized persons, and as a result it was unacceptable to many of the "band" members. This change

of location was a major factor in the Gamblers group separating from the Waywayseecappo group.

To solve this dispute, an agreement was reached in 1881 between the government and the Indians to recognize the components of the "Fort Ellice Band" as separate, to reduce the size of the Lizard Point Reserve, and to allocate a reserve for the Gamblers Band at Silver Creek. The appropriate surveys were completed in 1883. The Silver Creek Reserve was intended for the followers of The Gambler and John Rattlesnake. Based on the 1883 population of these people, the full amount of land promised by treaty was not provided.

A few years after the survey of Gamblers Reserve, many band members began to move away. Some relocated to Waywayseecappo because of a shortage of hay at Silver Creek; as well, Waywayseecappo was closer to their hunting grounds. At the outbreak of the North West Rebellion of 1885, a few moved to Valley River, where some "Gamblers members" had always lived. At any rate, by the early 1890s, a sizeable portion of the Gamblers Band, together with a number of Indians from other bands, were living permanently in the Valley River area, and wanted a reserve set aside at that locale. Accordingly, in 1892 the "Silver Creek" Band surrendered 15 square miles of the Gamblers Reserve in return for at least as much land to be designated elsewhere (i.e. at Valley River). However, only Valley River residents signed this document. As a result of this surrender, 18.25 square miles were set aside as a reserve at Valley River for the Gamblers Band in 1894.

By this time, there were very few Indians left on the Silver Creek reserve, and there was mounting pressure from the surrounding communities to have the land opened for settlement. In 1898 a surrender was signed, giving up the remaining 15 square miles of the Silver Creek reserve except for three small parcels. This surrender was signed by only John Tanner, who, according to the surrender documents, was the only adult male band member resident on the reserve. When the time came to distribute interest from the proceeds of the sale, neither John

Tanner nor the Valley River people received interest distributions. Those receiving distributions were purported to be "former members" of the Gamblers Band living at Waywayseecappo. These included people who had been on the Waywayseecappo paylists since the late 1880s some women who were married to Waywayseecappo members, people who had officially transferred from Gamblers into the Waywayseecappo Band, and children and grandchildren of these people (See Figure 1 for migrations).

In 1907, those living at Waywayseecappo who claimed to be "former members of the Gamblers Band" agreed that future distributions of interest money from land sales of the Gamblers reserve be shared equally among all Waywayseecappo members. This was done from that time onwards. From 1911 John Tanner was also included in interest distributions. In 1924 it was decided by the Department that the Gamblers Band was entitled to share in benefits of the leases of portions of the Waywayseecappo Band. From this time, the Department effectively considered the Gamblers and Waywayseecappo Bands to be one, with an undivided interest in both reserves. In 1975 the Department finally realized its error and the Gamblers Band regained control of its own affairs.

In 1977, after the Gamblers Band had regained control of its affairs, two parcels of land, surrendered in 1898 but never sold, were returned to reserve status.

THE ESTABLISHMENT OF THE SILVER CREEK RESERVE¹

Prior to Treaty Four, the Plains Ojibway (Saulteaux) in the vicinity of Fort Ellice were organized fairly loosely, and there was a certain fluidity to associations larger than those based on kinship. However, there were distinct groupings ("bands"), which the government later recognized as such. When an adhesion to Treaty Number Four was signed at Fort Ellice in 1874, the government recognized only one band, under the Chieftainship of Waywayseecappo, which it called the "Fort Ellice Band." However, it soon became apparent that the group recognized by the government was too diverse to be politically stable. (A result

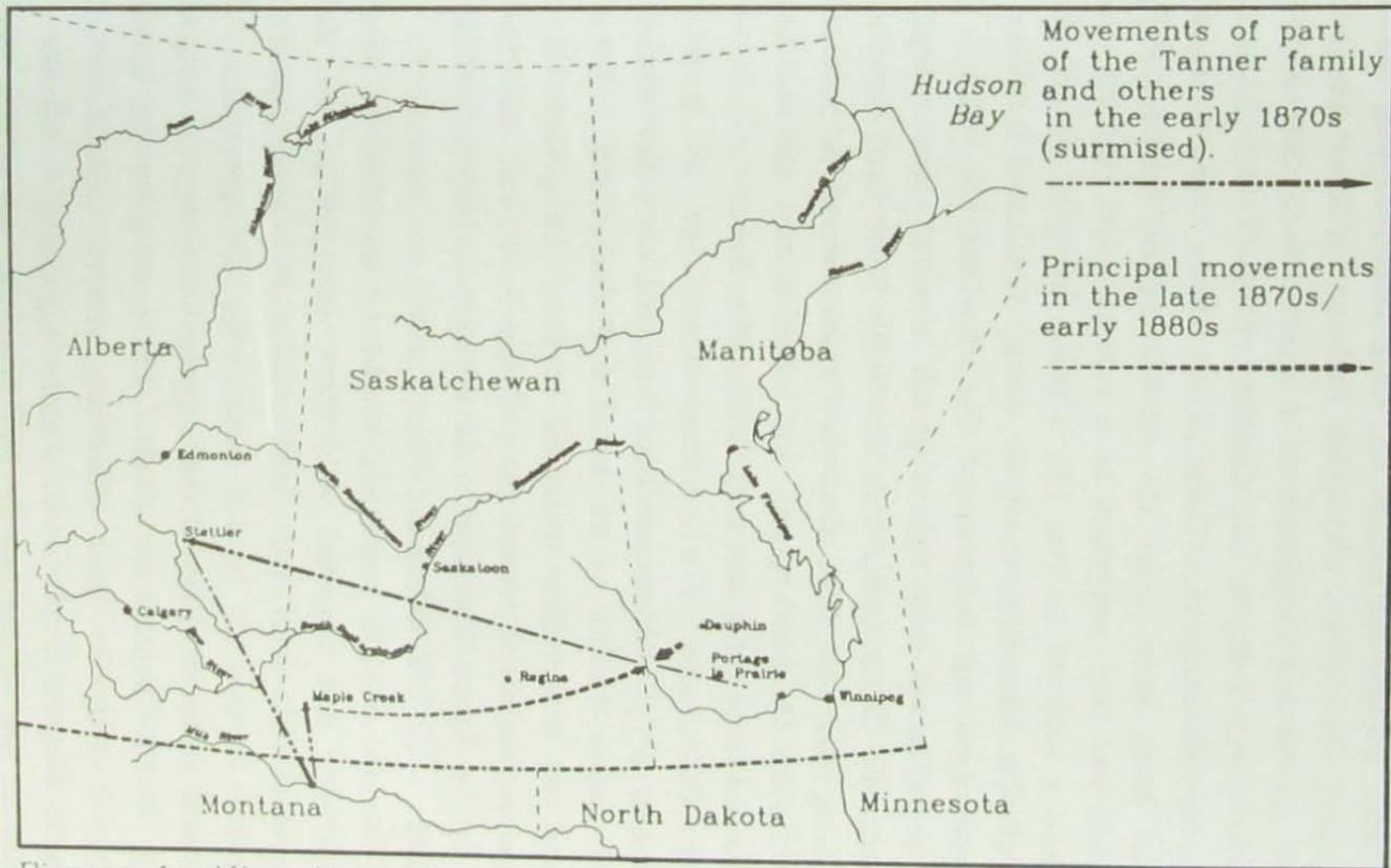


Figure 1: Migrations in the 1870s and 1880s.

of government policy which lumped together as many Indians as possible for administrative and financial convenience.) Included in the "Fort Ellice Band" were (i) a distinct group living at Crooked Lake, which showed no interest in being associated with the rest of the Fort Ellice Band, and which desired, and later received, a separate reserve and recognition as a separate band (Sakimay); (ii) a distinct group living at the junction of the Rolling River and the Little Saskatchewan (Minnedosa) River, which regularly protested being listed under the chieftainship of Waywayseecappo, and which was later recognized as a separate band (Rolling River) and given a separate reserve; (iii) a group living to the southwest of the Riding Mountains, being an uneasy alliance of followers of Waywayseecappo and followers of The Gambler; this alliance fell apart in 1877, and fully distinct groups emerged, later recognized as bands; and (iv) a group from the Valley River area, which had been living there for some time, but which seemed to have some ties with The Gambler's group, and which formed the nucleus of what would later be recognized as the Valley River Band.

