MANITO GITIGAAN

Governing in the Great Spirit's Garden:

WILD RICE in TREATY #3

an example of indigenous government public policy making and intergovernmental relations between the Boundary Waters Anishinaabeg and the Crown, 1869-1994

@ by Kathi Avery Kinew

A Thesis

presented to the University of Manitoba

in partial fulfillment of the

requirements for the degree of an

Interdisciplinary Doctor of Philosophy

in Anthropology, Political Studies, and Native Studies

The University of Manitoba

Winnipeg, Manitoba

September 1995

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Dedication

To my family who are an inspiration, individually and together -

Tobasonakwut Kagagewanakweb Kinew,

Wabanakwut Kokowekipiness Ozowebetung,

Shawonipinasiik Kiiwatinashiik,

Maymaygwaysiikwe Ogimaapinasiik,

and

To my Mom and Dad, Peg and Ray Avery,

with love and gratitude

and hope for the spirit and intent of the Treaties to endure

ABSTRACT

MANITO GITIGAAN
GOVERNING IN THE GREAT SPIRIT'S GARDEN:
WILD RICE IN TREATY #3, 1869-1994

This thesis offers an example of indigenous government public policy making and intergovernmental relations between the Boundary Waters Anishinaabeg and the Crown, from the mid nineteenth to late twentieth centuries. The case of Manomin (wild rice) in the Treaty #3 Boundary Waters territory (at the juncture of Ontario, Manitoba and Minnesota) is examined as a symbol of the constitutional conflict between Crown and Anishinaabe governments: is wild rice a natural resource owned by the Crown or a gift from the Creator given to the Anishinaabe? Secondly, the history of wild rice and the Anishinaabe science and system of management is the story of one of longest continuing forms of indigenous self-government in Canada. Thirdly, manomin stands as a metaphor for the struggles of the Anishinaabe peoples in asserting their treaty and aboriginal rights, through years of suppression. An organic model of the suppression and expression of aboriginal, treaty and Anishinaabe rights is presented.

The study draws from data collected from archival and government files from 1860s to 1980s, as well as interviews of Anishinaabe leaders, Elders, rice harvesters and business people, Crown government negotiators, and the insight of a key informant. This is an interdisciplinary study, drawing upon the methodology and frameworks offered by Anthropology, Political Studies, Native Studies and Law.

Acknowledgements

I am immensely grateful to the people who have supported and assisted me in ensuring that this thesis is completed! First and foremost, to the person who acted as my key informant and is my husband and partner in life, Tobasonakwut Kinew (Peter Kelly), ki zha wai ni min. His brilliantly original thinking and his willingness to share his language, culture, friends and relatives have provided the foundation and construction of this research. Without the love and inspiration of Tobasonakwut, and of our children, Wabanakwut and Shawon, and his daughter Diane, as a mainstay in my life, this thesis would never have been completed.

I thank my sister Lynne Balfour, and my aunt Betty Gay, who are still with me, and especially, my mother and father, Peg and Ray Avery, who passed on a few years ago, for their unfailing love and support.

Apitchi Miigwech to the very many people who have shared their lives, knowledge and opinions with me through many years. I offer my gratitude to the Elders I can no longer thank in person: Shuniah Goneb (Stuart Jack), Ta Kwe TaBetung (Sam Copenace Sr.), Azawashkwagoneb (Fred Greene), Ponjigonayash (John Jones), Kwotit (Martha Tuesday), Neogezhik (Walter Oshie) and Metehkamiganung (Doug Skead). Before they had gone ahead to the spirit world, all of them opened my eyes and my heart to the beliefs, values and importance of *Anishinaabe* culture.

To Shawon (Maggie Copenace) and her sister Kwatok (Annie Bob) of Onigaming, and Ogimaawanabiik (Nancy Jones) of Nickikousemencaning, I offer my heartfelt gratitude for their kind acceptance of me and sharing their views over the years. To Wayzowabiikamok and Mizhaki-wabiitung (Josephine and Ron Sandy) of Animakiwazhing, my admiration and thanks for sharing, over many years, their ricing experience and the love of their wonderful family.

And to the people of the Ojibways of Onigaming, I cannot begin to say enough. These are my friends and family who invited me into their ricefields and their lives, and involved me in many community activities and ceremonies. To Mukataykinew (Fred Kelly Jr.), Totoons (Edwin) and Mary Kelly, Wicheh (Richard Kelly) and Doug Kelly, Batins (Dorothy Copenace) and Ron Seymour, Ron Kelly, Denise and Aanchkins (Norman Copenace Jr.), Dolores Kelly, Evelyn Copenace, Tony Copenace (the man called Horse, Shtatim), Delford and Darlene Bob, Joe Shebagegit, and many others, I thank you very much. Apitchi Miigwech to the Onigaming Tribal

Education Authority and the Ojibways of Onigaming First Nation Council and community for your support.

Many thanks are due to Grand Council Treaty #3 and the Chiefs and Elders, especially for allowing me several opportunities to work and visit with them. For this thesis, I wish to thank in particular, Niigonipiness (Don Jones), Director of Treaties and Aboriginal Research (TARR) for his frank often humourous opinions and kind access to documents, Aabombitung (Andy Skye), Assistant Director of TARR for his encouragement and assistance, and Leo Waisberg, ethnohistorical consultant to TARR, for original research and often rye advice. Don Colborne, legal counsel to Grand Council Treaty #3, has offered practical guidance and original perceptions on numerous projects through the years. I appreciate these gentle men as friends and relations, and applaud their commitment to Treaty #3 and the First Nations people.

To the people who agreed to be interviewed for this thesis, I owe a great deal. I would like to thank them for openly sharing their experiences and views. A full listing is appended. I have attempted to relate the comments received from the interviewees in an objective manner, yet reflective of the issues and events upon which they were commenting. For any misinterpretation, I accept the responsibility.

In interdisciplinary studies, your advisor and the members of the advisory committee are the significant connection to the university and source of guidance. My main advisor, Dr. Wm Koolage of Anthropology, has always been helpful through what seemed to be a neverending story. His knowledge of Aboriginal people and societies, and his humour and iconoclastic approach assisted me in many ways. During the course of my thesis, Dr. Koolage overcame a major physical illness with truly inspiring determination and dogged persistence. Yet, his interest in this topic and seeing it to completion never wavered. I wish to offer Dr. Koolage my heartfelt gratitude. Prof. Paul Thomas of Political Studies offered many helpful suggestions and questions, which have contributed to a clearer organization of this thesis and analysis of the issues. Through humour and insight into Canadian political processes, Prof. Thomas offers his students the potential that the future which can improve upon the past. Prof. Paul Chartrand of Native Studies, presently a Commissioner with the Royal Commission on Aboriginal Affairs, perservered to be appointed to my committee, and offered his encouragement and discerning

comments particularly on issues of Aboriginal self government. The comments provided by these committee members, and my external examiner, Prof. Norman Zlotkin of the Faculty of Law, University of Saskatchewan, challenged me to be clearer and stronger in relating this story of *Anishinaabe* governance. I am indebted.

Thank you to the University of Manitoba for the Duff Roblin Fellowship in 1990 and for their assistance in my receiving the Social Sciences and Humanities Research grant for 1991.

In this thesis, I have described and analyzed the meaning of *manomin* and *Manito Gitigaan* to the *Anishinaabe* people of Treaty #3, and the political ways in which the Treaty #3 people have sought to protect their *Anishinaabe* rights to manomin. Where I have missed that mark, I apologize. Where the message is carried clearly, I am grateful.

Migizi'kwe

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Glossary of Terms

Ojibway or Anishinaabe terms are written in italics throughout the thesis, with the exception of the names of people or places.

Adisokaan (singular) ***Adisokaanak*** (plural) refer to long ago ancestors of the *Anishinaabeg*, the teachers of legend and tradition. ***Adisokaanan*** are the sacred stories that come from these teachers. According to tradition, such stories are only allowed to be told in the wintertime, from freezeup to breakup.

Anishinaabe (singular)/***Anishinaabeg*** (plural) are the terms used by the Aboriginal people commonly refered to as Ojibway or Chippewa in Ontario, Chippewa in Minnesota and Saulteaux in Manitoba. It is the term the people use to refers to themselves. Rather than use divisive labels applied by outsiders, many prefer to call themselves "Anishinaabe" as it is their own language that unites them. Since 1992, the double vowel spelling is being promoted by the Lake of the Woods Ojibway Cultural Centre (near Kenora) as a consistent orthography for the Treaty #3 area *Anishinaabemowin* language.

Dodem (singular), ***dodemuk*** (plural) is the *Anishinaabe* word used to describe the clan and clan symbol for each large family grouping. The dodem would unite relatives from afar. Teachings about the dodem included that members of the same dodem would offer shelter, food and comfort to each other, but could not marry each other. Nor could dodem members eat that dodem symbol (ie, wolf, bear, walleye), except under certain circumstances.

IShkunigaan is the *Anishinaabe* word for reserve land. Literally, *"ishkunigaan"* refers to "leftover land", that is the land that was left over after government picked the best they wanted to use. In archival documents regarding Treaty #3, it is documented that, while the Surveyor General and a Treaty Commissioner met with Treaty #3 headmen (1874-75) to choose appropriate lands to be set aside for their farms and wild lands, the surveyors in the fields were directed to ensure the reserves were placed far from "any known minerals lands and the probable line of settlement".

Manomin is the *Anishinaabe* word for wild rice. In deciphering its meaning, the root can be found in "man" refering to the Creator or Great Spirit, *Kizhe Manito*, and "min" or berry, delicacy as in "miin". Other words stem from this: *manominikenshii*, to describe the wild rice culture of the *Anishinaabeg*; *manominikigiizis*, the wild rice moon, and others. (See Chapter Four) *Anishinaabe manomin* is a more recent form of expressing that wild rice belongs to the Anishinaabe people.

Manito Gitigaan translates as the Great Spirit's garden or the living gift of the Creator. It is a more ancient term for wild rice. This phrase reflects the spiritual tie that the *Anishinaabeg* have for the Creator in their responsibility of caring for this gift of life. (See Chapters Three and Four).

Meenigoziwin (also spelled **Miinigoziwin)** is a declaration of self government by Grand Council Treaty #3, in assembly November 4, 1992, at Couchiching First Nation. This document is a declaration of Nationhood, including a statement of connection with the Creator who "gave us our laws, rights, trusts and responsibilities". This comprehensive document lists *Anishinnabe* principles of nationhood and government, inherent and traditional values, inherent powers and freedoms, areas of government jurisdiction, and recognition of nations and governments. (Appendix 15)

Mite'win is the traditional religion of the Anishinaabe people and continues to be practiced and attract members throughout the Treaty #3 area. In anthropological writings, it is often spelled Midewiwin. A debate continues as to whether it is a post contact phenomena (Hickerson, Dewdney) or an aboriginal religion (Kinew, Rajnovich). This spelling reflects the particular dialect of Lake of the Woods (Kinew).

Ogitchi Tuaa (singular), ***Ogitchi tuaag*** (plural) describes the traditional leaders of Anishinaabe society from before Treaty times. There are regarded as spiritually guided leaders, chosen by the people according to tradition (Kinew).

<u>English terms</u>:

Aboriginal is the term most in use today as a common description of the original peoples of Canada, whether non-status or status Indian, Inuit or Metis. Aboriginal is commonly capitalized in reference to people and not capitalized in reference to rights.

Charlottetown Accord. A constitutional amendment negotiated from March to August 1992 and agreed upon by all First Ministers, and the leaders of the four Aboriginal organizations and two territories. The Charlottetown Accord sought to entrench the Aboriginal inherent right to self government with specific conditions. However, it was rejected in an historic cross-Canada referendum, October 1992.

Co-Management refers to cooperative arrangements between recognized governments of Canada (ie, federal and provincial) and First Nations governments for management of lands and/or resources. Such agreements, mostly beginning in the 1970's, include joint advisory boards to shared decision-making bodies to actual power-sharing arrangements.

Elder is an english term for an *Anishinaabe* concept. It is used to denote a man or woman of great knowledge of the teachings and traditions of the *Anishinaabeg.* That person may be of any age.

First Nation is a term used to refer to the government and territory of status Indians on reserves. Previous to the 1980s, reference would have been made to Chief and Band Council, Bands and Reserves. Such terminology is considered by *Anishinaabeg* and other Aboriginal peoples of Canada to be outdated. This term was first used by the Chiefs themselves and made official with "A Declaration of the First Nations, 1980" and at the 1982 assembly in Peneticton, B.C.. It was there that the Chiefs from across Canada adopted "Assembly of First Nations" to replace the name and structure of the National Indian Brotherhood. The House of Commons SubCommittee on Self Government under the

chairmanship of Liberal M.P. Keith Penner held hearings across Canada and issued a report in 1983 in which commentary and recommendations referred specifically to "First Nations". This brought the term "First Nations" into prominence in the media. This term "First Nations" is urged by Aboriginal representatives across Canada as recognition of their inherent rights to self government. By the 1992 multilateral constitutional process, this term had become accepted political language.

"Indians" is used in this thesis only when quoted. It is a term in disfavour among Treaty #3 *Anishinaabeg* , and increasingly, by First Nations people across Canada. However, it continues to be utilized because of its historic demarcation of certain aboriginal peoples, and continues today in such relics as the Indian Act.

Meech refers to the constitutional amendment reached by the Prime Minister and ten premiers at Meech Lake in May 1987, which fundamentally rearranged the balance of powers in the federation, enabled Quebec to endorse the constitution, and totally ignored the history and present aspirations of Aboriginal peoples. This amendment was reached in secret by the First Ministers, seeking to entrench the phrase "distinct society of Quebec", after the same First Ministers, a few weeks feore and on national television, firmly rejected the phrase "Aboriginal self government" as too vague. Thus, a new phrase entered the political jargon, to be "meeched". The Meech Lake accord did not receive unanimous consent of all ten provinces within the three year time limit required and died in 1990.

Multilateral, Bilateral refers to levels of talks between or among governments (including Aboriginal governments), or between governments and Aboriginal organizations. Bilateral, in this thesis, refers to Treaty #3 and either the Federal or provincial government. Multilateral would refer to, at least, the federal and one provincial government with a PTO. The "multilateral constitutional process" beginning in March 1993 included four Aboriginal organizations, two territories, nine provinces and the federal government. The term "double bilateral" refers to the process of a First Nation negotiating the same issue in separate processes, one with the federal government and another process with the province. Frances Abele and Katherine Graham in "High Politics is Not Enough: Policies and Programs for Aboriginal Peoples in Alberta and Ontario" consider "double bilateral" agreements to be "ingenious devices to establish the basis for delegated program delivery by aboriginal peoples that do not jeporadize the constitutional principles held by any of the parties" (in Hawkes, 1989 :158)

Native is not a term preferred by Aboriginal peoples because it generalizes the identity and rights of each Aboriginal Nation. Native is often used by government to describe policy (Weaver, 1987) and often used by urban Aboriginal people and wider society. The Native Council of Canada (NCC) is the organizatioon for non-status Indian people across Canada. (The subject of this thesis is the Treaty rights of status Indians in the Treaty #3 territory of Northwestern Ontario and southeastern Manitoba.)

Self government means the rights of peoples to choose freely how they would be governed (Sanders 1985:26). It is the government catchword of their policies of late 1980s and into the1990s regarding Aboriginal peoples in Canada. It began to gain prominence during the constitutional debates of the 1970's and 1980's, particularly during the Joint Parliamentary Hearings leading to the Penner Report on Self Government, 1983. To Aboriginal peoples in Canada, the word simply refers to the ability to take care of one's own people, lands and resources. In the Charlottetown Accord (1992), there was agreement among the First Ministers of Canada, ten provinces, two territories, and the leaders of four aboriginal organizations that aboriginal (self)

government would be entrenched as one of three orders of government in Canada. Although Aboriginal peoples prefer to say self-government means different arrangements in different parts of the country, a general definition would entail making one's own decisions over one's own people, lands and resources.

Settler governments is a term used by some aboriginal peoples and scholars to convey the fact that modern day state governments established their presence through settlement of aboriginal lands and the usurpation or suppression of prior governments of aboriginal peoples themselves.

