

# Ottawa, province reneged on deal

By Gord Struthers  
of the Star-Phoenix

It was a deal.

All of the land owed to 31 Saskatchewan Indian bands under treaties signed more than a century ago would be finally turned over.

In August 1977, the federal government, the provincial government and Indian leaders agreed on a formula for settling outstanding treaty land entitlement.

Each member of the entitlement bands would receive 128 acres based on population statistics as of Dec. 31, 1976.

The bands would receive an additional 1.2 million acres under the arrangement as final settlement of their land claims under treaty.

Hands were shaken, papers were signed, press releases were issued.

One of the oldest irritants between Indians and government in Saskatchewan seemed to be resolved.

But 12 years later, the bands are fighting in the courts for what they accepted with a handshake.

"There was an agreement made between the three parties," says Frank Iron, chief of the Canoe Lake band. "We still think it's binding."

Conservative governments in Ottawa and Regina have refused to honor the agreement negotiated by the Liberals and the NDP as the political and financial cost of implementing it became apparent.

Iron's band and four others have launched a lawsuit to test the validity of the 1977 agreement. They are asking the court to force governments to honor the deal and pay unspecified damages.

But the cabinet ministers who negotiated the agreement have no doubt about the validity of the agreement.

"All parties acknowledged that there was an agreement," said Ted Bowerman, minister of Indian affairs under Allan Blakeney's NDP government from 1971 to 1978.

Former federal minister Warren Allmand agrees.

"There's no question that it was an agreement," said the Montreal MP in a recent interview from Ottawa.

"I accepted the settlement on behalf of the government of Canada and cabinet approved it."

The 31 bands started selecting and surveying additional land immediately after the agreement was announced.

Between 1977 and 1982, Ottawa spent \$3.97 million helping the Indians choose their land. Several bands received their land under the formula during the same period.

But the deal became a serious political problem for the NDP government during the 1982 provincial election.

"Many people were quite afraid of the whole land entitlement issue because of the way it was handled," said Sid Dutchak, provincial Indian affairs minister from 1983 to 1986.

"Farmers, ranchers and pasture patrons were afraid that they would be displaced from their land."

The NDP was trounced during the 1982 election, losing 56 of 64 seats, and the Conservatives put the brakes on the process shortly after taking office.

"There was a question as to whether it could be implemented," said Dutchak. "The '76 formula was fine on paper, but the reality of whether it could be implemented was another question."

Dutchak said the Conservative government decided to take a "more creative" approach to the issue, attempting to settle claims on a band-by-band basis outside the parameters of the agreement. Only three claims have been settled since 1982.

In 1984, the provincial government announced that the '76 formula would no longer be considered in determining the size of Indian land entitlements.

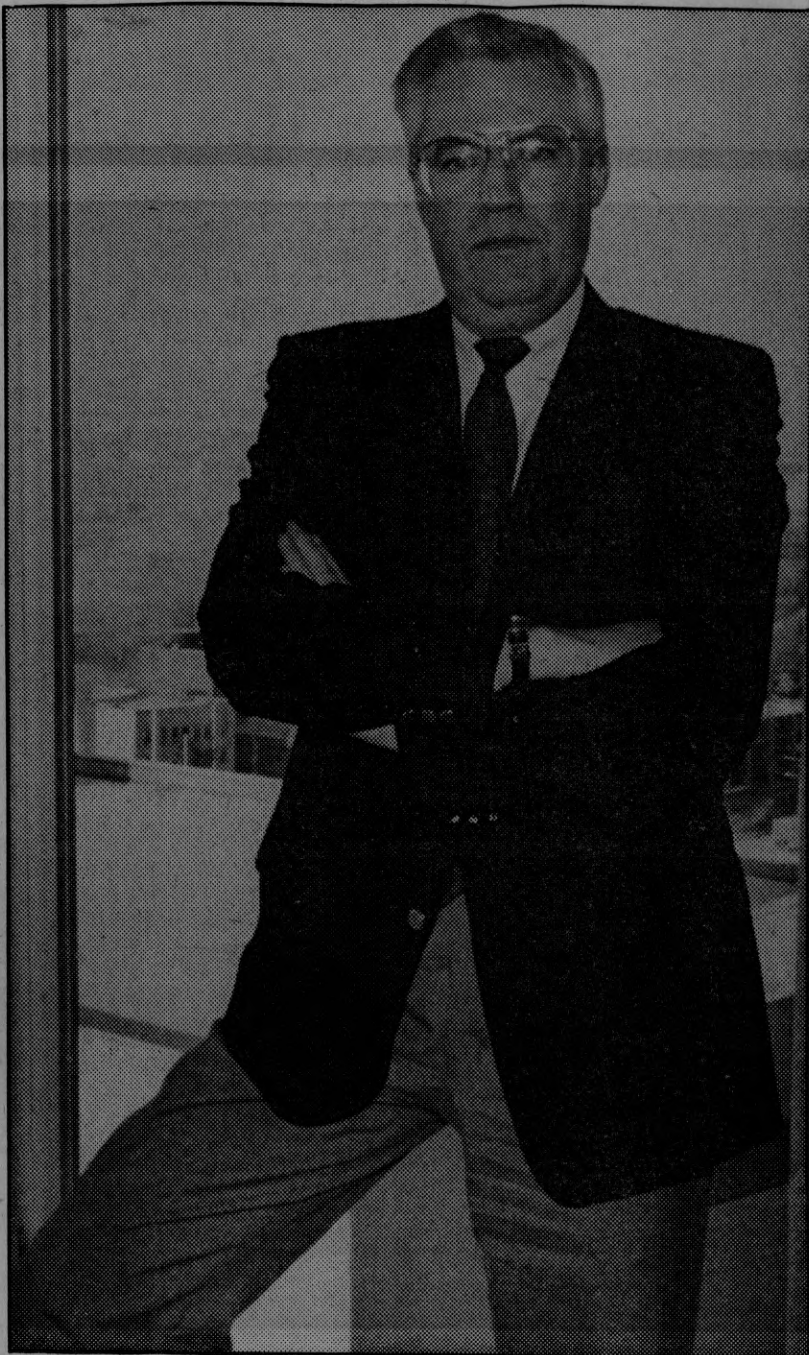
The federal government followed in 1988, announcing it would only consider settling outstanding entitlements based on populations at the date of first survey when the treaties were signed.