In 1875, the "Fort Ellice Band," or at least the Waywayseecappo/Gamblers members, indicated that they wished to have a reserve located at the head of Birdtail Creek. Although this site was within their traditional territory, the government had to consider whether a reserve for a Treaty Four band could be set aside in the Treaty Two area. As a result, nothing happened for two years. In 1877 the Lizard Point reserve was surveyed for this band, but its location had been altered by unauthorized persons. The surveyor had consulted with Waywayseecappo on the Indian side, rather than with The Gambler who had been chosen and authorized to do this by the band. On the government side, Lieutenant Governor David Laird suggested a change in site, even though Treaty Commissioner Christie had been given the authority to consult with the band concerning reserve location. The surveyor, Wagner, implemented Laird's suggestion. Because the location of the band's reserve had been changed without proper consultation with the band, a serious division resulted. The majority of the band, under the leadership of The Gambler,

refused to live on the reserve as surveyed and rejected the leadership of Waywayseecappo. This problem was not resolved until 1881 when there was agreement by the government and the Indians involved to recognize the components of the "Fort Ellice Band" as separate bands, to reduce the size of the Lizard Point Reserve, and to set aside a reserve for the Gamblers Band at Silver Creek. The appropriate surveys were completed in 1883. The Silver Creek Reserve was intended for the followers of The Gambler and John Rattlesnake.

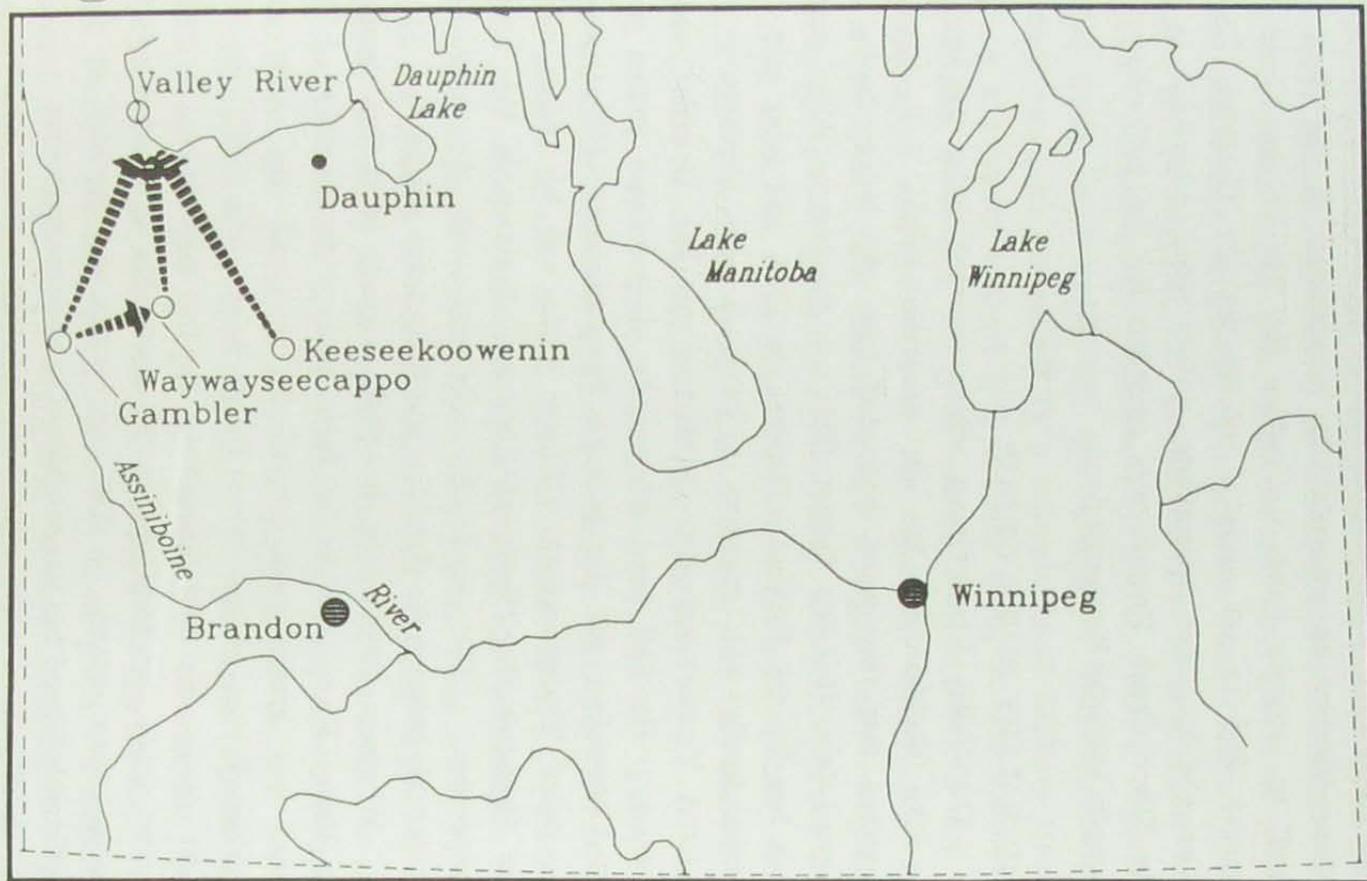
THE VALLEY RIVER GROUP

The Valley River Group, which emerged under the leadership of John Rattlesnake, has an uncertain origin. It has been suggested that they were descended from the Indian family which adopted John (Falcon) Tanner. This was the famous White captured as a boy by the Kentucky Shawnee in 1789, and later sold to an Odawa family who migrated to what is now Manitoba.² John (Falcon) Tanner was the grandfather of The Gambler and his brothers. He had been adopted by a prominent Indian woman called Netnokwa and her husband Tawgaweninne. His step-brother was called Wamegonabiew. Tanner broke with his Indian relations over Hudson's Bay/Northwest Company allegiance in the fur trade competition. This would be consistent with the later uneasy relationship between the Gamblers and Rattlesnake groups.

Whatever their origin, by 1850, a group of Indians considered the Valley River area to be their home. At the time of Treaty Four, this group was lumped in with all the other groups considered part of the "Fort Ellice Band." In 1881, the Valley River group was first recognized by the government as being a distinct group, or band, under the leadership of John Rattlesnake. For unknown reasons, in 1882 this group was included as part of the Gamblers band and was considered to be so for some time.

In the late 1880s the group at Valley River was joined by Indians from the Gamblers, Waywayseecappo, Rolling River, and Keeseekowenin bands (See Figure 2). These groups moved to Valley River for diverse reasons: the "Northwest Rebellion" of

Figure 2: Migrations in the 1880s.



1885, a shortage of wood and hay at Silver Creek, and better hunting grounds at Valley River.³ As a result, quite a sizeable group of Indians were living in the Valley River area by the late 1880s. They made a good living by hunting and trapping and did not require any government assistance. They showed no inclination of moving back to Silver Creek, because it was unsuited to their hunting livelihood. By the late 1880s those who remained at Silver Creek were farming.⁴ Thus by the late 1880s, the groups at Silver Creek and Valley River had very different lifestyles and economies.

THE 1892 SURRENDER

Several related circumstances led to a land surrender in 1892. First, a fairly large number of band members found Silver Creek unsuitable, and left for Waywayseecappo, Valley River, or other locations. Moreover, White settlers in the area looked covetously at the reserve land, and pressured the government to make the land available to them. These desires were intensified by the fact that relatively few Indians were living on the reserve. Finally, the Indians at Valley River, a number of whom had come from Silver Creek, wanted a reserve there.