Sovereignty refers to the "supreme power, subject to no restraints whatever", including all internal and extrenal relations (Sanders 1985:27). It has become an emotionally laden term due to its allusion to the aspirations of the Parti Quebecois. In his 1990 inaugural address as Premier, Hon. Bob Rae of Ontario tried to lessen such fears, in terms of Native peoples, by stating that "One's man's sovereignty is another's self-government". This more closely reflects the statements of Treaty #3 *Anishinaabeg* , up to 1994, notwithstanding those of other Treaty areas or the Iroquois Confederacy.

Specific Claims are claims brought by First Nations against the government which specify a breach of the fiduciary duty of the government under the Indian Act or Treaty. There has been a federal process for resolving claims since 1969, when then Prime Minister Trudeau appointed an independent claims commissioner to investigate how claims can be resolved. In 1982, the specific claims policy announced that the federal government would honour its "outstanding lawful obligations".

Critics of the 1982 policy point out that "lawful obligations" has come to mean whatever the federal Department of Justice deems it to mean, as they act as sole arbiter of validity of a claim. The Specific Claims policy of the federal government has come under increasing fire for its prejudicial and unjust handling of claims, where the federal government sits as judge and defendant on the validity of a claim against itself, and where basic principles of compensation are not followed. The Red Book of the Liberal government elected in October 1993 has stated that a new independent claims resolution process will be established.

The provincial government of Ontario does not have a formal policy for handling claims, although they follow the same general approach of the federal government of having Ontario Native Affairs Secretariat (ONAS) research the 'facts' of the claim and the lawyers for the Attorney General pronounce its 'validity'.

Stewardship is an English word and concept adopted by the Teme Augama Nation (situated near North Bay Ontario) in the 1980s to describe the responsibility aboriginal peoples have to the Creator for all the gifts that the Great Spirit has given. The English term is used as an approximation of the *Anishinaabe* concept of both a sense of responsibility and duty to the Creator as well as the actual human care to be given.

Acronyms are used throughout the text:

AFN refers to the Assembly of First Nations, the organizational body of Chiefs across Canada, representing 633+ First Nations. It was established in 1982 as the successor to the **NIB,** the National Indian Brotherhood. The NIB remains as an incorporated entity for the purposes of handling funding for the AFN.

AgCan refers to the federal department of Agriculture.

COO is the Chiefs of Ontario organization, whose Executive is composed of the four regional organizations (GCT3, Nishnawbe-Aski Nation (NAN), the Union of Ontario Indians (UOI), and the Iroquois & Allied Indians (AIAI)) and representatives of independent First Nations such as Six Nations and Temi Augami. The COO evolved through the 1970's and became well established by1980. The Ontario Regional Chief is the leader of COO, elected by all 118+ Chiefs in Ontario every three years, and is a member of the Executive Council of the AFN.
ACOO refers to the annual assembly of Chiefs of Ontario.

GCT3, the Grand Council Treaty #3, is the organization of 25 Chiefs in the traditional 55,000 square mile Boundary Waters territory in Northwestern Ontario, contained within the territory west of Thunder Bay, whose waters empty into Hudson's Bay.

DIAND or **INAC** The Department of Indian Affairs and Northern Development or Indian & Northern Affairs Canada, the federal government department responsible for carrying out the Indian Act and attendant policies, and other legislation passed by the Parliament of Canada, under the authority of section 91(24) of the Constitution Act, 1867.

FMCs refer to First Ministers' Conferences, which became a regular feature of executive federalism during the 1970's and 1980's. FMCs brought together the prime Minister and Premiers of the twn provinces (with/without the leaders of the two territorial legislatures) and were required to be held with representatives of the Aboriginal peoples of Canada under section 37 of the Constitution Act, 1982.

ICO is the Indian Commission of Ontario, first established in 1979 by the Province of Ontario, Government of Canada, and the Chiefs of Ontario organization. The ICO exists to facilitate the resolutions of claims and other disputes among the parties. The terms of reference of the ICO were jointly drafted and continue to be jointly reviewed every five years. The ICO issues an annual report on the status of all issues brought before the ICO. It is headed by a Commissioner, jointly agreed upon and appointed, and works under the direction of two levels, the Tripartite Council of the Minister of Indian Affairs, Ontario Minister of Native Affairs, and the heads of the PTOs composing the COO, as well as the next level of Deputy Ministers of the two departments, and Executive Directors of the organizations. The ICO has a small staff to facilitate meetings and negotiations.

ONAS, ONAD Ontario Native Affairs Secretariat or Directorate has been the provincial government arm responsible for the development, analysis and coordination of policies regarding Native people in the province. Since the Tory years of the mid 1970s, ONAS has been the lead ministry responsible for coordinating provincial government policy regarding Native peoples. During the Liberal years of Premier Peterson (1986-1990), its role has expanded to include negotiating land claims and self government agreements.

Under Premier Rae's NDP government, ONAS was upgraded from a directorate to a secretariat and its Director became a Deputy Minister status.

PTOs are the Provincial-Territorial Organizations who represent the regional issues of each First Nation, such as Grand Council Treaty #3, Assembly of Manitoba Chiefs, Nishnawbi-Aski Nation.

Legal Terms:

For more detailed explanations, the reader is referred to:
Jack Woodward, Native Law 1989 Toronto: Carswell

R.A. Reiter The Fundamental Principles of Indian Law 1994 Vol. I & II Edmonton: First Nations Resource Council
The Law of Canadian Treaties 1995 Edmonton: Juris Analytica Publishing

Brian Slattery, "Understanding Aboriginal Rights" (1987), 66 Can Bar Rev. 727

Customary Law, traditional law, folk law are all terms used today to refer to the "unwritten law based on ancient or traditional usages, customs and practices. Some customary law is recorded. Aboriginal self-government should allow for the restoration of Indian customary law where the First Nations so desire "(Sanders 1985:8). See Chapters 2 and 14 for a discussion of customary law. It is often confused with Indian or Native Law, which terms mean Canadian law as it relates to Indians, e.g. the Indian Act. Customary law is most aptly described as "immemorial law" by aboriginal leaders (see Chapter 2).

Fiduciary refers to an obligation of the highest order on the part of the Crown to take care that the best interests of the Indians (as named under Canadian law) are considered in the actions of the federal government. This obligation, named the fiduciary duty, was spelled out by the Supreme Court of Canada in Guerin, 1984.

> "The source of this fiduciary obligation is found in the basic principles of law relating to Indian lands. The requirement found in the Royal Proclamation of 1753, that Indian title could not be alienated to anyone except by surrender to the Crown, established a principle which runs through all our law, and is enshrined in the Indian Act today, The Crown, in imposing this restriction, assumes the duty to deal with the land in the best interests of the Indians and a discretion to determine what those best interests are. " (Woodward 1989:113)

Legal Pluralism (literally, "many laws") refers to what has become almost a movement in legal academe, whereby the conflicts and/or co-existence of state laws and "other" laws, such as those of indigenous peoples or minority groups, are analyzed.

State Law refers to the law of the government of a country, e.g., the Criminal Code of Canada.

"Sui generis" means literally "unique to itself" and has been used by (then) Supreme Court Chief Justice Brian Dickson to characterize Indian Treaties (Simon, 1985)(as neither the same as contracts nor international treaties) and the Indian interest in land (Guerin, 1984) (as different from common law concepts of property).

Time Immemorial has a specific legal meaning stemming from its use by Justice Emmett Hall in the Calder case (1973, SCC:190), referring to centuries of occupation by Aboriginal society prior to the assertion of Eurpean sovereignty.

"Usufructory" refers to the use of the land without outright ownership of the land and stems from Scottish common law tradition. It is a term used in the Judicial Committee of the Privy Council's decision as the highest court of appeal in the St. Catherine's Milling Co. case, 1888.

This famous case considered whether the federal or provincial government gained the benefits of the federal government signing Treaty #3 with the Boundary Waters *Anishinaabeg*, and thus, which level of government could grant that company a licence to cut timber. The Lords pronounced Indian title to be " personal and usufructory right, subject to the goodwill of the sovereign". The crown was found to hold the underlying, and ultimate title.

Such an interpretation certainly does not coincide with *Anishinaabe* tradition which views lands and resources as gifts of the Creator, which the *Anishinaabe* have a sacred responsibility to take care of (see Chapter 6 on Treaty #3 and Elders' views). This concept of "sacred stewardship" was never considered by the Lords who viewed *Anishinaabeg* as "rude redmen of the northwest", incapable of having their own government. Indeed, the judicial lords never set foot in Canada and the Treaty #3 *Anishinaabeg* were never consulted nor even informed of this case. Yet the legacy of St. Catherine's continues into the 1990s when cases such as Temi Augami and Gitskan Wetsuwe'ten are dismissed by courts as mere usufruct which disappeared at the behest of any government explicitly stating so (Cassidy 1992). It has had a devastating effect within Treaty #3 and across Canada with regard to Aboriginal peoples' ability to reclaim their lands and resources from provinces.

i. Ojibways at Fort Frances, Hudson's Bay Post, 1859, Fort Frances Museum

OJIBWAYS AT FORT FRANCES

Chapter One

Governing in the Great Spirit's Garden

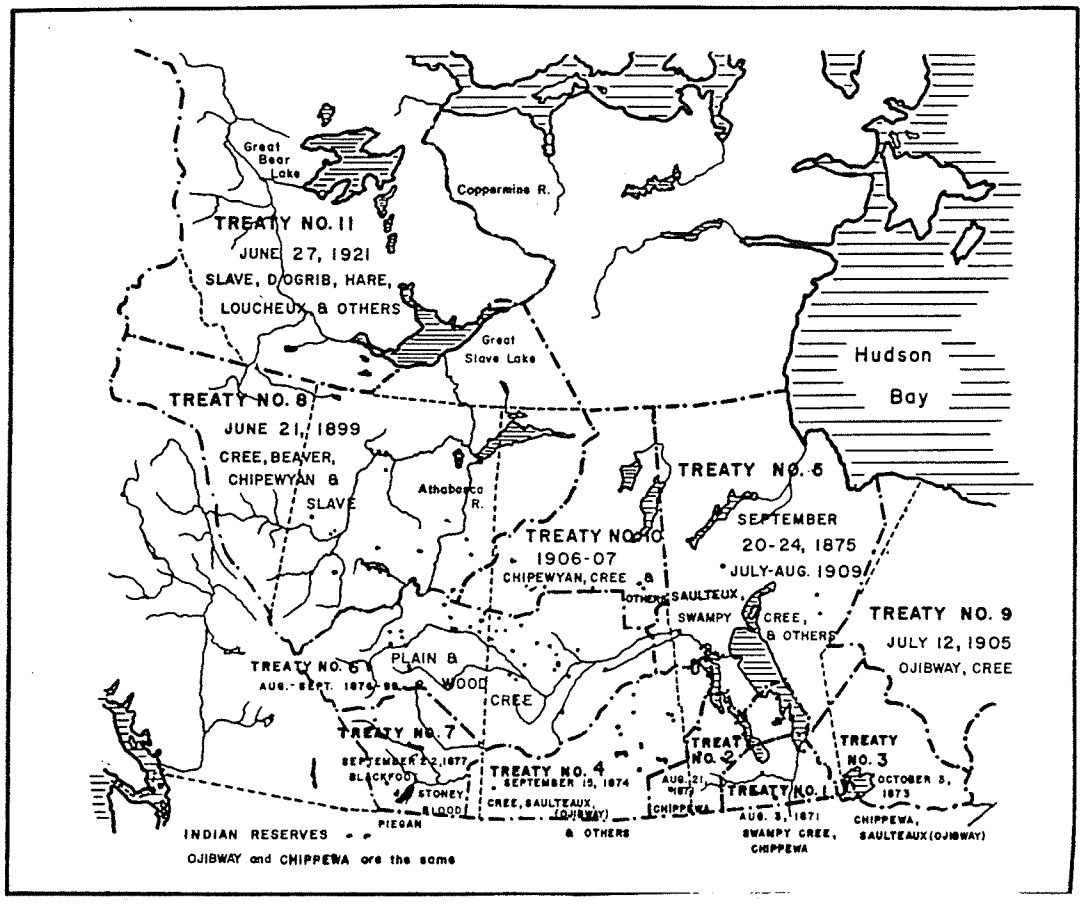
Conceptual Framework and Research Design

This thesis provides a history and analysis of intergovernmental affairs between the *Anishinaabe* (Ojibway) Nation of the Boundary Waters (now known as Northwestern Ontario -Manitoba-Minnesota) and the governments of Canada and Ontario. (Figure 1, Map of Treaty #3 location within Canada). The point of view attempts to document and discuss *Anishinaabe* public policy making and intergovernmental affairs through the period from the Treaty of 1873 to the early 1990s.

The reader is referred to the glossary which explains many of the English and *Anishinaabe* terms that will be used throughout this thesis, such as the use of the words "*Anishinaabe* " or "Nation".

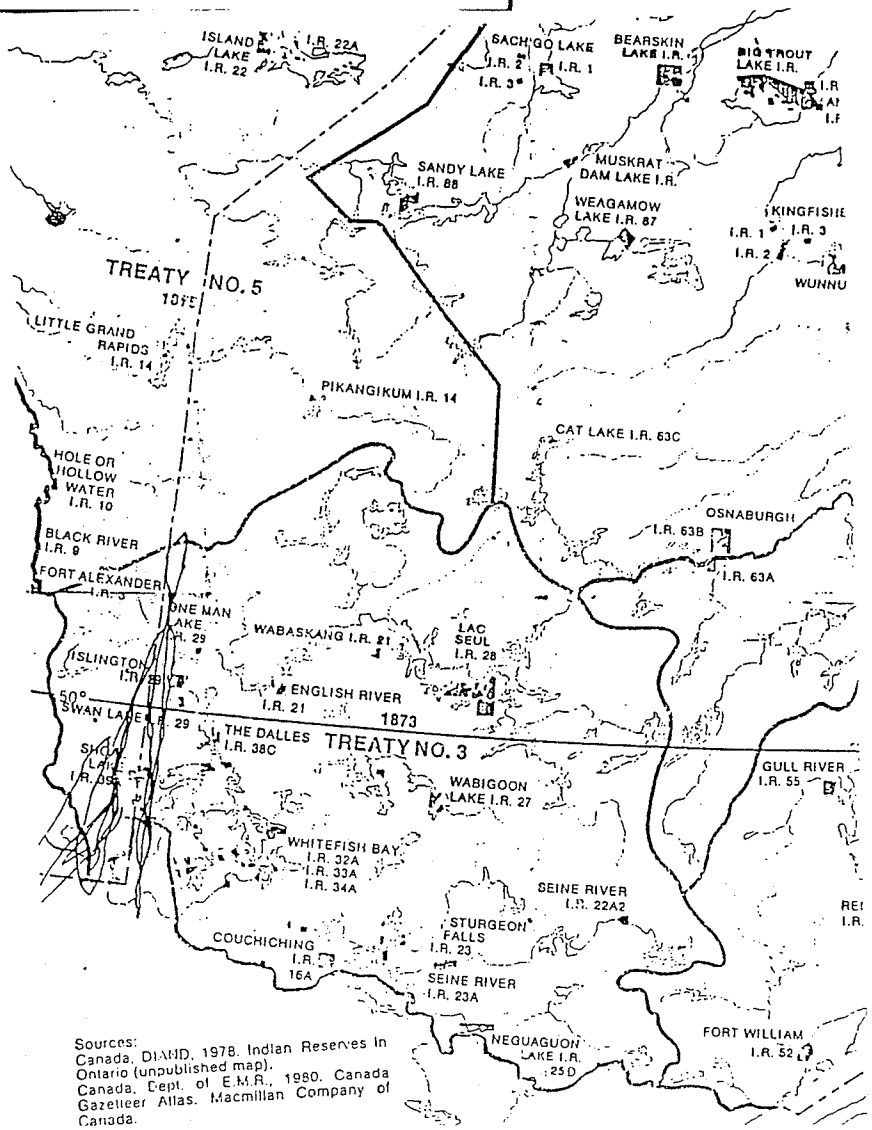
Seeking a way to understand and communicate Aboriginal viewpoints on self government led me to look at my own experience in the Treaty #3 area of Northwestern Ontario, west of Thunder Bay into the Whiteshell area of Manitoba. In 1969, the *Anishinaabe* people of Treaty #3 welcomed me with warmth and humour, from my first meeting onward. It did not take long to discover what mattered to these aboriginal people of the Boundary Waters of Northwestern Ontario, Manitoba and Minnesota: family, traditions, fishing, hunting and - *manomin* , something they translated merely as 'rice'. It took some years before I understood the profound connection between the people and their spiritual relationship to the land and waters. I gradually felt how indelibly forged was the bond between the *Anishinaabeg* of the Boundary Waters and *manomin* . When I began doctoral work and began to search for an example of Aboriginal self government and intergovernmental affairs in Canada, *manomin* immediately focussed my attention.