The new federal position meant more than a million fewer acres owed to the Indians.

Bowerman said backing away from the agreement was cowardly and dishonorable on the part of the federal and provincial governments.

"We felt it was better judgment to negotiate than to fight it in the courts. Our legal people advised us that it was best to settle because they have a pretty good leg to stand on and their case would probably find favor in the Supreme Court.

"That's where we're headed now."



— S-P Photo by Todd Korol

Tom Molloy just finished negotiating

# Negotiating land settlement eye-opener for city lawyer

By Gord Struthers  
of the Star-Phoenix

More than a century ago, men just like Saskatoon lawyer Tom Molloy travelled to Indian country as representatives of the Crown.

They met in clearings and trading posts to hammer out agreements exchanging vast tracts of land for special rights and benefits.

But 100 years has made quite a difference in treaty negotiations between aboriginal peoples and governments, says Molloy, who has just finished negotiating an agreement in principle between the government of Canada and 17,000 Inuit of the central and eastern Arctic, represented by the Tungavik Federation of Nunavut.

The agreement, the biggest comprehensive claim agreement in Canadian history, offers the Inuit a land mass half the size of Saskatchewan, \$580 million in cash and limited control over development of land and water resources, and royalty sharing provisions.

Since appointed chief negotiator for the federal government in 1982, Molloy has made more than 30 trips to the Northwest Territories to negotiate with Inuit representatives and visited 12 of 20 communities affected by the negotiations.

As chief of the government team, he faced up to 20 Inuit leaders and advisers across tables in hotel dining rooms, schools and churches across the Arctic.

for negotiations. It was as rough and tough a set of negotiations as I've seen anywhere.

"They had developed goals back in the '70s and had very competent advisers in various fields of expertise."

Molloy had never been involved in native-government relations when he took over the three-year-old negotiations in 1982.

"I had a sense of what was involved, but I really didn't appreciate the magnitude of it and the important role it played in the development of the country."

Molloy said he was fortunate to come to know the values, lifestyle and traditions of the Inuit and experience the Arctic environment through the negotiations.

Early in the term he spent several days with an Inuit family on a hunting expedition for caribou, seal, ptarmigan and Arctic char.

Starting out from Eskimo Point, he travelled up Hudson's Bay with a husband, wife and three small children in an 18-foot canoe with an outboard motor.

"You get out on Hudson's Bay and all you can see is water on any side," he said.

"All of a sudden we turned in and came to an island. After that I was very confident in their ability to get around — it was an area they have hunted in for generations."

To become more aware of the culture of the Inuit, Molloy visited elders to speak with them about their lives and their families.

Throughout the negotiations, in-

the Crown's negotiator became aware of a profound respect and concern for the environment among the Inuit.

Outside of government services, there is little industry in the Arctic and the majority of the people there make their living from the land.

Molloy said the Inuit consider themselves a part of the environment and are keenly aware of the need to preserve it.

Although harsh, the Arctic is one of the most fragile environments in the world and ecological damage can take centuries to correct, he said.

Hammering out the details of how the Inuit would be represented in development was one of the most difficult parts of the negotiations, he said.

Molloy also gained insight into the workings of the federal government through the negotiations.

While actual negotiations with the Inuit were difficult, more time was spent shepherding the various clauses of the agreement through the federal bureaucracy.

The agreement affected almost all federal departments and consent of each minister was required at some point, he said.

The agreement remains to be approved by the federal cabinet, the territorial government and the constituents of the Tungavik Federation.

Ratification is expected early in the new year. Negotiations will then commence toward a final agreement expected to be con-