For many band members, the Silver Creek Reserve was unsuitable. Two factors had changed the situation significantly. Initially, when the band first moved on the reserve in the early 1880s, there were very few settlers in the area. By the late 1880s, however, the village at Binscarth had been established, the railway had reached the area, and settlers had taken up much of the land. Thus in less than one decade, the Silver Creek area had undergone a major change in character and occupants. These changes had not yet reached Waywayseecappo and Valley River. Hence, for a period of time, a migration would delay the problems caused by encroaching settlement. The second factor was the boundaries of the reserve which were not exactly where The Gambler had wanted. This boundary change caused a shortage of wood and hay on the reserve. Such a shortage was not critical in the early 1880s--the band merely gathered off-reserve hay and

wood from across the river. However, as settlement rapidly proceeded, The Gambler realized that this could not continue, and made repeated efforts in 1885 and 1886 to make a land exchange so the reserve would have adequate wood and hay. The Department seems not to have given an answer to these requests, and, apparently giving up, The Gambler moved to Waywayseecappo in 1887, citing the shortage of wood and hay at Silver Creek and distance from hunting territory as his reason. He was followed by quite a number of the band. In fact, by 1889, only the Tanner brothers and their families, about 50 people, were left at Silver Creek.⁵

Pressure from the newly-arrived settlers in the area was also a circumstance which encouraged the government to seek a land surrender. A petition pressing for the Silver Creek Reserve land to be made available to settlers was sent to the Department in 1891. Enquiries about the land were also received from individuals, agents, and corporations.⁶

Meanwhile the idea of a surrender (for an exchange of land at Valley River) had surfaced in the Department as a way to provide land which the group at Valley River wanted. Recognizing the Valley River group as a separate band, and providing a land base for it was a fairly natural idea, given the distinctiveness in economy and character of the two communities which had evolved. The idea of a surrender seems to have met with approval, since the discussion soon turned to determining specifically which lands should be exchanged.⁷

From early 1890 until April 1892, the discussion centered on what land was available at Valley River. Land at Valley River was to be selected and surveyed prior to a surrender at Silver Creek so that the band members would know exactly what they were getting. Correspondence with the Department of the Interior concerned the availability of land at Valley River, the existence of timber licenses in the area, and the undertaking of surveys. However, in April 1892, the Superintendent General of Indian Affairs instructed that a survey at Valley River would not take place until after the Silver Creek surrender. A few months later,

the Indian agent took the surrender which was signed in the early fall of 1892.⁸

The matter of the nature and extent of the land surrender appears to have been decided with little or no input from the Indians. Proposals considering which land to surrender were circulated in the Department as early as 1890, and a legal description of the land was drawn up in 1891, but no consultation seems to have occurred with those living on the reserve. When Agent Markle finally consulted with John Tanner in 1892, Tanner suggested some changes to the proposal. These changes were not seriously considered, however, and it was decided to see if Tanner's views were "shared generally by the Band."⁹ The rest of "the Band" was considered by the Department to be those who were living at Valley River. These people could hardly have been expected to have strong feelings on this matter; some had never lived at Silver Creek, and the rest had moved away at least five years previously. They were an economically and culturally distinct group from those at Silver Creek, and none of the Valley River group had any intention of ever living at Silver Creek. It would have made little or no difference to them which land at Silver Creek was surrendered, as long as they got some land at Valley River.

It is evident that not only did this Valley River group participate in the surrender, but also they were the only ones participating in the surrender. All of those who signed the surrender document were in the Valley River group, all had been paid previously at Valley River and all were on the first Valley River Band Treaty Annuity list.¹⁰ None of those band members then living at Silver Creek signed the surrender document.

Additional curiosities are associated with the surrender. The Indian agent had asked the Valley River group to come to Silver Creek for the surrender. Apparently, they came, although not all at the same time. The surrender itself was signed on two days--September 15 and October 5, 1892. Presumably, the agent felt that not enough Indians had responded to his summons in mid-September, and the annuity payments provided an opportunity to

rectify this. For the previous three years, he had paid the Valley River people at Valley River; however, in 1892, evidently at the agent's request, they were paid on October 5 at Silver Creek, the same date that some of them signed the surrender.¹¹ Rather curiously, Agent Markle noted:

It is an old custom for Indians on treaty day to review at length their past history, and then bargain with the Government but this year this was not done, and the payments in consequence were made with little or no demonstration.¹²

However, Markle did not mention the surrender he had concluded at that time. The surrender purports to be made by "The Silver Creek Band of Indians resident on our reserve at Silver Creek," in spite of the fact that none of those who had signed the surrender was then residing at Silver Creek and that resident Indians did not sign the surrender.

Another unusual matter is that the accompanying affidavits were not executed for almost a year after the surrender.¹³ During this time, the Department does not seem to know what had happened, since it answered inquiries regarding the surrender by stating that it had not yet occurred.¹⁴ A few months after the affidavits were completed, the surrender was accepted by Order-in-Council (10 November 1893), and within a year of the Order-in-Council, a survey was done at Valley River which was confirmed as a reserve by Order-in-Council in 1896.¹⁵ As late as September 1896, however, the Department of the Interior was not aware that the surrendered land was available.¹⁶ Because this land was not made available for settlement, more pressure came from settlers to open up reserve land than need have been the case. The delay and ensuing pressure were, at least, indirect factors leading up to the 1898 surrender.

For the Valley River Indians, the 1892 surrender was a significant step in having their distinct identity recognized. By the late 1880s Valley River people had a lifestyle and economy quite different from those at Silver Creek. Also, since 1889, they had been paid their treaty annuities separately at Valley River. With the 1892 surrender, the way was paved to have reserve land

set aside for them at Valley River, a major step, if not the deciding factor towards recognition as a separate band. Indeed, the expressed intent of the 1892 surrender was to make the Valley River people "separate and distinct."¹⁷ When the first Valley River payroll was drawn up in 1893, former members of the Gamblers, Waywayseecappo, Keeseekoowenin, and Rolling River bands were included. Such a group could hardly continue to be viewed as a part of the Gamblers band.

After a reserve survey in 1894, the Valley River members took steps to have their system of self-government recognized. They applied to have elections for Chief and Council in 1895, and after two years of discussion, during which the band repeatedly insisted on their rights, the Indian agent held elections.

The 1892 surrender was a key event in the recognition of the Valley River group as a separate and independent band. The matter is somewhat muddled by the fact that the 1894 survey and the 1896 Order-in-Council purport to set land aside for the Gamblers band.¹⁸ This wording, however, should not detract from the clear intent of these instruments and associated events which was to set aside land at Valley River for those who lived there, not to be held jointly by them and the Silver Creek people (See Figure 3 for land surrendered).

THE 1898 SURRENDER

Some of the factors which contributed to the 1892 surrender continued to play a part in bringing about a further surrender in 1898: band members continued to move elsewhere, and pressure from White settlers to make reserve land available to themselves persisted.

By the late 1880s, the group remaining at Silver Creek was "composed almost entirely of members of the Tanner brothers' families."¹⁹ The Tanner brothers were sons of Picheito (b. 1802 d. in the early 1870s), a Chief who had spent most of his life in Portage La Prairie but moved west late in his life. Picheito was the son of the famous John (Falcon) Tanner who had spent much of his life in what is now Manitoba. Picheito's sons were The

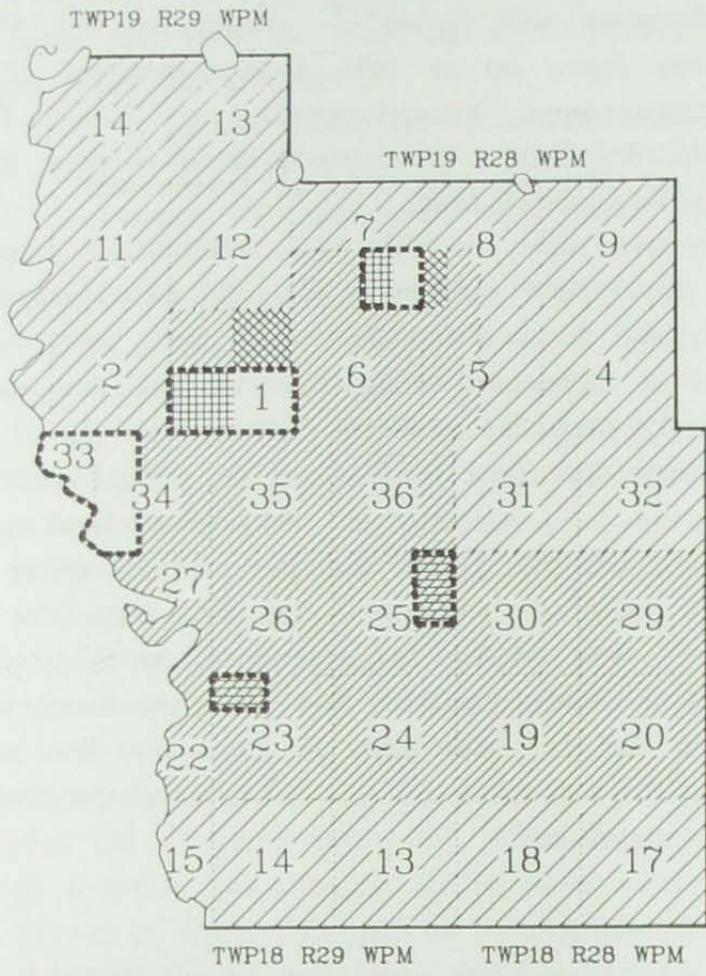


Figure 3
Gamblers I.R. No.63; Land surrendered

- Surrendered for exchange 1892
 - Surrendered for sale 1898
 - Added
 - Removed
 - Returned to reserve at Band request 1977
 - Original reserve boundary
 - Present reserve boundary (1986)
- } Amendment to 1898 surrender due to error in administration of land sales. Done in 1959 corrected in 1963