This researcher was advised by one *Anishinaabe* colleague that fishing was more paramount to *Anishinaabe* culture, and by another, that emphasizing one resource without attention to others would give an unbalanced view of the *Anishinaabe* culture presently and in the past. But from my travels to other *Anishinaabe* areas, it seemed clear to me that the



1. Map of Treaty #3

and First Nations



Sources:
Canada, DIAND, 1978. Indian Reserves in Ontario (unpublished map).
Canada, Dept. of E.M.R., 1980. Canada Gazetteer Atlas. Macmillan Company of Canada.

Anishinaabe of the Boundary Waters were unique from their brothers and sisters of other areas - precisely because of the fundamental importance of manomin to their essential being. Certainly Boundary Waters *Anishinaabeg* shared language, fishing and hunting cultures, *dodemuk* (clan system), legends and spiritual traditions with *Anishinaabeg* across Canada and the United States. Yet, the integral role of *manomin* to the Boundary Waters *Anishinaabeg* convinced me to investigate it more. *Anishinaabe manomin* has a legacy all its own which will be explored in this thesis.

1:1 **Focus of the Research**

Within the past decade, Indian Self Government has become an accepted term in Canada. Aboriginal governance has gained public acceptance and support (Reid 1989) to such an extent that, in 1992, the Prime Minister and Premiers of nine Provinces agreed to invite Aboriginal representatives as full and equal partners in the process of constitutional renewal, known as the Canada round (Assembly of First Nations press release, Feb.12, 1992).

Yet, despite their widespread support, Canadians have only a vague idea about what Aboriginal government or Indian self government is, how it would operate within Canada, and what it entails for Aboriginal peoples and their relations with the rest of the country (Speech of Rt Hon JC Clark to Constitutional Conference on Aboriginal Peoples, Feb 13,1992; Reid 1990; Ponting 1990). In April 1991, the Prime Minister of Canada established the Royal Commission on Aboriginal Peoples to investigate some of these very issues (Mandate of the RCAP, Spring 1992).

The Royal Commission on Aboriginal Peoples research agenda includes some of the very issues that this thesis addresses:

> -"Governance issues - the exploration of how disputes between Aboriginal and non-Aboriginal governments can be resolved more effectively" (RCAP, The Circle 2(2): 6, "Focussing the Dialogue", April 1993).
> -"Treaties and Governance - how Aboriginal self government and Treaties impact one another - the roles of Aboriginal governments in Treaty making - the historical impact of treaties in Aboriginal governance" - "and the existing barriers to Treaty implementation" (RCAP, The Circle 2(1):2-3, "Research: A Challenging Agenda, January 1993)

-" Aboriginal economic development, land, and labour - how economies developed historically - problems, prospects, strategies, and experiences with public policy" (The Circle, 2(2): 8).
-"Lands and resources - importance to Aboriginal cultures and economies - locally based and controlled resource development - environmental and resource management" (The Circle,2(2):8).

The vast dimensions of the topic of *Anishinaabe manomin* in Treaty #3 could be explored as a case study of many of the research issues of Royal Commission on Aboriginal Peoples. One purpose of this thesis is to better understand the concept of Aboriginal self government as it relates to the traditions of First Nations and Treaty Nations within Canada, and the conflict which results when the spirit and intent of Treaty are not accepted by settler governments. This thesis considers the specific case of wild rice as an instance of self government in Treaty #3 , and the Grand Council Treaty #3 interrelationships with the federal and provincial governments seeking recognition of their responsibility for *Anishinaabe manomin* .

Anishinaabe manomin is an indigenous plant, the only cereal grain native to North America. The *Anishinaabe* consider*manomin* a gift from the Creator, as expressed in their word for the plant: "*Mano* " derives from the root word, "*manito* " or "spirit", as in Kichi or Kizha Manito, the Great or Kind Spirit; "*min* " is a shortened version of "berry" or "delicacy". Thus, *manomin* is, very literally, a gift from the Creator (Kinew 1979). A more ancient way of referring to wild rice is *Manito Gitigaan* , the Great Spirit's plant or garden (Kinew 1979; Elder Alex Skead in Grand Council Treaty #3 Chiefs' Assembly 1988).

Manomin has been nurtured by, and has in turn nurtured, the *Anishinaabe* people since before recorded time. (Syms 1982; Vennum 1988).

To the *Anishinaabeg* , *manomin* has become a symbol of the Indigenous or Aboriginal right of self government. Within the *Anishinaabe* worldview, this "right" may be better conceived as a stewardship responsibility that ties the *Anishinaabe* to the Creator. [1]

Manomin is a resource only recently considered important enough by settler-governments to have the province "occupy the field" and pass legislation governing its harvesting and sale (eg. The Ontario Wild Rice Harvesting Act, RSO, 1960; see Chapter 8). Treaty #3 *Anishinaabeg* have always considered this plant to be exclusively their gift from the

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1

Creator and their responsibility. They had been willing to share land and resources with the newcomers, as was expressed within the spirit and intent of Treaty #3. Newcomers had been allowed to fish, hunt, farm, and mine. With regard to *manomin* , alone among all resources, however, the *Anishinaabeg* expected that their unique and sacred relationship to *manomin* would continue "as by the past". This is confirmed in the wording of the Paypom Treaty #3, the version generally accepted by Treaty #3 *Anishinaabeg* to reflect the 'true' terms of the Treaty. It is the Paypom Treaty that Treaty #3 *Anishinaabeg* refer to as *Manito mazinai'igan* (the sacred document) (T.P. Kinew 1992). The caring for, seeding, harvesting, processing and marketing of *manomin* had always remained within the sole jurisdiction and responsibility of the *Anishinaabeg* . For this reason, *manomin* stands unique as a symbol of an aboriginal resource. [2]

The concept of natural resources as an aboriginal and Treaty right is at the basis of historical and present day conflicts between Indigenous and Provincial governments. The federal government has vacillated between its role as fiduciary trustee, newly defined by the highest court of Canada in 1984 (Guerin case cited in Woodward 1989:110-114; Reiter 1991:IV:23), and official neutrality that has enabled a provincial power grab of resources. This classic confrontation has been embedded in the Constitution Act, 1867 : Section 91(24) allocates "Indians and lands reserved for Indians" to federal jurisdiction; under s.92, natural resources are within provincial jursidiction.

To Treaty #3 *Anishinaabeg*, *manomin* stands as symbol as an Aboriginal and Treaty right rather than an examples of a provincial Crown resource. As with most issues regarding the Aboriginal peoples of Canada, *manomin* does not represent merely one issue. In Treaty #3 territory, *manomin* affirms the spiritual foundation of Anishinaabe government. The culture and governance of *manomin* in the Treaty #3 area is the longest continuing form of *Anishinaabe* government.

The ceremonies, preparation, control of the growing period, harvesting camps where Elders regularly check the harvest and state when to pick or when to rest the rice evidence the sole *Anishinaabe* exercise of authority over and responsibility for the people and the resource.

2

Manomin is a resource whose *Anishinaabe* jurisdiction survived other forms of suppression of *Anishinaabe* sovereignty under the Indian Act. Only since 1960, was *manomin* interfered with by provincial natural resource laws and attempts at regulation.

This thesis will review the political history of the *Anishinaabe* of Treaty #3 regarding *manomin* from before the treaty signing in 1873 to the immediate aftermath of the the 1992 'Canada round' of constitutional renewal. *Anishinaabe* concepts and viewpoints will be used in the political analysis, to consider indigenous public policy making and intergovernmental affairs.

1.2 **Setting the scope of the research**

There is an abundance of literature regarding traditional forms of governance by the Ojibway (Smith 1973; Coleman 1953; Hallowell 1942, 1955; Hickerson 1962,1970, 1971; Warren 1885; Grand Council Treaty #3 1992 TARR pamphlet series), as well as an emerging field of literature regarding Indian self government (Cassidy & Bish 1989; Cassidy 1990; Boldt 1993; Boldt & Long 1984, 1985, 1986; Long 1990; Asch 1982; Ponting & Gibbins 1979, 1984). A fuller review of the literature will be made more fully in Chapter 2.

A recent approach to the field is to consider the Aboriginal responses and adaptations to federal government policy making (Pettipas 1990; Carter 1990; Long 1990; Klippenstein 1991). Such research, deriving from both archival documents and ethnographical or sociological fieldwork, has lent a new and much-needed perspective to the ethnopolitical field of aboriginal government in Canada. This research has aimed to present as its starting point an indigenous perspective of Aboriginal history and development.

What has been lacking in varying degrees, even in this adaptation-response framework however, is the informed viewpoint of the Indigenous people, in their own words, concepts and language. The generation that came through the residential school system in the forties and fifties and forged the political future of their people in the sixties and seventies is now willing to share the worldview of their people, in sophisticated terms in several languages, Aboriginal

and English. It is through the cross cultural understanding of their language and concepts that a more in-depth appreciation of indigenous government will be possible.

To understand *Anishinaabe* government in Treaty #3, in its traditional and contemporary forms, it is necessary to have some understanding of the language and concepts of these people (Henderson 1993). This thesis is enriched by the fluent speakers and thinkers of the Treaty #3 *Anishinaabe* Nation who have consented to share their views and understanding.

Introductory and cautionary notes are essential. *Anishinaabe* people do not view traditions or "the traditional" as being from any particular period, frozen in time, such as the eighteenth century trade or late nineteenth century treaty making era. Instead, they view traditions as emanating from time immemorial, a time that predates the record keeping and even contact of the EuroCanadian newcomers. Traditions hold as much portent today and for the future as they did in some unspecified past. That is why they continue to be carried through the oral tradition of the Anishinaabe people. When "traditional" forms of *Anishinaabe* government are discussed, this note must be kept in mind.

This thesis seeks to insert the *Anishinaabe* viewpoint and analysis of *Anishinaabe* government public policy making and intergovernmental relations into the research on aboriginal governance in Canada.

1:3 **Research Questions**

The central questions researched in this thesis are: How was and how is public policy formulated by *Anishinaabe* governments through the years? What is the pattern of intergovernmental affairs since Treaty in 1873? These questions focussed my interviews and documentary research. The concluding chapter will address what can be learned to benefit Treaty Nations-Crown relations today.

These questions will be analyzed through the viewpoint of *Anishinaabe* interviewees today and historical and archival documents of yesterday. The focus will be on *Anishinaabe* public policy making and intergovernmental affairs regarding *Manito gitigaan* from just prior to Treaty #3 in 1873 to 1992.

To examine this period of history is to view the changes these people have endured from a time of political and economic independence prior to 1873 through generations of suppressed sovereignty under the Indian Act to the re-assertion of sovereign Treaty and *Anishinaabe* rights in the 1970s to 1990s.

The example of *manomin* has already been explained to serve two major purposes. *Manomin* focuses on the central conflict between indigenous and provincial governments within Canada: natural resources as a (provincial) crown resource or a treaty and aboriginal right? *Manomin* also serves as a continuing example of Indigenous forms of government in action, even through generations of suppressed sovereignty under the federal Indian Act and provincial wildlife legislation.

Manomin serves another useful function in this thesis. It is a metaphor to explain the *Anishinaabe* version of *Anishinaabe* or original rights. According to Treaty #3 *Anishinaabeg* , *manomin* is a gift from the Great Spirit; its use and development given to the people through legend and ceremony (H. Redsky 1990; Vennum 1988). This plant that seems to require no tending or cultivation, actually requires annual reseeding. Many elements combine to thwart the growth of this plant. Predators such as muskrat and moose eat the stems; blackbirds feast on the grains; there are competitors such as water lillies and other water weeds; high waters can drown the plant in its early stages of growth and elongation above the water; winds may rob the grains, husk and all, from the stem (Aitken et al 1988). Yet, *Anishinaabeg* have observed, even when the plant has seemingly drowned for twenty years, it can arise again (H.Redsky 1990). A fertile, slightly acidic soil can always be seeded, as *Anishinaabeg* have done for countless generations (Aitken et al 1988). Indeed, the Anishinaabeg extended the territory of this plant through deliberate seeding and protection of its terrain (Moodie 1990; Syms 1982; van de Vorst 1984).

So too, with the original rights of the original peoples. They grow through the understanding of the people, nurtured and kept alive in the oral tradition of the Elders passed down through countless generations. These traditional teachings contained in secular and sacred stories (*adisokaanan*) guide the *Anishinaabeg* in their lives, through their relationship with the Creator, with other people, and all living things . The lessons of the interconnectedness of

life are reseeded each year by the people. And, the people have suffered through the dangers of predators such as policies and laws imposed by external governments, competitors such as settlers and their authorities, dangerous conditions such as cultural and physical dislocation. Just like the plant, they have survived. And, so too have their traditional teachings that the *Anishinaabeg* have rights and responsibilities given only to them by the Creator, just as *manomin* was given to the *Anishinaabeg* by the Creator.

The drowning and life-threatening conditions of *manomin* symbolize the suppressed sovereignty of the *Anishinaabeg* . This thesis examines more than one hundred years of suppression and expression of *Anishinaabe* rights in Treaty #3 and develops a model of analysis of Anishinaabe public policy making and intergovernmental affairs based on this concept.

1.4 Methodology

This thesis combines the anthropological fieldwork techniques of participant observation, interviewing and use of a key informant, with established social science methods of library and archival research. Reading in grounded theory gave the author confidence in the development of a new paradigm and an adaptation of a model for understanding aboriginal-crown intergovernmental relations. Grounded theory posits the "discovery of theory from data systematically obtained from social research" (Glaser & Strauss 1967:2). To generate theory, it is suggested that the researcher must be both "highly sensitized" and a "systematic agent", using insight and comparative analysis (Glaser & Strauss 1967:251). As a researcher, I was advised to "deliberately cultivate reflections on personal experiences" (Weist 1990) The scientific literature advised me then to compare these reflections with existing theory to discover new categories (Glaser & Strauss 1967: 252). It was in such deliberate concentration on the topic that the view of Anishinaabe governing in *Manito Gitigaan* as customary law, and the vision of wild rice as a metaphor for aboriginal and treaty rights, emerged in my consciousness.

Grounded theory seeks to avoid research which is "too impressionistic" or "overly theoretical" (Glaser & Strauss 1967:14-15). I have sought to avoid an impressionistic approach by checking documentation over a 100 year span regarding ricing with oral testimony

I collected particularly in 1977-80, 1983, 1989-1994 from Chiefs, Elders and rice gatherers. The *Anishinaabe* interviewees I have spoken with over a period of 20 years relate experiences and understanding gleaned over life spans of a much longer period. Interview data has also been checked with government documents and interviews of the past two decades. By centring on the Treaty #3 area and *Anishinaabe* people, with a key informant and a number of other interviewees, I have tried to avoid being overly theoretical. Instead I have preferred to record actual events by Treaty #3 people or Crown representatives, in most cases, and make analyses which offer some ideas for future courses of action.

I approached the "interviews as conversations", with my asking about that person's particular involvement in or knowledge about wild rice in Treaty #3 (Burgess 1984:111). In undertaking interviews from more than forty respondents, I encountered only three refusals. The approach taken, particularly to an Elder or to someone known by this researcher to follow traditional ways, was to offer tobacco and ask for assistance through an interview. Some *Anishinaabeg* interviewed, including all Elders, were given a small honorarium in appreciation of their assistance. Others were content to spend one half hour to a couple of hours explaining their involvment with *Anishinabe manomin* . All interviewees were advised that the information they gave would be used with their names in a university thesis; only two requested anonymity.

During the interviews, I would sometimes ask "contrastive questions to discuss the meanings of situations and offer opportunities for comparisons" (Burgess 1984:111). I sought to avoid loaded questions or answering my own questions, by asking prodding and followup questions (Ellen 1984:231). I took short notes during the interview (only two were taped) and immediately transcribed the full text once I returned home in order to ensure memory was aided by freshness.

By continually questionning my familiarity with the Treaty #3 *Anishinaabe* system of wild rice management, in interviews with *Anishinaabeg* and Crown government interviewees, as well as other documented sources, I have constantly tried to improve my observation, judgment and conceptualization.