Gambler (Otahaoman), Joseph (Kissoway), John (Cheton), Alex (Pamanawayaskung), Basil, Edward, and Thomas (Kakeewaycomo). All except Edward spent some time on the Gamblers reserve. Edward moved to White Earth, Minnesota in the early 1870s. The Gambler had been responsible for the creation of the reserve. His brothers joined him in the early 1880s, having previously been paid treaty annuities in the Maple Creek (Saskatchewan) area.²⁰

The Tanner family was a well-known and prominent family in Portage La Prairie prior to 1870. However, after the Riel "Rebellion" and the formation of the Province of Manitoba, the political climate was not very friendly to Metis. In fact, Picheito's half-brother, the Reverend James Tanner, had been killed during the 1870 election campaign, apparently for political reasons.²¹ The absence of buffalo also made Manitoba less attractive. During the early 1870s, many Metis left Manitoba and headed further west, among them most of the Tanner family. It seems that the Tanners attached themselves to a group of Metis, who were making a last attempt at the buffalo robe trade and wintering at Buffalo Lake, Alberta (about 70 miles south of Edmonton). From there, it can be surmised that they followed the vanishing buffalo herds, whose movements are known. Canadian Indians and Metis followed the buffalo south, and were eventually forced out of Montana by the U.S. military and ended up congregating near Fort Walsh in the Cypress Hills. The Tanners were reported to have come from the Cypress Hills when they arrived at Silver Creek. When Fort Walsh was shut down in 1883, the Indians and Metis in the area scattered. Apparently, the most attractive place for the Tanners was the reserve which their brother, The Gambler, had just secured. In the early 1880s most of the Tanner brothers were to be found at Silver Creek (See Figure 1).

However, settling on the reserve did not last for the Tanner brothers. Metis by blood and in many ways by culture, it is not surprising that some Tanners opted to take scrip and settle off-reserve. Thomas and Alex withdrew from treaty in 1894. Basil fell "into disgrace" in 1891 and the band asked him to leave. He

moved to Cowesses, but was not very popular there either, and ended up at Waywayseecappo by 1899.²² Joseph died in 1893; his widow lived at various places in the North West Territories after this, perhaps visiting her children. His daughters withdrew from treaty in 1894.²³ The Gambler had left in the late 1880s, so by 1895 John was the only "Tanner brother" left at Silver Creek. A few other families had come from Maple Creek with the Tanners in the early 1880s (the Black Bear--(Mukata Maqua), Kakanestick, and Jandrew). These families had also left by the mid-1890s: The Black Bear and Kakanestick transferred to Swan Lake in 1893 (they had actually never lived permanently at Silver Creek), and Jandrew had followed The Gambler to Waywayseecappo in the late 1880s.²⁴ Consequently, by mid-1897, the Indian agent could report that John Tanner and his family had been the only ones living permanently at Silver Creek for the last year.²⁵

White settlers, seeing so few Indians living on the reserve, and being covetous of reserve land in the first place, exerted pressure on the government to make the land available to them. This pressure was really just a continuation of the representations made in 1891 and 1892, which had preceded the 1892 surrender. This is especially relevant since, in 1896, the Department of Interior was not yet aware that the 15 sections of land from the 1892 surrender could be made available to settlers.²⁶ From the settlers' point of view, nothing at all had happened for five years. Therefore, pressure continued which might otherwise have abated had the surrendered land been placed on the market. Years of inaction on the settlers' original representations resulted in similar representations in 1894, along with the assertion that the only Indian on the reserve was not farming. This set of demands was dismissed fairly quickly; Deputy Superintendent General of Indian Affairs Reed noted that half the reserve had been surrendered, and this portion would be available once the Indians had received the exchange lands at Valley River. Reed also noted that the remaining Indians had refused to move and could not be compelled to do so, and that those remaining at Silver Creek were "advanced, well-to-do, intelligent Indians, forming about as useful

members of a community as the average white settlers."²⁷ Settlers' desires were not so easily deterred, however. The matter continued to be the subject of correspondence; it was noted that "interested parties are pressing for a decision," but again the answer was no.²⁸ The matter came up again in 1897, through the renewed correspondence with A.G.P. Smellie of Binscarth (he had been one of the first to bring up the matter in 1894).²⁹ This time, his letter seems to have touched off a series of reports and letters which led directly to a surrender in 1898. Perhaps a change in government was a factor in the Department's willingness to discuss and promote a surrender this time.³⁰ John Tanner's willingness to consider the idea was no doubt a factor (although in 1894, he apparently had been willing to consider it).³¹

It is necessary to ponder why John Tanner would consider a surrender? Consider his situation: he had nothing to gain and everything to lose on the surface. He had, virtually for himself, the use of 15 sections of land and he knew it. He was a capable farmer and knew how to make good use of land. By all accounts, he was intelligent, ambitious, well aware of his rights and not easily influenced. He was also well established at Silver Creek, with 50 acres broken, a log house, a large stable, and other buildings.³² Tanner gave the shortage of hay as a factor for considering a surrender. The shortage of hay on the reserve existed because the reserve boundaries were not exactly as The Gambler had chosen them, and also, the hay shortage had been a factor given for the numerous band members leaving the reserve in the late 1880s. Secondly, Tanner may have thought he could improve his position if suitably compensated for his improvements. He suggested a payment of \$325 or \$400, quite a considerable sum of money at the time and indeed more than the Indian agent considered the improvements to be worth.³³ Because of his White neighbors' eagerness for the reserve land, perhaps Tanner feared losing the land by foul means if he was totally intransigent. Another factor may have been the spoken or unspoken threat that he would be out-voted by other band members not living on the reserve, since in 1897 the Department was considering such

persons to be eligible to vote for a surrender.³⁴ Thus the idea of a surrender at Silver Creek of the remaining land arose, and encountered resistance, but not outright rejection from John Tanner.

The matter first received serious consideration in 1894, but little came of it for several years. In early 1897 when further representations on behalf of neighboring settlers were made, it was assumed, unlike on previous occasions, that the land desired was that which remained after the 1892 surrender. With the approval of the Superintendent General of Indian Affairs, Clifford Sifton, the matter was pursued vigorously.³⁵ The summer and fall of 1897 were spent considering who was eligible to vote in the surrender, who was eligible to receive the proceeds, and the terms to which John Tanner would agree.

One of the first questions to be addressed was the eligibility to vote for a surrender. The agent reported on the membership of the Band in June and July of 1897.³⁶ Later in the fall, it was decided that those at Valley River were former members of the Gamblers Band and were not entitled to share in the proceeds of a surrender. If it was in question at all, the Valley River people were a fortiori not eligible to vote in a surrender.³⁷ The result of these discussions was that, although Tanner was the only adult male resident on the reserve, the Department considered three people to be eligible voters. Although the Indian Act criteria for being an eligible voter required habitual residency "on or near" the reserve,³⁸ Departmental practice was frequently inconsistent, especially in the late 1890s. In this case, the Department was clearly intending to take a surrender from those not resident on the reserve, namely Otterskin, who had moved to File Hills, Saskatchewan, and Wazakeeass, who lived most of the time at Waywayseecappo. Furthermore, the Department's opinion was that the non-residents, who made up a majority of those considered eligible voters, were in favour of a surrender.³⁹ No doubt the spoken or unspoken threat of being out-numbered in a surrender vote was a powerful incentive for Tanner to reach an arrangement with the Department.