At the beginning of this research, I had wished to analyze public policy making and intergovernmental relations among the federal and provincial governments and the

Anishinaabeg. It was only during the course of readings, conducting interviews, and reassessing my own personal experience in light of historical documents, that I came to see what I was analyzing was actually the longest continuing form of *Anishinaabe* government in Treaty #3: governing in *Manito Gitigaan*, the Great Spirit's garden. In reviewing the literature, it became apparent that what had now become self-evident to me had been overlooked by other researchers in many disciplines through the decades.

I lived in the Treaty #3 area, first at Kenora, then at the Ojibways of Onigaming First Nation, 65 miles south of Kenora on Lake of the Woods, from 1971-1983. During that time, I worked as a writer and researcher for the Chiefs' Association, the Grand Council Treaty #3, in land and resources issues, education, economic development and other fields for approximately six years. I worked as a social worker at Grassy Narrows and Whitedog for two years, as a Life Skills Coach for six months at Onigaming, and as a report writer, researcher, advisor and negotiator for several Treaty #3 and Manitoba First Nations and organizations, from the 1980s to the present day. I have visited twenty-four of the twenty-five First Nation communities within Treaty #3 territory and am acquainted with some members of all of them. From 1984 to the present, my family and I have maintained our principal residence at the Onigaming First Nation and continue to spend as much time there as possible.

Through my marriage to a prominent *Anishinaabe* person in Treaty #3, and residing on his reserve, I was honoured to become involved in several years of "ricing". I joined my partner in going onto the ricefields, checking the rice before harvest, then harvesting and selling the rice at lakeside or in traditional processing of it for our own use at home. My husband taught and involved me and our two children in the ricing rituals and all the stages of harvesting and processing of *manomin* . He taught us the history, the language, the spiritual beliefs about *manomin* - and expected us to understand and communicate this knowledge to generations beyond us. He is Tobasonakwut Kinew, earlier known as Peter Kelly (also referred to in this thesis as T.P.Kinew). Tobasonakwut is the Grand Chief of Grand Council Treaty #3, elected in October 1991, and has served as Chief of the Ojibways of Onigaming, 1976-80, Assembly of First Nations Ontario Chief, 1982-83, and Grand Chief of Treaty #3 1971-74. Tobasonakwut is considered a spiritual Elder of his people, and is a pipecarrier, a 3rd degree member of the

Mite'iwin religion and a Sundancer. As the key informant in this research, Tobasonakwut's insight has been contributed over a period of more than two decades.

In stating this background, it is immediately recognized that the reader will be wary of polemic and unsubstantiated protestations regarding *manomin* . This researcher spent several years returning to university to gain some distance and some skills in analysis before attempting this thesis, and spent some five years undertaking the research and writing. The dangers of taking the *Anishinaabe* point of view in research are understood and accepted. Noted Native American lawyer. professor and writer, Vine Deloria Jr., has stated that 'revisionary' is used to describe any writing taking the Native American point of view (Deloria 1969,1974). There needs to be a recognition that academic research into the history of Aboriginal self government and settler-Aboriginal intergovernmental affairs in Canada is only beginning to address the Aboriginal point of view and to reference Aboriginal political thought and strategy. With the increasing numbers of Aboriginal writers, such points of view are beginning to reach mainstream society (Cardinal 1969; Deloria 1969, 1974; Mercredi & Turpel 1993).

This thesis is informed by *Anishinaabe* concepts and language to forge a new way of viewing Aboriginal public policy making and intergovernmental relations. Through the key informant, Tobasonakwut Kinew, and generous interviews granted by Elders such as Nancy Jones of Nickicousemenecaning, Fred Greene of Shoal Lake #39, and Bert Yerxa of Couchiching, this thesis seeks to delve into the meaning of wild rice to the *Anishinaabe* people of Treaty #3, and how they sought to protect their *Anishinaabe* rights to governing in the Great Spirit's Garden. "Meaning requires interpretation from knowledge of the totality" of the culture, for "without its meaning, an observable behaviour is not a fact for an anthropologist" (Maquet 1964:54). Thus, I consciously sought to understand and portray the *Anishinaabe* point of view or perspective because I wanted to write the meaning, depth and complexity of *manomin* in *Anishinaabe* existence. Anthropologists have long found that "impersonal methods of study" used by physical scientists are an obstacle to understand "meaning which is an essential part of any social phenonmenon" (Maquet 1964:53). I straddled the ways of white middle class from which I came and the *Anishinaabe* way into which I was introduced and lived. As an outsider, I can only present a limited view of the *Anishinaabe* perspective, as I understand only limited amounts of

the *Anishinaabemowin* language and have been privileged to gain glimpses of the *Anishinaabe* worldview from Tobasonakwut Kinew and others mentionned.

In examining possible bias, it is important to note that "content of knowledge is never entirely independent from the subject; rather it is the result of the meeting of the subject and object" (Maquet 1964:53). In this thesis, what is presented is what I came to learn over more than twenty years, with more directed questionning and analysis in the last five. We can only see reality from a point of view, and who is to say that the perspective adopted by analysts of Crown governments is any more "objective" than that of the *Anishinaabeg* ?

It has been said that "the ultimate goal of action or participatory research is the radical transformation of social reality and the improvement of the lives of the people involved" (Ryan 1990:58). I share this goal. While the questions of this thesis were formulated by me, they were informed by the issues raised by Treaty #3 *Anishinaabeg*, and the solutions will certainly be found by the First Nations people themselves. It is my hope that this thesis may contribute to a wider understanding of the significance of *Manito Gitigaan* and the search and arrival at positive solutions in the future.

My interviews included *Anishinaabe* politicians such as Elders, Chiefs and former Chiefs, and *Anishinaabe* people involved as ricers and as business people in the rice industry. As well, several non-*Anishinaabe* researchers and lawyers for Treaty #3 and provincial and federal bureaucrats who have dealt with the Treaty #3 *Anishinaabe* people in the rice industry or on the rights issue, were kind enough to answer many of my questions. Some of the interviews were conducted for earlier writings and research on *manomin* in the mid to late 1970s, and a project in Manitoba in 1983, but most were specifically undertaken for this thesis in the period 1989-1993.

I explained to all interviewees that I was recording their comments for use in this doctoral thesis and their permission was granted. The 1970s interviews have been used as background only, and permission was given at that time for information to be included in a magazine publication (Avery & Pawlik 1979). Only two respondents requested that I not attribute remarks on one issue only.

Photographs, drawings and maps have been included to "see with the native eye" the significance of some events decribed in the thesis. It is hoped that the reader will accept that such data is presented to intensify the understanding of the reader, rather than merely provide local colour (Collier & Collier1986: xvii,10,131). The reproduction of the rock painting in chapter 3 is not intended to be disrespectful. Rather it is presented to demonstrate the ancient governmental organization of the ricefield within Treaty #3, as well as the sacredness of the Great Spirit's garden. Many times I have prayed and offered tobacco in the waters near the ricefields on Lake of the Woods and Rainy Lake for guidance in presenting this story as it was revealed to me.

The analysis of the data has depended upon an interdisciplinary approach of anthropology, political studies, Native studies, and law (see Chapter 2).

1. 5 Research Direction and Organization of the thesis

In describing and analyzing the public policy making and intergovernmental affairs of the Treaty #3 *Anishinaabeg* with federal and provincial governments since the Treaty, a realization came that this political history had come almost full circle. Intergovernmental relations began with alliances and treaties of the fur trade and culminated in the Nation to Nation signing of Treaty #3 in 1873. The unilateral imposition of the Indian Act by the federal government commenced an era of the abrogation of Treaty #3 by federal and provincial governments that continues to this day.

The *Anishinaabeg* of the Boundary Waters have used every means at their disposal including letters and petitions to Ottawa and the King of England, delegations to the local Indian agent and Ottawa, and, since the 1960s, to Queen's Park in Toronto (Chapters 7, 11-13). More recent initiatives have included delegations to Parliament in Great Britain, the re-organization of the Grand Council, and coalition with other Indian organizations across Canada, as well as direct "uncivil obedience" (Borovoy 1991) (see Chapters 12 & 13).

The asymmetry of this intergovernmental relationship has been reflected by the response of the federal and provincial governments . The federal government institututed its

control through the use of local Indian agents to force meetings or elections, surrender votes or other agreements by means of blank Band Council Resolution forms (Billie Archie 1977; Stuart Jack 1977). Religious ceremonies were banned (Pettipas 1990) and cultural traditions trampled by the forced anglicization of *Anishinaabe* names, removal of children to residential school, and teaching of the children that their parents were heathens (Inquiry into the Administration of Justice in Manitoba1991). People became dislocated in place as well as spirit by the removal of families away from waterways and relocation of communities onto highways (Grand Council Treaty #3 1974). The provincial regulation of fish and wildlife through unilaterally imposed legislation and punitive enforcement measures effectively removed the livelihood and sustenance of the people, as well as that aspect of the spiritual bond to the Creator (Miller 1989; Peter Kelly 1972; Stuart Jack interview 1977; chapter 7).

Since the 1960s, the assertive stand of the Grand Council Treaty #3, in conjunction with organized lobbying by Aboriginal associations across Canada, has seen a change in public and governmental attitudes. The passage of the Constitution Act, 1982 and its explicit recognition of Aboriginal and Treaty rights in sections 35 and 25 marked a truly significant point in the history of Aboriginal-Crown affairs. The evolution of agreements and modern day treaties, including Prince Edward Island Premier Joe Ghiz' proposed 1992 national treaty of reconciliation with Aboriginal peoples, has demonstrated that the symmetry of Aboriginal-Crown intergovernmental affairs may be returning. The issue is where the power and resources lie.

Natural resources is one of the major issues of contention in this Canadian federation. This analysis of governing in *Manito gitigaan* is offered as a example of how provincial governments have intruded upon Aboriginal jurisdiction while the federal government has relinquished its fiduciary duty as a trustee of Aboriginal and Treaty rights. *Anishinaabe manomin*, within the Treaty #3 territory, is an example of the longest continuing model of self government of the Boundary Waters *Anishinaabeg* .

This research offers a description and analysis of the *Anishinaabe* sacred bond with the Creator and how their responsibility to *manomin* is indelibly tied to this spiritual connection (Chapters 3 & 4). The thesis will outline how *Anishinaabe* representatives sought to assert and

protect their *Anishinaabe*, treaty and aboriginal rights to this particular resource, in various political arenas from treaty-making to constitution-making (Chapters 6 -13). Finally, this thesis offers an analysis of various options available and obstacles to overcome to decision-makers in the three governments involved (Chapters 13,14).

Endnotes:

1. Stewardship is defined as being "entrusted with management" (Funk & Wagnalls Canadian College Dictionary 1989). In Aboriginal writings, it is considered a useful English concept to try to conceptualize indigenous thought about taking care of the Creator's gifts, as part of the sacred relationship the *Anishinaabeg* (or other Indigenous people) have to the Creator (Little Bear 1994).

The "stewardship" principle has been accepted into the debate on environmental issues by wider society. Stewardship in this context calls for "sustainable life" as a concept of "protecting and maintaining earth, air, water and creating an independent home for all biological lifeforms within it". (It contains an understanding of humans as part of the web of life, but falls short of a sacred responsibility and connection to the Creator.)It was to be preferred to "sustainable development" which promotes the continued use of resources, only to the extent that they can regenerate for future generations. Stewardship was explained in a Lakehead University report to the Teme Augama Nation (Lake Temagami area, northeastern Ontario) entitled: The Need for Land Stewardship: A Holistic Management Plan for N'Daki Menan" (Hall 1990:21). It called for a moratorium on logging until old-growth ecosystem is fully understood. Both concepts of "sustainable life" and "sustainable development" were adopted - in a uneasy union - in the 1993 Teme Augama Stewardship Plan, a co-management agreement with the Province of Ontario.

2. Research into fiddleheads (ie, edible young ferns that resemble the handle of a violin) in New Brunswick may find a similar relationship for the Mi'kmaq and Malecite Nations with that plant.

Chapter Two: Literature Review

Undertaking this research into "Governing the Great Spirit's Garden" in Treaty #3 territory and history necessitates adopting an interdisciplinary approach. It is important for the researcher to consider what the literature has stated generally about the *Anishinaabe* people (the Ojibwa, in anthropological parlance) and their worldview (Smith 1973, Densmore 1979, Hilger 1951, Vennum 1988, Syms 1982), and specifically about the Boundary Waters *Anishinaabeg* of Treaty #3 (Waisberg 1984a,b, 1992; Holzkamm 1985 1988 1989 1990 1993; Vennum 1988). Within the study of worldview, one encounters the dichotomy of Euro-Canadian scientific analysis between the sacred and the secular, the sacred and science.More recently, scientific understanding of the manner of holistic Aboriginal conceptualization and thought seems to have bridged the gap between social and physical sciences (Black 1967; Colorado 1989; Peat 1992; Knudtson & Suzuki 1992) .

In reviewing *Anishinaabe* history, the researcher looked at historical and anthropological accounts of the forms of governance, and *Anishinaabe* relations with explorers, settlers and their governments (Miller 1989; Smith 1973; Leacock 1979). Until recently, academic research has focussed on public policy making of Crown governments, the intergovernmental affairs of federal-provincial relations and their impact on Aboriginal peoples (Upton 1973; Tobias 1976; Milloy 1983). However, in the past decades since the infamous 1969 White Paper of the federal government, analysis has shifted from the crown to the aboriginal side. And importantly, the focus has also changed from that of the 1960s-1970s focus on aboriginal organizations as interest group lobbying, to the 1980s-1990s insistence of First Nations to be taken seriously as governments acting according to their rights and jurisdiction (Weaver 1985b, Dyck 1989, Richardson 1989, 1993; Smith, D. 1993) .

The concepts of self-determination, self-government and sovereignty which entered the political discourse of aboriginal peoples in the last half of this century, and most forcefully since 1982, are being thoughtfully considered (Assembly of First Nations 1992; Smith 1993; Richardson 1989, 1993; Frideres 1993; Dickason 1993; Miller 1989; Cassidy 1990). There is a

recognition of the need for more research which attends to the "words, images and concepts that various aboriginal peoples use to describe their political ways" (Cassidy 1990:88). And, an increased understanding that outsiders' words such as "sovereignty" do not readily translate into aboriginal languages and may be misleading (Cassidy 1990:88). Priorities may also be different . Aboriginal peoples may wish to raise land and resource management issues on the aboriginal government research agenda as "they represent not only economic value and political significance but also represent a way of life and spiritual commitment" (Cassidy 1990:90).

Within Canada, however, a consideration of intergovernmental relations necessarily leads into an analysis of the federal state, the division of powers, constitutional entrenchment and change (Dickson 1991; Simeon 1990). When aboriginal peoples are involved in the analysis of the status quo and the need for constitutional change, newly formed concepts such as "treaty federalism" are brought into the public domain (RCAP 1992, Dickson 1991, Opekokew 1982; Pryce 1979). The expanding field of legal pluralism (an interdisciplinary field in itself) which holds the view that "many laws" can and do co-exist in a federal state has done much to welcome such concepts into modern analysis (University of Manitoba Legal Pluralism Conference, November 1992).

The social upheaveal of the 1960s made North American history popular and new strains of political anthropology and ethnology emerged to investigate ways in which Native peoples have "resisted acculturation .. and struggled to preserve cultures over centuries" (Trigger 1988b:26). In the political life of Canada, the 1960s marked a time when aboriginal peoples came "out of irrelevance" (Ponting & Gibbins 1981; Miller 1989; Boldt 1993). Although Native North Americans had organized along both traditional and more westernized forms throughout the post-Confederation period, the social ferment of the 1960s made their cause popular within the context of civil rights and peace movements. Aboriginal political activity came to resemble westernized political pressure groups and occupied centre stage in Canadian political life, certainly for the last third of the twentieth century (Ponting & Gibbins 1981; Weaver 1981, 1982; Boldt 1993). Aboriginal participatory and confrontational politics

began to attract the attention of political science and sociology as well as anthropology, geography and history. In the 1970s and 1980s, social scientists were forced by pressure from aboriginal peoples and their supporters to reexamine the fundmental misconceptions of their disciplines. Social scientists and historians began to research documents and record observations through new perspectives. "Events are immutable; history changes" (Crowley 1988). Books and articles published a revised version of Native North American history and contributions to Canada and the United States (Trigger 1988).