Tanner was approached regarding a surrender shortly after the question of voter eligibility began being discussed. In 1894, he had indicated a willingness to consider a surrender if compensated \$325 for his improvements and if given the same rights he had on the other reserve. Subsequently, he had asked the Cowesses band if he could move there, but they refused. When approached by Markle in 1897, Tanner offered to move if compensated \$400 for improvements and given similar rights on another reserve, or to surrender the balance of the reserve if left with three sections and given wire to fence them. Shortly thereafter Markle asked the Valley River Band members if they would accept Tanner, and they indicated they would if given more land. The Department then decided that it had no funds to pay for Tanner's improvements and therefore he should stay at Silver Creek but that his request for three sections was "exorbitant."⁴⁰ It was also thought best to keep Tanner "out of a Reserve" (i.e. on a remnant of a reserve or on land patented to him at Silver Creek rather than on another reserve) since he was "a difficult man to deal with on a reserve and is to all intents and purposes a white man."⁴¹ Agent Markle was left to negotiate a "reasonable" amount of land for Tanner to keep (i.e. less than the three sections he wanted). Markle finally managed to get agreement from Tanner to keep about 800 acres. The Department seems to have expected to give Tanner a patent for this land, but Tanner insisted that it remain reserve land and so be tax-free. This was quickly approved, a clause added to the surrender to exclude the land which Tanner was to keep and the surrender signed by Tanner alone on January 14, 1898.⁴² The other "eligible voters" were not consulted; they were no longer needed, because Tanner himself had agreed to the surrender (See Figure 3 for land surrendered).

LAND SALES

The surrender had been forwarded to the Department in March of 1898, but not until the summer of 1900 was the land surveyed and valued--necessary preliminaries before the land could

be sold.⁴³ In September of 1900, the Indian agent was instructed to sell the land, subject to minimum prices, and generally according to the Land Regulations of the Department. The conditions most relevant to purchasers were that the money was to be paid one-fifth down, and the balance in four equal annual installments; and one year's residence on the land was required before a patent could be issued.⁴⁴ The minimum prices set by the surveyor ranged from \$2.50 to \$5.00 per acre.⁴⁵

Before the surrender, there had been considerable interest by settlers in obtaining Silver Creek Reserve lands. This interest continued after the surrender; however, it did not result in immediate sales. The land did not sell very briskly, and that which did often fell victim to an occurrence common among surrendered lands which had been sold--failure of the land buyers to pay on time.

Meanwhile, interest in the land continued; the Department fielded numerous enquiries from the time of the surrender until the land became available for sale. However, while there was strong interest in having the reserve "thrown open" (making the land available as homesteads, which amounted to providing the land for free), there were few interested in purchasing the land at fair market value: Six months after the land had been made available for sale, nothing had been sold.⁴⁶ The principal complaint of prospective buyers was that the land had to be paid off within five years, whereas the normal period required by the Department of the Interior was ten years. The price and other conditions of sale were generally acceptable, however. Accordingly, in May 1901, another Order-in-Council was passed making the requested change to the terms of sale. It is significant to note that the stated aim of the Order-in-Council was to make the terms of sale "conform with those adopted by Land Companies and the Provincial Government in connection with the sale of adjacent land."⁴⁷ This statement is somewhat deceptive. The change made the number of installments conform to those required by the Department of Interior. Nonetheless, commercially-available farm mortgages at the time were generally

for a five year term, but renewable, so that the balance was not, in practice, expected to be paid off in five years. The method of calculation of interest, however, was significantly different from other available loans. In a practice apparently unique to Indian land sales, interest was calculated on the instalment paid, from the date of sale to the date of payment, without compounding. All other mortgage loans available charged interest on the unpaid principal from time to time.⁴⁸ This practice of the Indian Affairs Department was a considerable advantage for the buyers, although it is unknown if prospective buyers were aware of the interest calculations. At any rate, within two years of easing the terms, most of the land had been sold.

At this time, the Valley River Band protested the 1898 Silver Creek surrender, claiming that their consent was necessary. There is no evidence, however, that the Gamblers band shared this view, and the Department clearly considered them a separate band, with no interest in the Silver Creek Reserve by that time.⁴⁹

The problem of land sales did not end with the sale of most of the land. Frequently purchasers of Indian land fell behind in their payments, some for understandable reasons (e.g. crop failures), others for less acceptable causes. A major factor for late payments was that the interest charged was lower than interest that could be earned by investments, although there is no direct evidence that this influenced land buyers in the Silver Creek case. (Buyers could make money by falling behind in their land payments and investing the money elsewhere.) Extreme cases of non-payment by land buyers led to cancellation and re-sale of the land. Sales were still being made in the 1940s and 1950s. Some of the land was never successfully sold, and hence returned to reserve status in 1977 (See Figure 3).⁵⁰

The Department was not very prompt in pursuing purchasers who fell in arrears. For example, one quarter section was sold in January of 1905, but no payments other than the down payment were ever received. In spite of repeated urgings from the agent to cancel the sale, and numerous letters from the purchaser indicating that he was not going to pay, the sale was not

cancelled until February of 1912, after no less than twenty-four pieces of correspondence had been exchanged. In another sale made in May, 1904, on which only the down payment was ever received, cancellation did not occur until February 1912. The Department missed an opportunity to sell to another buyer who made an offer in 1911, which the agent recommended accepting, since he anticipated difficulty in re-selling the land.⁵¹

DISTRIBUTION OF THE PROCEEDS FROM LAND SALES

The 1898 surrender had provided that:

all moneys received from the sale thereof, shall, after deducting the usual proportion for expenses of management, be placed to our credit and the interest thereon paid to us and our descendants annually or semi-annually as to the Department may seem best in our interest.⁵²

The question of precisely who was entitled to share in these interest distributions is inseparable from the question of band membership—one of the most difficult and confusing aspects of Gamblers Band history. Consideration of the legal background to band membership, kinship ties, place of residence, and relevant actions of all possible Gamblers members, suggests that some 12 persons listed separately on the payroll along with those included in their families (an additional 7 people) are properly considered Gamblers members as of 1898.⁵³ There was also one former member (a woman who had married a non-Indian, but who had not yet commuted her annuity) entitled to share in band finances. Likely this would have approximated the group that John Tanner considered to be band members in 1898 and thus included by the surrender term "us and our descendants." Tanner would have intended the money from land sales to go to this group and not to others. However, by the time of the first interest distribution in 1907, this group had dwindled to the immediate family of John Tanner, due to deaths, marriages to non-Indians, and transfers to other bands.

Had the Department carefully thought through the matter of band membership and entitlement to share in band finances, it

would have concluded that, by 1907, only John Tanner and his immediate family were entitled to share in interest distributions. Events, practices and procedures elsewhere, however, seem to have clouded the department's thinking.⁵⁴ A main source of confusion seems to have been an opinion rendered by the Department of Justice on 14 May 1897.⁵⁵ This opinion arose from the following circumstances: since 1894 and 1895, the Department had wanted to open up three "abandoned" reserves in the Northwest for settlement, namely Checastapasin, Young Chippewyan, and Sharphead.⁵⁶ The method suggested was to transfer all members to other bands with the explicit intention of avoiding a surrender if all band members could be transferred. Agents were instructed and proceeded accordingly in the Checastapasin and Sharphead cases. Young Chippewyan members were judged too hard to trace. Tracing band members for the other bands was a long and difficult process, taking a number of years, during which the Department kept constant pressure on the agents. Not until 1897 were the Checastapasin transfers completed.

Further complications existed because the Bowell government had resigned and had been replaced by the Tupper government, which in turn was defeated in an election and replaced by the Laurier administration. This political instability probably prevented faster action regarding Young Chippewyan Band which was transferred by Order-in-Council to the Department of the Interior on May 11, 1897. By this time, however, the idea that no surrender was necessary if all band members were transferred was being questioned. (The idea had originated with Mayne Daly, the Superintendent General of Indian Affairs in the Bowell administration, and had elicited surprised reactions from senior Indian Affairs staff.) Accordingly, Clifford Sifton, the new Superintendent General of Indian Affairs ordered the matter referred to the Department of Justice. Hence came the Department of Justice's opinion of 14 May 1897. This opinion stated that there was no statutory authority for transfers of band membership, that the Checastapasin Band had not been dissolved

and that a surrender was necessary. However, this opinion fails to consider an 1895 amendment to the Indian Act which provided:

140. When by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereto is assented to by the superintendent general, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lands and moneys of the band to which he is so admitted; but the superintendent general may cause to be deducted from the capital of the band of which such Indian was formerly a member his per capita share of such capital and place the same to the credit of the capital of the band into membership in which he had been admitted in the manner aforesaid. 57

Thus, the Justice Department's opinion of 14 May 1897 must be regarded as poorly founded in law.

Nevertheless, no one in the Department of Indian Affairs thought to question the opinion. The Department was now in the awkward position of trying to live with this opinion and therefore it took a surrender from the former Checastapasin members who were then living at Cumberland Reserve 100A. But all these people were members whom the Department had just gone to great lengths to formally transfer out of the Band. Although only those former members who had moved to Cumberland 100A were consulted (those who had moved elsewhere were not), the surrender provided that the proceeds be distributed among all the bands to which the former Checastapasin members had dispersed. This provision was carried out. The Sharphead surrender was conducted in the same way a few months later based on this "precedent." These "precedents" of distribution of surrender proceeds, based on unsound advice from the Department of Justice, formed the historical background to the distribution of proceeds from the Gamblers surrender.

In The Gamblers case, the matter started off on the right track. Very sensibly, it was thought that it would be best to settle the question of who was entitled to share in proceeds of the surrender before the surrender was taken.⁵⁸ It was decided that:

the former members of this Band who surrendered a portion of the Reserve in 1893 and received a Reserve at Valley River are not entitled to share in the proceeds of sales of the remaining portion of Gambler's Reserve having already received at Valley River what they are entitled to under the Treaty. 59

It was further stated that those who were eligible to share in the proceeds of the sale were those listed as members of the Band in Agent Markle's letter of 12 June 1897, with a few corrections.⁶⁰ This revised list closely corresponds with those concluded above. As far as the eligibility of the Valley River people goes, this appears to have settled the matter definitively. When the agent was instructed to take the surrender he was advised that the Valley River group had "no interest in the remaining portion of the Gambler Reserve."⁶¹ When the Valley River Band asserted otherwise in 1903, they did not get much of a hearing.

Except for the Valley River people, the question of eligibility to share in surrender proceeds did not remain clear. The first indication that things might get off-track occurred in November of 1897 when Indian Commissioner Forget suggested that:

The balance of the surrendered land might be sold, and the proceeds funded for the joint use of the other claimants [i.e. other than John Tanner and family], and the Band or Bands which they may join as has been done in other cases. 62

This is notable because it indicates that band members would retain an interest in band funds even after they had joined other bands, contrary to the 1895 membership amendment to the Indian Act. It is also a clear indication that the Checastapasin and Sharphead "precedents" were influencing Departmental thinking.

This situation remained for a number of years. In 1901, a question arose about a request from Mrs. Richot (née Rose Morrisseau) to commute her annuity. The law clerk in Indian Affairs quickly pointed out that this would not be in her interest, because after the land sales, she would be entitled to a 1/19th share in band funds.⁶³ (The number 19 would have included only those who were considered Gamblers members in 1898.) In 1903, following the lines of Forget's 1897 recommendation, the

Department suggested using the land sale funds to give Gamblers members "a good start," elsewhere, and placing the balance to the credit proportionately of the bands to which they would be transferred.⁶⁴ This was still a reasonably proper suggestion. If those who moved elsewhere were still Gamblers members, the Department had the power under the 1895 Indian Act amendment to adjust Band funds when Indians transferred from one Band to another. In 1905 it was suggested that former Gamblers members who went to either Valley River or Waywayseecappo should share in land sales proceeds, but this idea seems to have died. At about the same time the agent was asked to prepare a list of those "who were members of Gambler's Reserve at the time of [sic] the surrender in 1898 and who are entitled to participate in the distribution of the interest at credit of Gambler's Band."⁶⁵

The agent promptly carried out these instructions and also noted that the Valley River group should not participate in these distributions. In 1906, the agent was instructed that those entitled to share in the proceeds were "all annuitants on the pay-list of 1898 and their descendants, with the exception of John Tanner No. 120 and his son Joseph No. 158, who resides on the unsurrendered portion of the Reserve."⁶⁶ These instructions were contrary to the 1895 Indian Act amendment, because a number of those who had been Gamblers members in 1898 were no longer members, and therefore would have forfeited their interests. (The Department **could have** adjusted the capital funds of the bands to achieve a result similar to the intent of these instructions, but did not act in this way.) Furthermore, the exclusion of John Tanner and his son was irregular. (The Department later realized this and rectified it.) Nevertheless, these instructions can be considered a reasonably genuine attempt to interpret and implement the terms of the surrender. Significantly, these instructions were not followed.

When the time came to distribute the interest money in 1907, an assortment of former members, children of former members, and grandchildren of former members of the Gamblers Band (all of whom then resided at Waywayseecappo) received payments.

Some had not been Gamblers members in 1898 but had had an affiliation with the Gamblers Band in the 1880s. Others had never been Gamblers members but traced an affiliation only through parents or grandparents. This was extraordinary practice on several counts: (1) Those who received the money were not members of the Gamblers band, nor did they or the Department consider them to be Gamblers members, and one of them had even been elected to the band council at Waywayseecappo; (2) in 1888 and in 1905, the agent had informed those who had moved to Waywayseecappo in the 1880s that they had no rights left regarding the Gamblers reserve; (3) the practice was contrary to the advice given by the law clerk of the Department of Indian Affairs in 1901; (4) the practice was contrary to the agent's instructions of 1906; and (5) those who were then undoubtedly Gamblers members (John Tanner and family) did not receive a share in the money.⁶⁷

THE ALLEGED AMENDMENT OF THE SURRENDER IN 1907

Waywayseecappo members, without any links to the Gamblers reserve, had seen other Waywayseecappo members receive money from Gamblers land sales. Naturally they wanted to get in on this.⁶⁸ Apparently, those who had received interest distributions were agreeable; later in 1907 most of them signed a document which stated:

We the former members of the Gambler's Band, No. 63 Birtle Agency, and now recognized as members of the Waywayseecappo's Band No. 62, who have participated in the distribution of Interest monies, Gambler's Band; have now agreed and are willing, that in future the said distribution of Interest money, shall be paid by the Department of Indian Affairs, equally amongst all the members of the Waywayseecappo's Band No. 62 Birtle Agency.⁶⁹

This document can be considered an attempt to amend the surrender of 1898, since it makes a major alteration in the terms of the surrender. Apparently there was no attempt to deal with it as a surrender amendment: no band meeting was called, John Tanner and family were not consulted, and no attempt was made

to determine voter eligibility to amend the surrender. The same rules for eligibility for voting in a surrender should also apply to a surrender amendment.

However, almost every criteria for eligibility were violated. The Indian Act required a band meeting, held according to the rules of the band, the authorization of the Superintendent General to permit a Departmental official to attend such a meeting, and the consent of the majority of adult male band members. Also, residence "on or near" the reserve was required for eligibility to vote. Concerning this amendment: (1) There is no evidence of a band meeting being called; (2) there is no indication that the Indian agent had authority to have a surrender amendment signed. (For that matter no one seems to have considered it as a surrender amendment and it was not processed as such.); (3) John Tanner and Joseph Tanner Jr. were the only adult male Gamblers Band members in 1907, they were living on the reserve, they did not consent to a surrender amendment; (4) none of those who signed the document was a Gamblers Band member, (Neither the signatories nor anyone else considered them to be members. The document referred to them as Waywayseecappo members, and formerly Gamblers members.); (5) none of those who signed the document was living on the Gamblers reserve; Waywayseecappo can not be considered "near" Gamblers; (6) most of those who signed the document were neither adult nor male. (Of the sixteen signatories, seven were women, two were girls, one of whom was only 11 years old, and one was a fourteen year old boy.)⁷⁰

Clearly, not the slightest attempt was made to apply criteria of eligibility for signing such a document. There is no evidence of malice on any part, but surely the procedure must be considered incompetent (For instance, the Indian agent considered an eleven year old girl, who was not and had never been a Gamblers Band member, to be eligible to sign a surrender amendment). Nevertheless, the 1907 document was treated as if it were valid and subsequent interest distributions included all Waywayseecappo members.⁷¹

A few years later, the Department concluded that it had made a mistake in excluding John Tanner and family from interest distributions. Consequently the Tanners were paid arrears, and from 1911 onwards, those who were Gamblers members were given an equal per capita share in Gamblers moneys along with all, and the more numerous, Waywayseecappo members. (In 1911, for example, there were 14 Gamblers members and 197 Waywayseecappo members paid.)⁷²

Interest distributions continued on an annual basis, with a few exceptions, until 1949. At that point a combination of capital expenditures, which had reduced the capital account and thus the amount of interest revenue available, and other demands on the revenue account resulted in a shortage of funds. Thereafter, interest was not distributed on a per capita basis.