Within the discipline of history, aboriginal peoples were no longer seen as passive victims of the older accounts of Canadian history but rather as peoples "who have always been active, assertive contributors to the unfolding of Canadian history" (Miller 1989: x; G. Friesen 1985; J. Friesen 1985). Concepts of "discovery" have given way to more balanced protrayals of explorers such as Alexander McKenzie and other historic figures being given a "conducted tour" by aboriginal guides (Bliss 1989). Geographical analysis has assisted in reconsidering trading patterns and alliances, settlement and migration of aboriginal peoples, traders and settlers (Hamilton 1985; Dickason 1993).

This revision of thought and redirection of vision in academia would not have come about were it not for the challenges provided by aboriginal peoples themselves. Today, anthropological discussants are as concerned about the survival of hunter-gatherer societies as in their analysis of patterns of subsistence survival (Feit 1982; Tanner 1983a, 1983b). Indeed, advocate anthropologists consider themselves as privileged to be requested by indigenous peoples to act as communicators to wider society - as equal, not as 'experts' (Dyck & Waldram 1993:215-232). Political anthropology vies with political science and sociology in studying the dynamics of aboriginal political organizations as pressure groups in Canada (Weaver 1981 1982 1985; Ponting & Gibbins 1981; Boldt & Long 1985), and more recently, of First Nations as reasserting and evolving traditional aboriginal governments (Smith, D. 1993; Richardson 1989, 1993; Dickason 1993; Boldt 1993; Ponting & Gibbins).

Notes on Anishinaabe leadership and government

How often have anthropologists, historians, and other social scientists tried to analyze aboriginal self government and indigenous institutions without consideration of the Aboriginal language or thought patterns at work in that society?

The Boundary Waters *Anishinaabeg* have been the subject of many anthropological, historic and sociological analyses (Dawson 1975, 1982, 1983; Hoyle 1986; Waisberg 1984a, 1984b, 1992; Holzkamm & Waisberg 1990, 1993). However, analysis of tribal societies often presumed an understanding which was not there. In fact, westernized societies were using paradigms that bore little relation to reality. "The band-tribe-chiefdom taxonomy has given a false sense that we understand" (Leacock, 1979:29). In fact, concepts were invented to ease western negotiators and administrators into the colonies (Leacock, 1979:17; Bodley 1975, 1988). Anthropologist Eleanor Leacock explained how the usage of the word "chief" became "encrusted with notions of power in a stratified state-organized society"; in actuality, in egalitarian societies, a chief was " a first among equals"(Leacock, 1979:17).

Leacock proposed two basic sociopolitical principles governing decision-making in egalitarian societies, ones that are just as important in analyzing the twentieth century as the eighteenth: "parties responsible for carrying out a decision or directly affected by it must share in making it, commensurate with their experience and wisdom; those who do not agree to a decision are not bound by it" (Leacock 1979:20).

Leacock explained that Algonkian peoples accorded leaders authority in dealing with the new outsiders. Such authority was misread by Europeans as signifying formal authority over people as "subjects". This was never the case for the Woodland peoples.

Decisions were made and action taken on the basis of consensus (Morris, 1880; Dawson in GCT3, 1992; Cooper 1936). In a sense, as Gurnet describes, aboriginal leaders were given the "opportunity, not a mandate, to authority .. power depended upon the power of persuasion rather than the persuasion of power" (Leacock, 1979:27).

Authority as an "opportunity, not a mandate" remains an important component of Anishinaabe leadership and decision-making today. Indeed, this respect for equality and acceptance of consensual democracy quite confused federal and provincial politicians and bureaucrats in preparations for the Constitutional conferences with Aboriginal leaders since 1982 (Schwarz 1986; Sanders 1985; Delacourt 1993).

Anthropologist Robert Lowie, in examining political organization among American Aborigines, found that "the right to act independently was never questioned" (Lowie 1967:66). He noted that coercive authority did not exist with the Ojibwa. Council had "vague and limited powers" while the chief's powers were "even vaguer" (Lowie 1967:68).

James G.E. Smith wrote of the continuation of proto-historic Ojibwa social organization and leadership patterns into the twentieth century (Smith 1973). In the pre-reservation period, "an ethos of egalitarianism was pervasive, and the limited government was based upon consensual democracy" (ibid:13) (The "limited" description of government was likely chosen to describe the minimal rules that guided behaviour within that society. In recent parlance of legal pluralism, such an adjective would not be used as government by custom is analysed according to its effectiveness, not its complexity.) Smith noted the different types of Chiefs (or leaders) allowed by the Ojibwa - war chiefs, talking chiefs, pipe carriers, chiefs appointed by fur traders or Indian agents, clan chiefs, *Mite'iwin* 8th degree priests. Such a system was extant in the Lake of the Woods-Rainy Lake region of Treaty #3, as reported from informants Miskwakapins (Jim Elliott) and Joe Seymour (Cooper 1936). Each had a duty to perform depending upon the circumstances, but none evolved into a stratified society with a "higher degree of political organization" or chiefs with a "higher degree of responsibility and authority" (Smith 1973:16) The "Ojibwa democratic and egalitarian tendencies required a system of ambiguity and alternatives to prevent leaders from becoming too powerfully entrenched" (Smith 1973:17).

The fur trade and then the treaty-making period skewed this relationship between leader and the people somewhat as "chiefs were given presents, supplies and equipment for their own

use, and for distribution". The effect of strengthening the chiefs' positions and "giving them additional power and autonomy (was) consequently reducing their answerability to their people" (Smith 1973 :19). "The quiet withdrawal of support is a traditional and continuing method of expressing non-confidence in a leader and his activities, and the Ojibwa invariably had alternative potential replacements" (ibid:17). This Anishinaabe way of politics has been witnessed by the author during two decades of experience.

Smith analyzed decision-making on an Ojibwa reservation in the USA in the 1960s, demonstrating the tensions that arose in leaders aportionning benefits of employment programs. Outside authorities could not understand the continual delay and consultation throughout the community. Outsiders did not see that Ojibwa leaders "lack the implicit authority to commit their people (usually expected of democractically elected representatives), for a genuinely binding decision can be reached only through democratic consensus" (Smith 1973:33). He concluded that in the 1970s, "the implicit values of two societies are in conflict, but neither the values themselves nor the fact there is conflict is recognized" (ibid) . This situation pertained to a great extent into the 1970s in Canada. Yet, while the conflict of values continues in the 1990s, there is increased recognition that conflict exists. Since the aboriginal peoples emergence "out of irrelevance" in the 1960s and the constitutional entrenchment of their rights in 1982, there has also been an accompanying recognition that a new or renewed relationship must be found.

Smith and Cooper did not discover what lay beyond a listing of these titles and their overall functions to see the interconnection of leadership in an organized society, likely because Smith did not seek to understand the Anishinaabe terminology and conceptualization of such leadership roles and Cooper spent only a few days with his fluent informants (Smith 1973; Cooper1936). Even Densmore and Jenks who documented the detail of the Anishinaabe system of preparation and management of the ricefields across eastern North America were circumscribed by their own discipline of ethnology to define such activities and interrelated

ceremonies as more of a culture at work than as the *Anishinaabe* system of governance of the Great Spirit's Garden (Densmore 1979/1929; Jenks 1899).

Eurocentric evaluations of aboriginal leadership and decision-making could not comprehend that another social organization and government required its own conceptualization, and even, its own terminology (Chapeskie 1986). As anthropologist Edward Sapir noted in his analysis of Native societies and linguistics, native terminology reflects "distinct worlds, not merely the same worlds with different labels attached" (Overholt & Caldicott 1982:12). Thus, this thesis presents ideas within the *Anishinaabemowin* language and conceptualization in order to convey the inextricable relationship that *Anishinaabe* people have with *manomin* , where in fact, the people's culture is part of the culture of nature. Thus, any analysis of the *Anishinaabe* laws regarding *manomin* include cultural laws as well as natural resource management laws.

Today's understanding of *Anishinaabe* people (also known as the Ojibwa, Ojibway, Chippewa, Saulteaux) has largely been through the eyes of anthropologists. Anthropology has assisted in understanding culture, as both the folkways of dress, food, material life, and the philosophical tenets of language, spirituality, and the phenomenon of "worldview" . Indeed, with its emphasis on the holistic approach and fieldwork, anthropology is well suited to understanding "the Other" (Maybury-Lewis 1990).

Yet, in many situations, classical anthropology did irreparable harm in aiding colonization by placing indigenous peoples along a continuum of "progress" which relegated their especial and intimate knowledge of the universe to the lowest categorization (Bodley 1988; Dyck & Waldram 1993). Today, many professional anthropologists wish instead to return some of what they have gained to the indigenous peoples by acting as interpreters, communicators and even advocates of these peoples and their intimate knowledge of their world. Applied anthropology and advocacy anthropology are two approaches in this 'new' thrust within the discipline (Dyck & Waldram 1993). This conundrum between the 'old' and the 'new' continues, for at least one reason that it is the classical anthropological approach of

living within a culture as a participant-observer (albeit as an outsider) that has brought most of our modern understanding of indigenous cultures throughout the world. Anthropology has not only brought the 'new' information but also has informed outsiders of how to look at and assess such information. In more recent times, it has become as commonplace for anthropologists to study intergovernmental relations of indigenous peoples within a Nation-state as it is to study kinship (Dyck & Waldram 1993).

However, in its examination of intergovernmental relations from an indigenous perspective, anthropologists find themselves challenging the views of the debate that their predecessors shaped in terms of progress. Are "indigenous institutions relevant to decision-making and social regulation in modern aboriginal communities", and indeed modern society, or are "claims based on cultural distinctiveness" to be "regarded as futile denials of the inevitable course of progress" (Scott 1993:321)? Such an argument is addressed in this thesis and forms a central question for the future course of the management of the Great Spirit's Garden. We benefit today from the active participation of the *Anishinaabe* people themselves in communicating the ideas and institutions of their people.

This thesis points to the need to study and understand the essential cultural features of *Anishinaabe* law and management of their natural resources. When Crown government representatives and First Nations were debating the wording for the constitutional amendment known as the Charlottetown Accord in 1992, Crown negotiators sought to separate culture from natural resources in their all-encompassing definition of the scope of aboriginal self-government. This may have made sense to the practical political and legal minds at work, but would make no sense to an *Anishinaabe* person, nor the anthropologist who has intimate knowledge of the *Anishinaabe* history and law. Rather, it would be understood that the removal of natural resources from within the cultural ways of indigenous peoples would be nothing short of "ethnocide", which has been defined as "the end of a distinct cultural system" or "genocide on the installment plan" (Bodley 1988:261). [1]

1

Anishinaabe Manomin Cultural Ways

The *Anishinaabeg* of the Boundary Waters of northwestern Ontario, southeastern Manitoba, and northern Minnesota have depended upon hunting and trapping, fishing, gathering and agriculture for many generations (Syms 1982; Waisberg 1984; Hoyle 1986). Yet, *manomin* or wild rice has remained of fundamental significance to the culture and economy (Densmore 1979/1929; Hilger 1951 ;Vennum 1988; Waisberg 1979, 1986; Holzkamm 1985). Indeed, *manomin* is one of the foods the *Anishinaabeg* considered an essential source of nutrition, nourishment and medicine, and a sacred gift of the Creator (Avery & Pawlik 1979). Wild rice was responsible for sustaining the *Anishinaabeg* and, through these original peoples, the fur traders, voyageurs and later settlers through many historic periods of hardship (Vennum 1988; Waisberg 1986; Moodie 1987). *Manomin* was so important to the *Anishinaabeg* that this is the one resource they did not allow outsiders direct access. While non-aboriginal peoples were allowed to hunt and fish in the Boundary Waters, none were permitted to seed, harvest or process the wild rice - only finished rice was sold to voyageurs and traders (Holzkamm 1985). This remained the case in Treaty #3 territory until the 1950's (see Chapter 9). Although the *Anishinaabe* regulation of wild rice came to the attention of turn of the century ethnologists, it was recorded as part of their culture (Jenks 1899; Densmore 1979/1929; Hilger 1951; Vennum 1988). This thesis considers the*Anishinaabe* ceremonies, regulations, and caretaking practices, and acknowledges its status as an indigenous institution of government which cared for the people and the resource in sharing the Great Spirit's Garden.

Aboriginal Languages and different worldviews:

The understanding of indigenous languages by EuroCanadians began as an essential requirement for the survival and growth of trade. The understanding of and cross-cultural communication through indigenous languages followed the same pattern as the political relationships between the indigenous Nations and the European newcomers: survival and trade alliance; military alliance; irrelevance (Miller 1989). After generations of concerted effort by

missionaries and educators, and conscious policy by the federal government, most indigenous languages are at the brink of extinction. The Commissioner of Official Languages in Canada has raised concern about the survival of the remaining fifty-three indigenous languages, beginning in the 1980s and continuing through 1992 (CBC National News, May 5, 1992 on Annual Report of Commissioner Max Yalden). Federal government research undertaken in 1980's concluded that only three of the fifty-three indigenous languages could survive the next decade (Foster, 1982; Priest, 1985).

Academic scholars are beginning to heed the importance of understanding indigenous languages and concepts. Dr. Robert Newbury, an hydrologist formerly with the Freshwater Institute at the University of Manitoba, gave insight into the modern necessity of understanding indigenous languages at the May 1990 UM Conference on Northern Manitoba: The People and the Land:

> "I call it the Echimanish Conclusion. After an M.A. student had spent two years researching , he reached the conclusion that the Hays River actually flows two ways. Charlie Cazikapoo, a Cree resident of the area, told him, "We call that river Echimanish - yes, In our language, that means 'the river that flows two ways'." I recommend that Cree be required for any scientist or academic working in northern Manitoba." (Personal observation)

Yet the neglect continues, as does the ignorance of the wisdom that these languages possess about these people and this land. The constitutional multilateral process of the "Canada round" chooses not to take the time to consider other viewpoints than the constitutional jargon and concepts honed through three decades of executive federalism and constitutional renewal (Constitutional Renewal Agenda for the Multilateral Process, Federal position paper given to the Assembly of First Nations, March 1992). Aboriginal leaders, however, are themselves bringing forward their own concepts, in their own languages to inform the constitutional debate. At the National Treaties Conference in Edmonton, April 1992, Chief Ray Fox spoke of the ancient principle of treaty making for the Blood Nation, "*inaistisinni* ":

> "The concept of treaty, *inaistisinni*, is not new to the Blood Tribe. *'Inaistisinni'* is an ancient principle of law invoked many times to settle conflict, make peace, establish alliances or trade relations between the Bloods and other Nations such as the Crow, Gros Ventre, Sioux and more recently the Americans in 1855 and the British in 1877.
>
> "*Inaistisinni* is a key aspect of immemorial law, which served to forge relationships with other Nations. *Inaistisinni* to my people is a sacred covenant, a solemn agreement, that is truly the highest form of agreement, binding for the life time of the parties.
>
> "Blood participation in Treaty #7 was based on our understanding of *inaistisinni*, consequently our expectations of the treaty are that it is a solemn and binding undertaking existing in perpetuity. It is the basis of our relationship with Canada.
>
> By treaty the Bloods agreed to share their land with the British Crown except for specifically reserved areas for exclusive Blood use. The treaty created a unique relationship between the Bloods and the Crown, modifying only one aspect of our rights, the right to exclusive use of the land. We retain the same legal and political status we did when we entered the treaties." (Chief Roy Fox, Keynote Address, National Treaties Conference, Edmonton, April 6-9,1992)

Once the concept of "*inaistisinni* " is conveyed in all its complextity, then it is certainly easier to use the idea of "*inaistisinni* " than to reiterate the detailed historical and modern understanding of the term.

The Inuit have put forward amendments to ensure that any recognition of Quebec's distinct society would not be interpreted as infringing on the unique constitutional status of the First peoples, their languages and cultures. While recognizing the symbolic meaning the phrase "distinct society" has for Quebec, the Inuit constitutional reform veteran, Zebedee Nungak, suggested that "since the present wording - distinct society - was so controversial we should simply look to our own language and be recognized - *ingmigut iliqqusiqarniq* (distinct society)." (R. Gruben, Inuvialuit Regional Corp, presentation to the Conference on First Peoples and the

Constitution, Conference Report, March 1992:64). The appropriateness of using "*Ingmigut iliqqusiqarniq*" at once points out the distinctness of Inuit and Inuvialuit societies and the relevance of their traditions to their own peoples. This is the inherent right of self government discussed in the Canada Round of constitutional renewal or amendment in 1991-92.

The problems in communication between cultures often come from misinterpretation of Indigenous peoples' messages when they are worded in English terminology. Aboriginal leadership has been analyzed as having adopted a European-western concept of sovereignty (Boldt & Long 1984). Yet this in-depth analysis was made without adequate consideration being given to the idea that Indigenous peoples have merely adopted the closest English terminology to the concepts they wish to convey. This is common knowledge among aboriginal leaders. It is not difficult to imagine the resultant breakdown in communication when one side uses similar words with different conceptual orientations.

In the 1990s, Indigenous leaders are preferring to use their own terminology to communicate the depth of conceptualization beyond the English terms used. It may well be that the English language does <u>not</u> possess the concepts that Indigenous peoples wish to convey and that indigenous concepts will become part of a new Canadian political lexicon. Social sciences have often adopted words from languages other than English to explain whole concepts that cannot be translated succinctly into English. That has certainly happened in other social sciences, from the *gestalt* of psychology to the *ethos* of anthropology. Indigenous languages have not been considered in coining these new concepts. The emerging interdisciplinary field of indigenous government in political, anthropological and Native Studies is certainly open to the use of indigenous terminology for Indigenous conceptualization.

Anishinaabe Thinking: Toward an Anishinaabe paradigm

To integrate such knowledge with the data collected through field study, interviews, library and archival research, required the consideration of pardigms offered in several fields, and the development of new perspectives and thought structures. This thesis begins and ends with the ideas of *manomin* as an example of continuing traditional indigenous self government, as a symbol of Treaty rights and Native jurisdiction versus provincial constitutional responsibility over natural resources, and as a metaphor for seeing Treaty and Aboriginal rights issues from a Native and an organic perspective.

Indeed, listening to and heeding *Anishinaabe* thinking will require a "paradigm shift" perhaps more subconciously profound than the one the cybernetic computer age is requiring of so-called westernized modern society. A paradigm, as first introduced by Thomas Kuhn in 1962, is a "broad model or framework, way of thinking or scheme for understanding reality" (Tapscott & Caston 1993:xii). The introduction of new pardigms or ways of thinking brings about the fear the change. the feelings of dislocation, conflict, uncertainty and often invites coolness, mockery or hostility (Ferguson 1976). What the *Anishinaabe* conceptualization provides, though, is the "design for continuous change" that modernists long for, and physical scientists are only now discovering in the ancient wisdom of the indigenous peoples of the Americas, and around the world (Tapscott & Caston 1993:254; Knudtson & Suzuki 1992; Peat 1990).

Anishinaabe thinking, and certainly that of other indigenous peoples of the Americas, is centred in the value of their basic relationship with the Creator, *Kizha Manito, Gitchi Manito*, the Great Spirit. Within this relationship lies the respect and responsibility for all life, for all of the Great's Spirit's creations. There is the understanding of the circle and the interconnectedness of life. Respect and shared responsibility flow from such an understanding. This indigenous perspective is closely approximated by such thinkers as Nobel prize winner Aldo Leopold whose idea of a "land ethic" encouraged the individual to enlarge his/her boundaries of community to include soils, waters, plants animals, and "the collectivity of land,

.. a community of interdependent parts" (Overholt & Collicott 1982:153). Native American thinkers have been espousing such an ethic throughout millenia of oral tradition:

> "We humans must come again to a moral comprehension of the earth and air. We must live according to the principle of a land ethic. The alternative is that we shall not live at all" (N. Scott Momaday 1976:47).

For the *Anishinaabe* , this land ethic or environmental ethic "transcended enlightened self-interest and involved selfless sentiments of respect, affection and admiration" (Overholt & Collicott 1982:155).

This thesis seeks to contribute to an understanding of what the *Anishinaabe* people have to offer: a new paradigm or an organic understanding of political and societal issues. For example, wild rice stands as a metaphor for the treaty and aboriginal rights (the "*Anishinaabe* rights" according to Tobasonakwut Kinew) which may be suppressed, just as wild rice is drowned, preyed upon by muskrats and birds, or beaten down by bugs, pesticides, and wind. Yet, just as the rice will grow again, with reseeding and caretaking by the *Anishinaabeg*, so too will rights continue through a period of suppression. This analysis allows an outsider to think of rights as organic, that is, living and growing or evolving within the people to whom they belong, who have a responsibility to care for those rights.

Such rights do not become frozen in time. Rather they evolve as the people do. For a treaty and aboriginal right to hunt to continue does not relegate it to bow and arrow or spear use only. Rifles, powered boats and trucks are also considered part of hunting in the twentieth century and the right incorporates these changes. So too does the people's responsibility change, for improved efficiency of the weaponry means that conservation techniques must also be adapted.[2]

To extend the concept of the *manomin* metaphor for the organic nature of aboriginal and treaty rights, particularly as they apply to natural resources, knowledge from other disciplines became useful. Anthropologists developed a "modernization/aculturation" paradigm that placed peoples along a continuum of inevitable 'progress' and 'development' (Dyck &

Waldram 1993; Maybury-Lewis 1990) Postman dismissed it as too simplistic (1992). Usher and his colleagues hoped to relegate this model to the trash-bin when the Berger Inquiry gave official recognition to the "frontier-homeland" model of understanding conflicts at issue in the north (Usher in Dyck & Waldram 1993:120). Berger's model went beyond that of social economist Harold Innis who had formulated the concept of "hinterland/metropole" . That theory set out to explain the history of Canada in terms of resource development of the west and the north while the eastern cities made all the decisions and drew all the benefits. Berger's model sought to portray as "homeland "the Native peoples' concept of what outsiders considered the far outer reaches of "frontier". It gives an idea of the potential of listening to and heeding the aboriginal concepts of this country.

Similarly, listening to the Temi Augami people of northeastern Ontario speak of their homeland and the need to save the old growth forests led to the new concept of "sustainable life" (Teme Augami Nation-Government of Ontario Treaty 1994; Benedickson 1989). This idea conveyed more of the responsibility that humans have to the Creator and the gifts of creation, and the duty that humans must heed if we are to sustain this world. It is a recognition by indigenous peoples that rights and responsibility are inextrably intertwined. To aboriginal people and environmentalists, "sustainable life" offers a wider range of choices than the option of "sustainable development", the latter being called an "oxymoron" by renowned environmentalist Prof. W. Pruitt of the University of Manitoba (University of Manitoba Conference on Northern Manitoba, May 1990).

Frideres and others have utlized a more linear approach in analyzing aboriginal and treaty rights and their existence in a federal state. Such scholars have used terms that Native organizations have popularized since the "section 37" constitutional talks of the mid 1980s: First Nations have a "nation to nation" relationship with the federal government and a "government to government" relationship with provincial governments (Frideres 1993; Asch 1984; Ponting and Gibbins 1980). This is portrayed as a layered structure of parallel and then divergent straight lines. Such models are useful in aiding understanding on some rational place

but they do not satisfy the need to understand what is a more profoundly spiritual, cultural, emotional issue of identity to aboriginal peoples. To indigenous peoples, treaty and aboriginal rights need to be symbolized in a living paradigm, not a boxed matrix or a diagram of divergent lines representing relationships. The essence of Native rights is the lifeforce of the indigenous peoples, from time immemorial to generations yet to come (Smith, D. 1993; Richardson 1989, 1993; Boldt & Long 1984; Asch 1984; Syms 1982).

In the communications field, Neil Postman developed a paradigm of cultures along a continuum of toolmaking, technology and technocracy. Toolmaking cultures invent tools "to solve specific, urgent problems of physical life or to serve some symbolic need in the world of art, politics or religion" (Postman 1992:22). Such tools "did not attack the dignity or integrity of the culture that produced them" and did not disrupt the inextricable wholeness of social, economic and spiritual life. According to Postman, this remains the case in many cultures of the Third World today. By the industrial revolution of the 19th century, technologies developed whereby "anonymously and inconspicuously the old tools were transformed into modern instruments" (Postman 1992:42). Indeed, machines were invented to make more machines. And these tools began to play a central role in the thought -world of the culture - the mechanized clock replaced other time measurements, the printing press replaced oral tradition. In this age of technocracy, technologies and traditions were able to "co-exist in uneasy tension"; while technology was stronger, traditions were still functional, still exerting influence (Postman 1992:48). The present age of "technopoly", Postman defines as the "surrender of culture to a totalitarian technocracy" (Postman 1992:48). "Technopoly hopes to control information and thereby provide itself with intelligibility and order" (Postman 1992:91); "to every Old World belief, habit or tradition, there was and still is a technological alternative": instead of prayer, penicillin; family, mobility; sin; psychotherapy; restraint, immediate gratification; political ideology, polling to market popular appeal; death, cryogenics (Postman 1992:91).

The Postman paradigm has immediate application to governing in the Great Spirit's Garden. The *Anishinaabeg* first developed the tools which allowed the seeding and caretaking (via canoe), the harvesting (canoe, thrashing sticks, poles and paddles), and the processing (pots, paddles, poles, thrashers, winnowing baskets). In an era of mechanization, *Anishinaabeg* and non-*Anishinaabeg* developed machines to do the harvesting (airboats with "speedhead" attachments like wireframe baskets) and processing (parching ovens and thrashing drums). This second era of technocracy created some dissonance between the new technologies which allowed for the separation of the stages of labour involved in caring for the crop, and the traditions that fostered a familial closeness with the preparations for the wild rice season. Beginning with the provincial incursions in the ricefields in the 1960s, and more increasingly with provincial statistical collection from the 1970s, the era of technopoly has sought to disassociate the *Anishinaabe* people from the Great Spirit's garden. Through the usage of provincial legislation and regulations, and bureaucractic control of data and definitions, and the promulgation of research intended to wrest control of the rice from *Anishinaabeg*, the Ontario government has introduced the era of technopoly into the Great Spirit's Garden. Technopoly is now threatening to force the original peoples from the gifts the Creator has given them. Thus, the provincial ideology of crown resources and economic development is confronting the *Anishinaabe* ideology of the Great Spirit's Garden, their stewardship responsibility and their identity as a people that this responsibility entails.

To relate and analyze this story of the Great Spirit's garden in Treaty #3 requires the adoption of an *Anishinaabe* perspective, concepts and language. A model of analysis will require attention to the specifics of *manomin* in Treaty #3 as well as the necessity of making it understandable to outsiders, and the goal of making one applicable to other situations of aboriginal rights to resources. A model from the field of law, argued in the eastern United States case on behalf of the Mashpee peoples, is a plausible answer to all these requirements (Brodeur 1978). "Supressed sovereignty" speaks of the continuation of the sovereignty or right of self rule by a people, and at the same time, the activities of an outside force to overwhelm

and subvert that self rule. The model of "expressed or asserted sovereignty" and "suppressed sovereignty" is well applicable to the story of *Manito Gitigaan* , the Great Spirit's Garden. And, it fits well with the paradigm of organic rights, which grow and evolve within the people, despite the effects of predators, disease, or environmental onslaughts.

To provide the underpinning for this model of expressed as opposed to suppressed sovereignty, it is necessary to look to an interdisciplinary field of law. Legal pluralism considers how customary or folk law is enhanced or undermined, and how state laws may be modified or adjusted to make way for the reassertion or continuation of customary aboriginal law, or both (Morse & Woodman 1987; Dockstator 1993; Burrows 1993; Boldt 1993; Little Bear 1989) . Legal pluralism provides an interdisciplinary perspective to add to the field of aboriginal or "immemorial" law which documents and analyzes EuroCanadian law and its effects on aboriginal peoples (University of Manitoba Legal Pluralism Seminar, November 1992; see Chapter 14 for comments on Canadian Native Law and *Anishinaabe* Law).

In the discourse of legal pluralism, researchers are seeking the order of an "Indian common law", or unwritten rules that have guided past behaviour and continue to do so today (Zion, in Morse & Woodman 1987:123-4). To overcome the ethnocentric view that 'custom' is something less than or lower than 'law', or that (outside and imposed) government law is alone "powerful and binding", the term "customary law" has been widely adopted (Zion, ibid). Aboriginal customary law can be considered as "a definable body of rules, practices and traditions accepted by the community or traditional society" which may exist "as part of an oral culture, with no written codes" (Crawford et al, in Morse & Woodman 1987:37).

Legal analysis succinctly states that "state law may replace, reform or conserve the norms and concepts of customary law" (Morse & Woodman 1987:1). The story of *manomin* in Treaty #3 is one in which outside Nation-state law seeks to replace and usurp the customary law of the Boundary Waters *Anishinaabeg*. In the final chapter, alternatives to this ethnocide are discussed wherein traditional law would be recognized.

Anthropological analysis allows a reader to consider the nuances of such legal alternatives. For example, Scott considers concessions to customary law which the majority society may allow after a process of "sensitization", such as the higher courts' acknowledgement of traditional adoption in Inuit society (Scott *in* Dyck & Waldram 1987: 323).[3] A second approach of a nation-state is statutory recognition of aboriginal custom or tradition or elements of it, such as the Child Welfare Act of Ontario (RSO 1988) in recognizing "customary care" of children. A third approach has been "overt and tacit recognition of custom and tradition via treaties, which confer constitutional status" (Scott 1987:324). This latter option may hold the elements of a settlement of the contentious issue of governing the Great Spirit's Garden of wild rice, through the practical recognition and implementation of Treaty #3.

Within Canada, the Constitution Act, 1982, section 35 has entrenched a recognition and affirmation of the "existing treaty and aboriginal rights of the aboriginal peoples of Canada" in the supreme law of the country. First Nations say that what needs to be discovered and unlocked is the potential for such recognition to extend to aboriginal customary law taking precedence within First Nations' jurisdiction (Little Bear at la 1984; Richardson 1990, 1993; Smith. D. 1993).

It has been noted that "despite voluminous literature devoted to policy, legal and administrative aspects of aboriginal self government in Canada", much of it "fails even to mention the role of indigenous institutions" (Scott 1987:325). The conferences sponsored by University of Lethbridge Native Studies academics and then edited into scholarly works are major exceptions (Little Bear et al 1986; Boldt & Long 1984, 1985). This thesis seeks to rediscover the traditional government inherent in the management of wild rice within the Treaty #3 territory. This system of government is alluded to in the name used by the *Anishinaabe* people for the wild rice plant: *Manito gitigaan* - the Great Spirit's Garden.

3

Endnotes:

1. "Ethnocide occurs when one cultural system destroys another through genocide or cultural assimilation. An entire culture ceases to exist as a distinct cultural system" ... "The loss of one's cultural system is the most devastating effect short of death that a human being can experience, and to be forced to relinquish the entire set of understandings and feelings within oneself derived from that lost culture is to lose an intrinsic part of oneself - the cultural part. It is a partial death, perhaps the most meaningful part of complete death" (Weiss, "The tragedy of ethnocide: a reply to Hippler", in Bodley 1988:128, 126).

2. Simon v. The Queen [1985] 2 S.C.R. 387.

3. The author is indebted to Prof. Paul Chartrand, Commissioner of the Royal Commission on Aboriginal Peoples, for pointing out that "early colonial courts immediately recognized the legal force of aboriginal laws, for example, Connolly v. Woolrich". (See also the Royal Commission on Aboriginal Peoples, Partners in Confederation: Aboriginal Peoples, Self-Government and the Constitution, Ottawa:1993).