EPILOGUE

As a result of the events following the 1898 surrender, the Gamblers Band lost not only a great deal of money to which it was entitled, but also its autonomy. The Department began administering the lands and moneys of Gamblers and Waywayseecappo as if both bands had an undivided interest in both reserves. In the fiscal year 1910-11, the Department closed the Gamblers trust account and transferred the money in it to the credit of the Waywayseecappo trust account.⁷³ At that point the Gamblers account had over \$30,000 in it, while the Waywayseecappo account had \$46.11. At this time the Gamblers Band had 14 members and Waywayseecappo 197. Thus not only was interest distributed to those not entitled to it, but the capital, and the interest on the capital which was not distributed, was administered as if the two bands were one. The Gamblers band members were greatly outnumbered, and effectively lost control of their money. After 1910, proceeds from Gamblers land sales also went to the same fund. The capital portion of the fund gradually became diminished by expenditures on agricultural implements, livestock, and housing, mostly, if not exclusively, for the benefit of the Waywayseecappo Band. The interest on the

capital derived from the Gamblers land sales was a major, although not exclusive, source of revenue for the interest account. Until the late 1950s, the expenditures and income of this account were approximately equal. The expenditures, in addition to per capita distributions, included medical fees, agricultural implements and supplies, livestock, roads, and relief. Again these expenditures were primarily, if not totally, for the benefit of the Waywayseecappo Band.

The loss of autonomy of for The Gamblers Band members was not confined to financial affairs. In all ways, they were effectively under the control of the Waywayseecappo Chief and Council. However, the two bands remained geographically, socially, and culturally separate, and the Gamblers members continued to farm quite successfully on the land which remained.

This state of affairs continued until the 1970s. However, in 1972, the Department informed the Gamblers members that they should be paying rent for their own reserve land to the Waywayseecappo Band; they protested the matter. It took several years to sort out the administrative confusion, but it was finally decided that the way the Department had been administering the affairs of the Gamblers Band was improper, and that the Gamblers Band again was entitled to be recognized as an independent band.⁷⁴ Recognition occurred in 1975. One of the first acts of the newly recognized Chief and Council was to see that the remaining unsold land surrendered in 1898 was returned to reserve status.⁷⁵ Accordingly in 1977, two parcels of land of about 80 acres each became reserve land again⁷⁶ (see Figure 3). Meanwhile, in 1972, a separate trust account had been re-established for the Gamblers Band. Subsequent revenue from The Gamblers reserve went into this account, but no money was transferred from the Waywayseecappo account. Thus Gamblers members received the benefit of only a tiny fraction of the proceeds of land sales from their reserve.

NOTES

¹Jim Gallo, "Waywayseecappo I.R. No. 62, Gamblers I.R. No. 63, and Rolling River I.R. No. 67, Treaty Land Entitlement Report," unpublished paper, T.A.R.R. Center, (Treaty and Aboriginal Rights Research Center), May, 1981.

²See Dr. Peter Neufeld, "The Incredible Tanners," The Minnedosa Tribune, 29 September 1983.

³Canada, Sessional Papers, Annual Reports for the Department of Indian Affairs. See Indian Agent J.A. Markle's reports for 1886-1891. (Hereafter CSP, Indian Affairs); National Archives of Canada, public records of the Department of Indian Affairs, RG 10, Vol. 6654, File 106A-3 (11 December 1889) (hereafter, NAC, RG 10, 6654; 106A-3-1 (11 December 1889)).

⁴See agent reports published in the annual reports for Department of Indian Affairs in the Sessional Papers for the years 1886 to 1892; NAC, RG 10, 6654; 106A-3-1 (11 December 1889).

⁵See NAC, RG 10, 6654; 106A-3-1 (25 June 1885, 21 October 1885, 6 February 1886, 17 February 1886, 5 March 1886, 16 November 1885, 24 November 1885); CSP, Indian Affairs, 1887, No. 15, p. 76; NAC, RG 10, 6654; 106A-3-1 (11 December 1889).

⁶NAC, RG 10, 6654; 106A-3-1 (23 May 1891); NAC, RG 10, 3727; 25345 (5 June 1891, 26 January 1894); NAC, RG 10, 6654; 106A-3-1 (11 July 1891, 12 April 1982).

⁷NAC, RG 10, 6654; 106A-3-1 (11 December 1889); NAC RG 10, 3727; 25, 345 (26 December 1889).

⁸NAC, RG 10, 6654; 106A-3-1 (16 July 1891, 21 February 1890, 10 March 1890, 29 March 1890, 2 April 1890, 20 February 1891, 11 March 1891, 16 April 1891, 29 June 1891, 2 December 1891, 17 December 1891, 15 March 1892, 21 April 1892, 4 August 1892), and Surrender of part of Silver Creek Indian Reserve, September 15 and October 5, 1892, Indian Land Registry, (No. 3215-84).

⁹NAC, RG 10, 6654; 106A-3-1 (26 December 1889, 14 July 1891, 23 August 1892, 3 September 1892).

¹⁰Compare the names on the surrender document to the Valley River Band payroll 1893 and the Gamblers lists for 1889-1891, NAC, RG 10, Vols. 9426, 9422, 9423 and 9424). See also, Roger Townshend, "Analysis of Gamblers Band Membership 1881-1907, unpublished paper, T.A.R.R. Center, May 1986, revised December 1986.

¹¹NAC, RG 10, 6654; 106A-3-1 (23 August 1892); see notations on treaty annuity paylists for the Gamblers Band for 1889-1891; NAC RG 10, Vols. 9422, 9423, 9424 and 9425. Notice the lack of notations about location on the Gamblers 1892 payroll. See also NAC RG 10, 3869; 88, 145 (1 November 1890 [sic 1892]).

¹²NAC RG 10, 3869; 88, 145 (1 November 1890 [sic 1892]).

¹³Affidavit by John A. Markle and John Rattlesnake, 6 September 1893, Indian Land Registry (Reg. No. 3215-84).

¹⁴NAC, RG 10, 6654; 106A-3-1 (12 August 1893).

¹⁵Indian Land Registry (No. 3215-84); OCPC (Order in Council, Privy Council) 2929, 10 November 1893; Survey of Indian Reserve No. 63a at Valley River, Province of Manitoba, for Indians of Gambler's Band, A.W. Ponton, Dominion Land Survey, (DLS), September 1894, Canadian Land Survey Registry (CLSR) Legal Surveys Division Department of Energy Mines and Resources; OCPC 3844, 8 January 1896 found in NAC public records of the Surveys and Mapping Branch, RG88, Vol. 403, file V68.

¹⁶NAC, RG 10, 6654; 106A-3-1 (19 September 1896).

¹⁷NAC, RG 10, 3895; 97456 (23 October 1893); CSP, Indian Affairs, 1895, No. 14, pp. 211 ff.

¹⁸Treaty Two Survey of Indian Reserve No. 63a at Valley River, Province of Manitoba, A.W. Ponton, D.L.S., September 1894, CLSR, Plan No. 39, Legal Surveys Division, Department of Energy, Mines and Resources, and Order in Council, PC 3844, 8 January 1896, Indian Land Registry, No. 3215-84.

¹⁹NAC, RG 10, 6654; 106A-3-1 (11 December 1889).

²⁰See Dr. Peter L. Neufeld, "The Incredible Tanners," The Minnedosa Tribune, 1983, for a series of 33 articles on the Tanner family history; and A Narrative of the Captivity and Adventures of John Tanner, (Minneapolis: Ross and Haines, Inc., 1956, original 1830) and see notations on the Gamblers paylists, NAC, RG 10, Vols. 9415 and 9416.

²¹Neufeld, The Minnedosa Tribune, 8 September 1983.

²²NAC, RG 10, 3854; 79411 (15 August 1891). When John Tanner enquired about joining The Cowesses Band, the reply recorded that they had already taken one Tanner into their band, for which they were often sorry, so the band would not accept John. NAC, RG 10, 6654; 106A-3-1 (12 June 1897). See also Waywayseecappo payroll for 1899, NAC, RG 10 Vol. 9432.