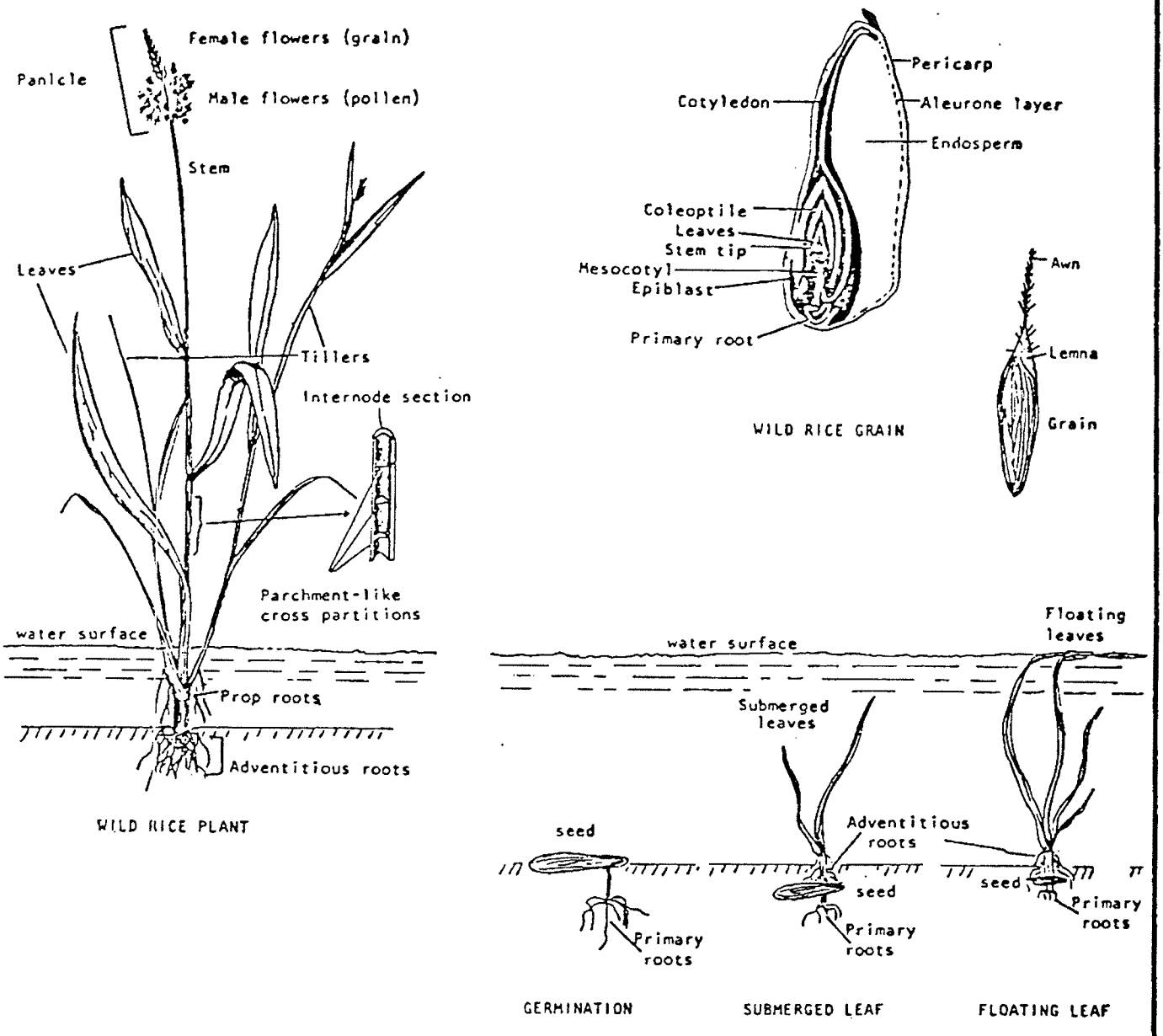
Chapter Three:
Myths of *Manomin*

"What is it about wild rice anyway?"
Mel Crystal, Ontario Ministry of Natural Resources
land claims negotiator, 1990.

The discovery that wild rice is not rice at all, leads one naturally into the mystery that surrounds the plant. A member of the grass family, wild rice is the only native cereal grain of North America. It is called "*manomin* " by the *Anishinaabe* people, in reference to its sacred nature - "*man* " referring to *Kizhe Manito* , the Great Spirit who created this grain, and "*min* ", in reference to a "good berry" or "delicacy" (TP Kinew 1978).

The well developed and detailed language *Anishinabeg* have for the *manomin* plant provide initial clues to the significance of ricing culture to the *Anishinaabe* society and people. For example, the month of the harvest moon from mid August to mid September is called *Manominigiisis*, the wild rice moon, or *manominikegiisis*, the wild rice picking moon (TP Kinew 1979). The beliefs, ceremonies and activities attached to this season may be described as *Manominikenshii* or *Anishinaabe* wild rice culture (TP Kinew 1993). Elders relate a more ancient way of referring to wild rice is *Manito gitigaan* (Alex Skead at Grand Council Treaty #3 Assembly, October 1988). *Manito gitigaan* may be translated as the Great Spirit's Garden or the gift the Creator.

Wild rice (" zizania aquatica")[1] is "an annual aquatic grass that grows in shallow lakes and rivers [2] throughout eastern and north central North America" (Aiken et al 1988:7). (Figure 2: Diagram of plant growth) It grows from seed each year and owes its expansive territory to the Aboriginal peoples who sowed it beyond its original territory (D.W. Moodie 1987; L. Syms 1982). Genetically, wild rice today is essentially the same



THE MORPHOLOGY OF A WILD RICE PLANT DURING THE LIFE CYCLE

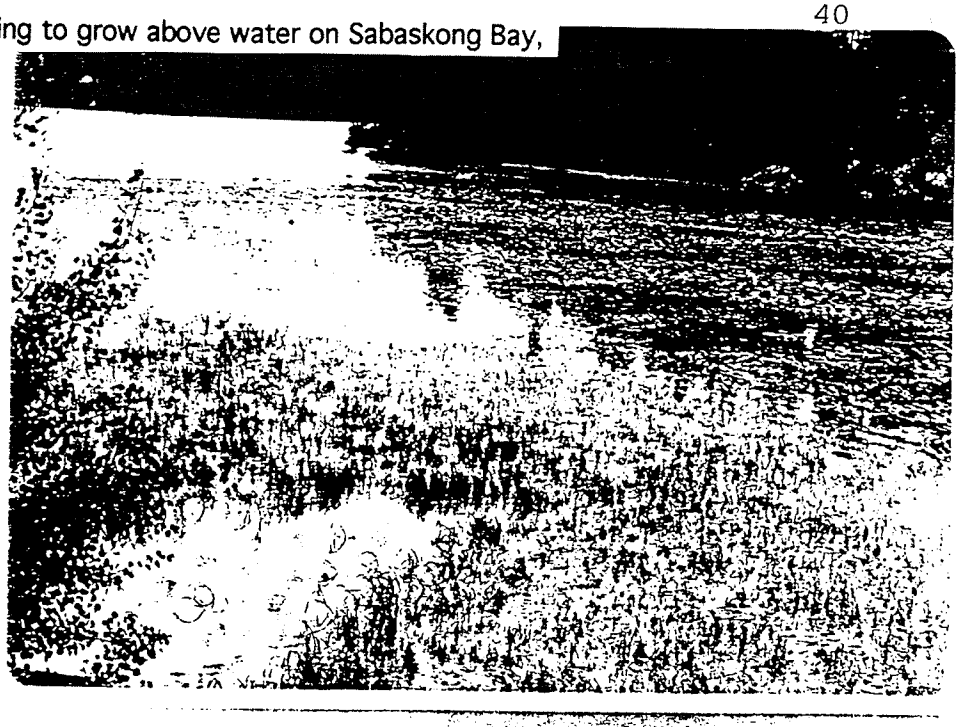
FIGURE 2.2

as it was when first explorers found certain indigenous peoples of eastern North America using it as a staple food.

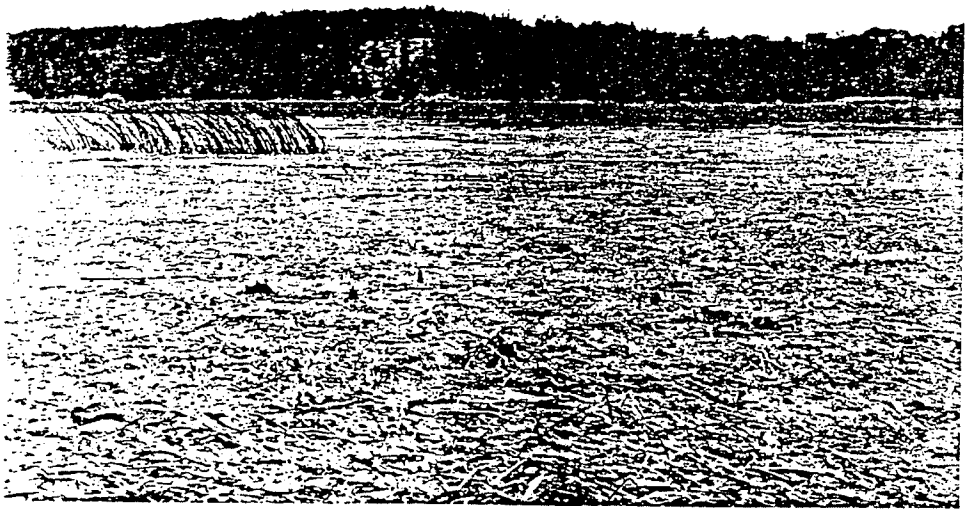
In botanical terms, these are the stages of rice growth. After the ice breaks in spring, usually mid to late April, germination begins with the wild rice seed buried in the mud underwater. It sprouts a first root that grows to anchor the plant firmly against the water current. The stem grows upward through the water, creating other branch stems (tillers), from basal nodes just below the water. From this submerged stage, thin, pale green ribbon like leaves appear floating on the surface of the water. This floating leaf stage occurs in mid to late June, with 2-3 leaves per plant floating according to the wind and the waves. (Figure 3 : Photos of *manomin* growing stages; Figure 4: Growth chart, Unies Report 1980). Slowly these submerged leaves begin to bend upward with the growth of the tiller, and aerial leaves emerge, larger and "more robust". The uppermost leaf, called the flag, is surrounded by the developing flowering panicle. Male spikelets are on the lower flexible branches with female spiklets extending higher in the plant. Wind pollination starts in late July and continues until all tillers are pollinated. Grains develop in a casing and are shed about four weeks after fertilization. The grains change from milky texture to powdered flour to a hard shell, and ripen gradually (Aiken et al 1988: 11-20; Vennum 1988: 17; van de Vorst 1987:33-34).

The grain has been used for centuries in a geographic area from west of Lake Superior to southern Manitoba and into Wisconsin and Minnesota (Jenks 1901).(Figure 5). However, varieties of this species have been known to grow from Florida to northern latitudes of 50 in Ontario, Manitoba and Saskatchewan (Aiken et al 1988:7). Indeed, the ricefields of the rivers and lakes of eastern and north central North America became "an Indian paradise" for many tribes, offering a staple food source in the grain itself, as well as attracting ducks, birds, muskrats, moose (Stickney 1896; Vennum 1988).

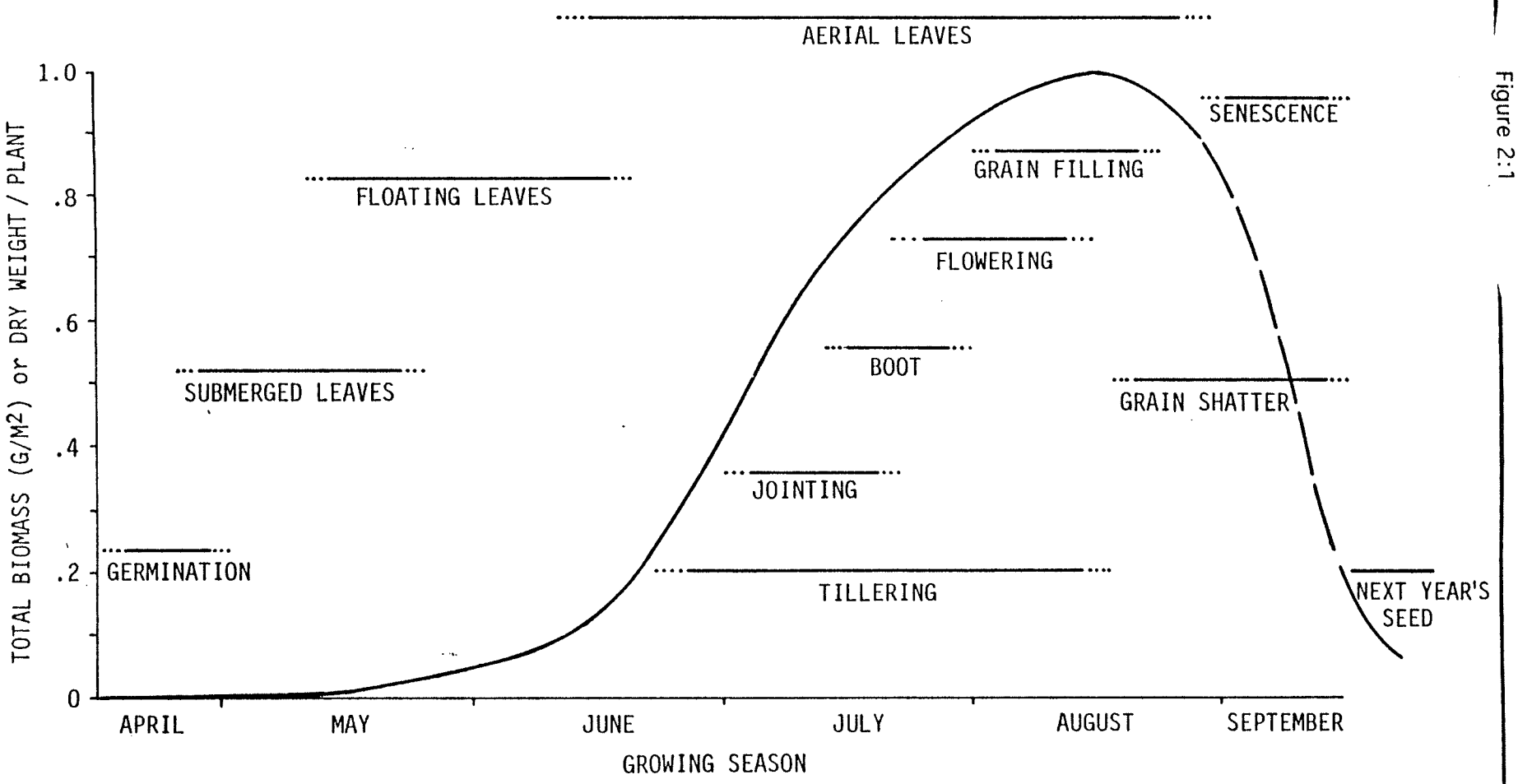
Stages Growth: Photos of manomin beginning to grow above water on Sabaskong Bay,



Manomin at floating stage, early June 1980,



manomin lifting to aerial stage July 1980.