²³See Gambler payroll 1893, NAC, RG 10, Vol. 9426; NAC, RG 10, 6654; 106A-3-1 (12 June 1897) and 3971; 156710-6. For the withdrawals see NAC, RG 10 3914; 113, 356 and 113, 591.

²⁴NAC, RG 10, Vols. 9415 and 9416; RG 10, 3906; 105434 and 105435; and Gamblers and Waywayseecappo paylists for 1890, NAC RG 10, Vol. 9423.

²⁵NAC, RG 10, 6654; 106A-3-1 (12 June 1887).

²⁶NAC, RG 10, 6654; 106A-3-1 (19 September 1896).

²⁷NAC, RG 10, 6654; 106A-3-1 (14 February 1894).

²⁸NAC, RG 10, 6654; 106A-3-1 (23 August 1894 and 25 August 1894).

²⁹NAC, RG 10, 6654; 106A-3-1 (2 March 1897).

³⁰The Liberals came to office in 1896. Clifford Sifton, with an ambitious and aggressive settlement policy, became Superintendent General of Indian Affairs.

³¹NAC, RG 10, 6654; 106A-3-1 (27 April 1894).

³²See NAC, RG 10, 6654; 106A-3-1 (12 June and 18 December 1897); 3783; 40470 (5 August 1890); 3895; 97456 (21 January 1897); 6654, 106A-3-1 26 November and 20 December 1897, and 27 April 1894).

³³NAC, RG 10, 6654; 106A-3-1 (27 April 1894 and 31 July 1897).

³⁴NAC, RG 10, 6654; 106A-3-1 (16 October 1897).

³⁵NAC, RG 10, 6654; 106A-3-1 (27 April 1894, 23 May 1894 and 5 April 1897).

³⁶NAC, RG 10, 6654; 106A-3-1 (12 June 1897 and 31 July 1897).

³⁷NAC, RG 10, 3561; 82 pt. 2 (19 October 1897); 6654; 106A-3-1 (28 October 1897).

³⁸R.S.C. 1886 c. 43 s. 39 (a).

³⁹NAC, RG 10, 6654; 106A-3-1 (31 July 1897, 16 October 1897, 12 June 1897, 18 December 1897, 12 June 1897 and 31 July 1897).

⁴⁰NAC, RG 10, 6654; 106A-3-1 (27 April 1894, 12 June 1897, 31 July 1897, 16 October 1897 and 31 July 1897).

⁴¹NAC, RG 10, 6654; 106A-3-1 (26 November 1897).

⁴²NAC, RG 10, 6654; 106A-3-1 (1 December 1897, 13 December 1897, 20 December 1897, 28 December 1897 and 15 January 1898); and Surrender, 14 January 1898, Indian Land Registry, Reg. No. 3216-84. The surrender was accepted by Order-In-Council on 28 March 1898 (Indian Land Registry, Reg. No. 3214-84).

⁴³J.L. Reid, Subdivision Survey of Gambler Reserve near Binscarth, May 1900, CLSR 50, Department of Energy, Mines and Resources; NAC, RG 10, 6654; 106A-3-2 (6 August 1900) and 3561; 82 pt. 2 (6 August 1900).

⁴⁴NAC, RG 10, 6654; 106A-3-2 (13 September 1900); OCPC, 15 September 1888; NAC Public Records of Privy Council, RG 2 Series 1, Vol. 399 pt. 2-400 as amended by OCPC 1269, 27 May 1890; OCPC 1332, 22 June 1891; OCPC 277, 20 February 1892; OCPC 1444, 15 May 1893; and OCPC 2975, 18 November 1893.

⁴⁵NAC, RG 10, 6654; 106A-3-2 (23 August 1900).

⁴⁶NAC, RG 10, 6654; 106A-3-2 (13 April 1901).

⁴⁷NAC, RG 10, 6654; 106A-3-2 (9 April 1901); OCPC 1031, 23 May 1901; NAC, Public records of Privy Council Office, RG 2, Series 1, Vol. 870;

⁴⁸See, H. Woodward, Canadian Mortgages, (Don Mills: Collins, 1959) pp. 8, 32; and R.H. Coats, Board of Inquiry into Cost of Living. Report of the Board, 1915, p. 844. See Roger Townshend, The Silver Creek Surrenders of 1892 and 1898: Gamblers Indian Band (TARR Center, December, 1986, pp. 45-46 for a discussion of interest calculations.

⁴⁹NAC, RG 10, 3561; 82 pt. 2 (23 January 1903).

⁵⁰NAC, RG 10, 3727; 25345-3 and 6654; 106A-3-1 pt. 2; 106A-3-1 pt. 3, 106A-3-2, 106A-3-3, 106A-3-5 and 106A-3-6; 3731; 26306-A; and OCPC 1977-2301, 10 August 1977; Indian Land Registry, Reg. No. 54956.

⁵¹NAC, RG 10, 3727; 25345-3.

⁵²Surrender, 14 January 1898, Indian Land Registry, Reg. No. 3216-84.

⁵³Townshend, "Analysis of Gamblers Band Membership."

⁵⁴Roger Townshend, "Discussion Paper--Indian Land Surrenders--What is 'on or near' a Reserve," unpublished paper TARR Centre, December 1985.

⁵⁵NAC, RG 10, 6663; 109A-3-1 (14 May 1897).

⁵⁶NAC, RG 10, Vol. 6663; File 109A-3-1-pt. 1; Vol. 4893; File 83510; Vol. 724, File 390906; Vol. 1594, File B; Vol. 4783; Vol. 3982, File 161097; Vol. 3729, File 26137; Vol. 3600, File 1634; Vol. 3912, File 111, 777-1; Vol. 3581, File 868; Vol. 3563, File 82-15 and Vol. 8062, File 774/34-0-141.

⁵⁷S.C. 1895 c. 35 s. 8.

⁵⁸NAC, RG 10, 3561; 82 Pt. 2 (19 October 1897).

⁵⁹NAC, RG 10, 6654; 106A-3-1 (28 October 1897).

⁶⁰*Ibid.*

⁶¹NAC, RG 10, 6654; 106A-3-1 (13 December 1897).

⁶²NAC, RG 10, 6654; 106A-3-1 (26 November 1897).

⁶³NAC, RG 10, 3953; 135540-6 (19 February 1901).

⁶⁴NAC, RG 10, 3561; 82 pt. 2 (10 June 1903).

⁶⁵NAC, RG 10, 3561; 82 pt. 2 (15 September 1905).

⁶⁶NAC, RG 10, 6654; 106A-3-1 pt. 3 (9 July 1951).

⁶⁷See "Statement of Distribution of Interest Money Paid to Former Members of Gamblers Band No. 63 on the Waywayseecappo Reserve on May 13, 1907, NAC RG 10, 3561; 82 pt. 2 and compare with Townshend, "Analysis of Gamblers Band Membership"; NAC RG 10, 6654; 106A-3-1 pt. 1 (4 April 1888) and 6654; 106A-3-1 pt. 2 (20 July 1905).

⁶⁸NAC, RG 10, 6654, 106A-3-1 pt. 3 (9 July 1951).

⁶⁹Department of Indian Affairs and Northern Development (DIAND) Ottawa File 501/30-33-63 v. 1 (12 September 1907).

⁷⁰Townshend, "Analysis of Gamblers Band Membership."

⁷¹NAC, RG 10, Vols. 9842, 9843 and 9844.

⁷²NAC, RG 10, 6654; 106A-3-1 pt. 3 (9 July 1951); and NAC, RG 10, Vol. 9842.

⁷³NAC, RG 10, 6654; 106A-3-1-pt. 3. (9 July 1951); DIAND Ottawa File 501/30-33-63 v. 1 (11 July 1951), DIAND Ottawa File 501/30-33-63 v. 2 (27 August 1965).

⁷⁴DIAND Ottawa File 501/30-33-63 v. 2 (29 June 1972, 31 July 1972, 5 September 1973 and 16 July 1975); DIAND Winnipeg File 501/36-1-33 (18 April 1973, 1 August 1975 and 8 September 1975).

⁷⁵Band Council Resolution, Gamblers Band, 26 April 1976, No. 501-42-10.

⁷⁶OCPC 1977-2301, 10 August 1977, Indian Land Registry, Reg. No. 54956.