NOTE: Actual growth will vary with water depth, climate, location, sediment, biological competition and other groups of factors

IDEALIZED GROWTH OF SHATTERING WILD RICE FOR NORTHWESTERN ONTARIO

FIGURE 2.1

5. Distribution of Wild Rice in North America, from GCT3 TARR files, F.P. Edman, Study of Wild Rice in Minnesota, 1968:58

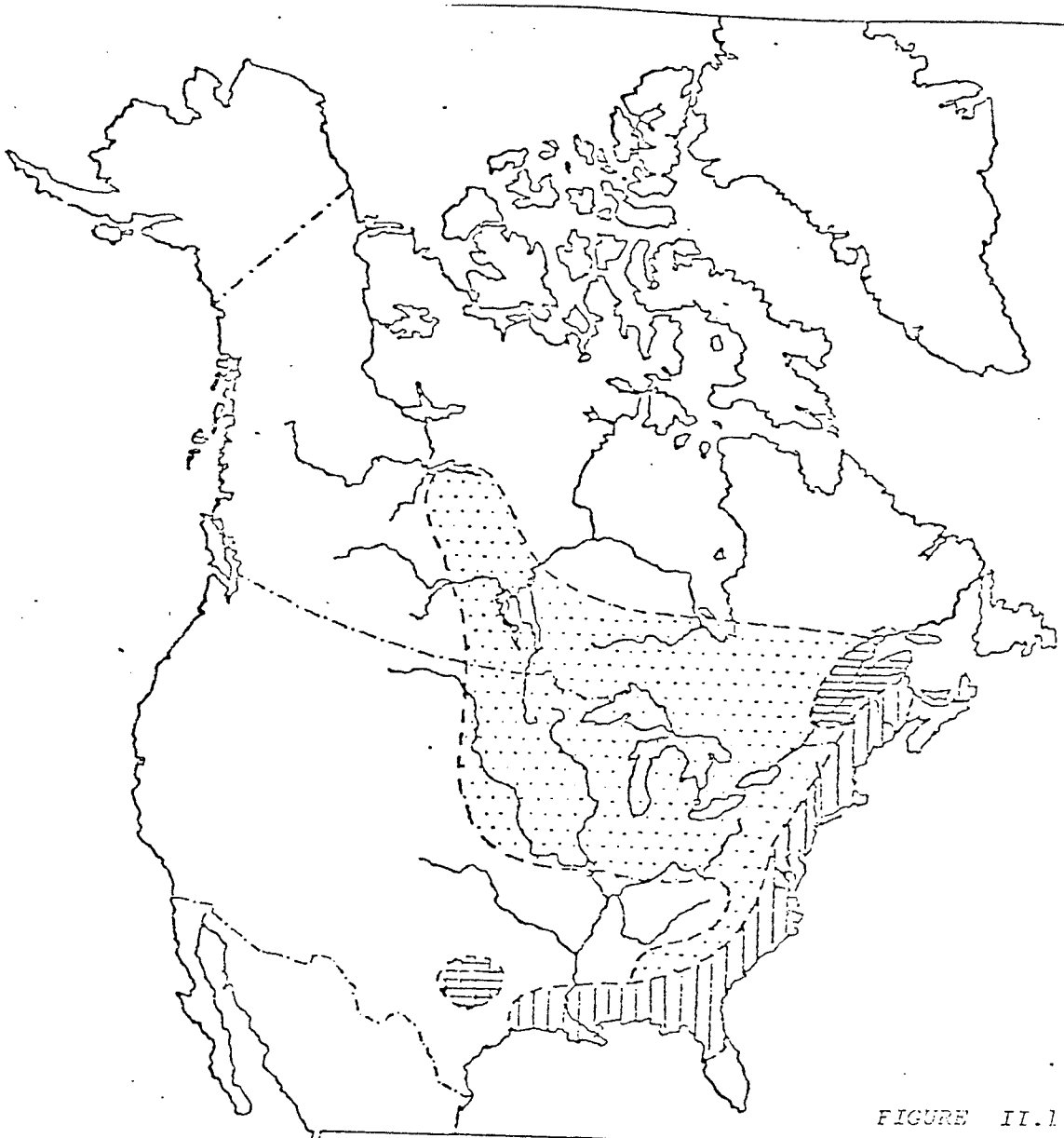


FIGURE II.1

FIGURE 3.1

DISTRIBUTION OF WILD RICE IN NORTH AMERICA

Scale 1:44350000

kilometers

0 900

N

Zizania aquatica

Z. aquatica var. texana

Z. aquatica var. brevis Fass.

Z. aquatica var. augustifolia Hitchc. or var. interior Fass.

The wild rice plant "shatters" or ripens gradually, allowing several harvesting times throughout a 3-4 week period. The grain not picked then falls into the water, weighted by its heavier end and "rudder-like awn" to fasten itself in the mud close to the parent plant (Aiken et al 1988: 19). Regeneration will take place the following spring after breakup. It is estimated that only 2-5% of seed of the standing crop is needed to regenerate an area, and dormant seed areas have been known to regenerate after an absence of several years (van de Vorst, 1987: 35-36; Aiken et al 1988:20). Herb Redsky of Shoal Lake #40 stated he personally observed regeneration after twenty years' absence (1991).

The wild rice plant is longer than most cereals in Canada, extending one to three metres above the surface of the water. The hull is not attached and can be threshed clean after parching. However, it is difficult to remove without heating. Understanding this plant led the *Anishinaabeg*, and other Indigenous peoples such as the Menominee (a people named after this plant), to develop an intricate management and processing regime. (Figure 6,7).

Herb Redsky of Shoal Lake #40 believes it was a vision or sacred dream that originally led the *Anishinaabe* to the *manomin* plant . That vision allowed the *Anishinaabeg* to understand its structure and growth, enabling them to develop an effective and efficient processing system and requiring a close management system (H. Redsky 1991). Indeed, it is through fasting, visions, and ceremonies such as the *chisiki* (shaking tent) that the *Anishinaabe* people learned lessons from the Creator. While Elder Nancy Jones did not discuss the origin of the plant, she was adamant that "*manomin* is sacred and the *Anishinaabe* have a responsibility to care for it" (August 1992). Former Treaty #3 Grand Chief and Elder *Machipiness* (Robin Greene of Shoal Lake #39) stated on many occasions, "*Manomin* is basic to the culture and religion of our people" (CBC Fifth Estate program, "Grain of Dissent" 1980). In 1981, during Trudeau's drive for a "Made in Canada" constitution, more than 100 Chiefs of Ontario

passed a resolution at their annual assembly that adopted wild rice as "a symbol and rallying point as an Indian resource guaranteed by Treaty and aboriginal rights" (Assembly of the Chiefs of Ontario, Thunder Bay, 1981, Resolution #81-6). The resolution was part of the Chiefs' ongoing campaign for recognition of such rights to lands and resources within any renewed constitution of Canada.

"Symbols can be multivocal", said History Professor Jennifer Brown in explaining the cross on *Namewin* 's drum of Berens River (Nov.8, 1993 Public Lecture at the Manitoba Museum). The design on that drum could be an "aboriginal depiction of the four directions" and its strong religious connotations, or "interpreted as a Maltese cross and evidence of Christian influence" .

There are many voices that speak of *manomin*, as well. There are the voices who speak of its cultural and religious significance; others who speak of its economic and nutritional importance; and still others recognize its political symbolism. The latter group see *manomin* as a powerful symbol of aboriginal and treaty rights recognized in section 35 of the Canada Act, 1982. Others see *manomin* as a victory for provincial governments in protecting crown resources "for all the people".

In examining these many voices, we find that each has its own myths - again in many senses. The *Anishinaabe* voices have the authoritative myths of legend and legacy of generations past (*Atasokaanan*). These *atasokaanan* are sacred myths which "interface between what can be known and what can never be discovered, the mystery that transcends all human research" (Campbell 1990). Such myths are "important to live life with the knowledge of mystery and your own mystery" and "bring us into a level of consciouness which is spiritual" (Campbell 1990).

Thus, *Anishinaabeg* have their relationship to *manomin* deeply ingrained within their psyche, through the medium of *atasokaanan*, as told by the Elders from generation to generation. These sacred stories and explanations originate with the *atasokaanak* , the ancestors that *Anishinaabeg* see dancing in the *wawatay*, the northern lights. As Elder

Alex Skead of Wauzhushk Onigum relates, "there is a word older than *manomin* , and that is *Manito gitigaan* , the Great Spirit's Garden" (Annual Assembly of Grand Council Treaty #3, October, 1988). This concept embodies the understanding that the Great Spirit gave a special gift to the *Anishinaabe* people, a gift that needs to be tended and cared for, like in a garden. "*Manito Gitigaan* also connotes the gift of food, sustinence, medicine. Eating manomin at a ceremony is to us like taking mass to a Catholic." (TP Kinew 1992). To call *manomin* a plant is to demean it in the eyes of many *Anishinaabeg.*

Manomin is used in making offerings to the Creator. In some *Anishinaabe* ceremonies, wild rice is part of the food dish burned as an offering to *Kisha Manito* . "Even a small amount is enough for the Creator to do whatever is chosen, to feed others in the life hereafter or to use in reseeding the plant on earth. In funerals, a kind of pemmican is made of wild rice, berries, tobacco to eat on the journey to the life hereafter. My mother used *manomin* as a poultice to cure people, because of its properties of absorption. Mothers would wean babies to *manomin* in a fish broth. *Manomin* was essential to our people because it could be kept for a long time" (T.P. Kinew, 1992). [3]

Non-Indian business voices have their own 'myths', the kind of fashioned facts which *Anishinaabe* people know to be false. Yet the majority society repeats falsehoods about aboriginal people daily, and does so with authority, through larger society's major organs of communication - from newspapers and radio phone-in shows to government reports and university lectures. It is precisely the public exposure that renders these daily falsehoods into a reality, and repetition in daily discourse that elevates them to mythical status. Edelman posits that belief in such myths is "reassuring regardless of validity" and the very fact that it is "widely accepted ..discourages skeptical inquiry" (Edelman 1977:3). This is certainly the case with *manomin* and the *Anishinaabe* people of Treaty #3, from early historical accounts to modern day government publications.

The earliest version of such 'myths' began with the first explorers who visited the Boundary Waters ricebowl. "They reap, without sowing it, a king of rye which grows wild in their meadows, and is considered quite superior to Indian corn" (Jesuit Relations 44:275 in Grand Council Treaty #3, 1975:1). Despite the presumptuousness of this observation, it has been so often repeated that it is today an accepted "fact". This is a myth of major impact because it depicts the *Anishinaabe* people as mere gatherers with a limited understanding of the plant, rather than the reality that their management of *manomin* enabled it to grow and expand its territory. Accepting "they reap but do not sow" myth allows newcomers unlimited access to this marvelous plant, and does not convey any sense of the tending and care required of "*Manito gitigaan* ". And it allows scientists, rice paddy farmers, non-Indian businessmen in the wild rice industry today to state, and believe, that they and their non-Indian culture developed the science and technology of wild rice.

Were they with us today, Fred Greene and Stuart Jack would laugh at such hubris.

> "I took a Lands and Forests assistant (Ontario government) on the lake one year. He came and stayed with my family and I. He was amazed at how Shoal Lake (reserve) was controlling the wild rice at Crowduck (Lake, in the Treaty #3 area now called Whiteshell in Manitoba). We had Dave Keesick, a World War II veteran, and James Redsky, a respected Elder. (Note: James Redsky is also the key informant for Selwyn Dewdney's celebrated book, Sacred Scrolls of the Southern Ojibway.) Together, they would check the rice and control the harvest. The people had agreed beforehand . When a white flag went up, ricing would end for the day. The field would be rested. They wouldn't say for how long... maybe one or two days. They would just keep checking.
>
> "We had a beaver dam at the opening of Crowduck Lake . We would open it up and regulate the water levels for the rice to grow. Especially during the '50's and '60's." (Fred Greene, 1990)

Referring to an earlier time of the twenties and thirties, Fred said,

> "To me, the old way was perfect. The people would call a meeting and appoint one Elder to decide when to pick, when to rest the rice. If one area was rested. they'd all move to another. That's when I saw freedom. That's when I lived freedom. The way it was is, in my mind, almost perfect way to manage the rice." (Fred Greene, 1990).

> "We trapped around the fields to prevent muskrats from eating the roots. We shooed away blackbirds (who love to eat the premature grains). We checked the rice constantly and would not allow picking too early. We taught our children how to pick so that the grain came smoothly off the stalk into the canoe and no stems were broken. We developed all sorts of ways of harvesting the rice. In years of low water, a picker would walk the shoreline on showshoes and hold a sack as an apron for the rice to fall into as they picked." (S. Jack, 1975)

There are descriptions of this detailed processing and management regime of the *Anishinaabeg* in historical accounts (Hilger 1951; Densmore 1979; Vennum 1988; van de Vorst 1985) The accounts recorded that the *Anishinaabeg* actually had this intimate knowledge of manomin, understood its ecology and based a whole system of technology, economy and culture upon this knowledge. However, there is no analytical summation that this management was government.

In the one classic study for the U.S. Bureau of Ethnology at the turn of the century, "The Wild Rice Gatherers of the Upper Great Lakes" by Jenks, the author mentions production techniques, processing, "property rights", consumption, and "general social and economic interpretations", but Jenks does not name any aspects of these as the regulatory practices of ricing tribes (Jenks 1899). Jenks was an academic of his time, convinced that his civilization "had reached the pinnacle of cultural development", while hunter-gatherers were thought to be "representatives of an original, primeval society of human beings who had progressed least .. and remained stagnant in a less productive and less efficent mode of existence" (van de Vorst 1987:30). This bias of anthropology did not change until the 1970s when "careful studies of productivity and time-energy expenditure in primitive societies revealed that even the most technologically simple peoples were able to satisfy all their subsistence requirements with relatively little effort "(Bodley 1976: 51).

The *Anishinaabe* management of *Manito Gitigaan* is impressive in its sophistication. In its details of governance, there is a general consensus as to who would be the *Manominiki ogimaa* , the "rice chief". Each season, an Elder with knowledge of

both the ecology and ceremonial aspects of manomin would be chosen. From that time on, the Elder was responsible for checking the ricefields, and the kernals themselves, and monitoring their development. Earlier in the season, families may check their own ricefields and some marked them, by binding the stalks with basswood twine. This served the dual purpose of protecting the ripening stalks from wind and birds, but also marking territorial boundaries to be respected. (This may have been a more prominent activity in Minnesota than Treaty #3, according to my informants.)

Fred Greene related "how they controlled the harvesting and the ricing in the old times":

> I recall the older, particularly the elderly people, used to gather the people around to discuss how they were going to harvest the wild rice. They appointed a member of the community and many of them knew how rice grew, how long it took to mature in the field, and when to go harvesting the rice. Many of them knew this, of course, but they had to appoint a member of the community to be the person to look after the harvesting, when he would say 'we will pick rice' and when to get off the ricefield and so forth. He was the one who governed the ricing. One man.
>
> If there was another field somewhere, another man was appointed to look after a field - maybe 3-4 fields in that area. Each one was appointed to look after the rice. Sometimes if a ricefield was finished, the rice that was ready to be picked was finished, they'd shut that part of the field off - or the lake or bay. And they were allowed to go picking other places 'cause they were always on top of the rice, always knew when to go picking and when to lay off."
>
> (Fred Greene 1990)

Annie Wilson of Manito Rapids spoke of this same regulatory system where the "Elders always decided things" and "they all obeyed all their Elders". She also described ceremonies that accompanied the harvest:

> "The first day, they would pick the rice and finish it (note: finish means to process it ready for cooking). They would have a feast and speak of the Great Spirit. They would pray for a good fall, no storms, strong winds, whatever. It was just that asking the Great Spirit for things like no strong winds or hail storms so the rice crop would not be destroyed by such. This rice was cooked and all ate from the bowl that was offered to the Great Spirit. There was a small portion taken from this bowl and placed in a clean place. This portion was put in a birch bark container which was very small, along with some tobacco."
>
> (A. Wilson *in* Holzkamm 1989:28)

It may be the rice chief, or more likely another Elder, who would lead these ceremonies (TP. Kinew 1990). The rice chief would also be called upon to resolve disputes, for example, between pickers wishing to use the same ricefield or canoe (Grand Council Treaty #3, 1992 pamphlet).

Not surprisingly, though, it is the Jenks' view that predominates in wider society today; the mid 1970s' revolution of anthropological thinking has not filtered through. It is not in keeping with the myths of either the "lazy Indian" or the "noble savage" to believe that Treaty #3 *Anishinaabeg* developed the science, technology and governance of wild rice (Mathews 1992). Such attitudes lead to an unquestioning acceptance of cherished concepts such as "progress", "development" and "more is better". In order for such myths to take hold, a "displacement" or "pushing/urging/pressing/shunting aside (or under) in order to make disappear" must take place, such that the memories of "different than we think today" are not allowed (Lutz 1990:173).

Thus, wider society does not know, for example, that during the fur trade era, Alexander Henry and others reported, were it not for their trade in wild rice provided by the Treaty #3 *Anishinaabeg*, the traders and voyageurs would not have survived: "Without large quantities of wild rice, the voyage beyond the Saskatchewan River could not have been persecuted to its completion" (Alexander Henry speaking on Lake of the Woods trade in 1774, *in* Grand Council Treaty #3, 1975). Alexander Henry is also quoted in "Manomin Wild Rice, A Recipe Book and History of Wild Rice", published by the Ontario Ministry of Northern Development and Mines, circa 1989; however, emphasis in this book is on the wild rice as a "valuable part of the economy of Northwestern Ontario", with a "value to the primary producer alone (being) close to $1,000,000" in 1977. There is no reference to the fact the "primary producers " are the Treaty #3 *Anishinaabeg*, nor of their particular rights. All language in this booklet seeks to be

neutral or silent on issues, and thus, promotes Ontario's view of a generic, cash crop.[4]

Yet, despite such testimony, non-Indians continue to believe that white entrepreneurs are the "pioneers" who began the wild rice industry in the 1930's (Dedication in the Ratuski "Wild Rice Cookbook" 1990). This myth of the non-Indian entrepreneur opening a new market is readily accepted by the public and resolutely denies the luxury of "skeptical inquiry" (Edelman 1977:3). Instead, the historical account that non-Indians in Northwestern Ontario prefer is that "great crops of wild rice (could) be obtained in each place with the outlay of little labour", bringing to the imagination the myth or stereotype of the lazy Indian (Stickney 1896:121). Provincial government officials continue to capitalize on such widely held beliefs in order to advance their own political agenda of controlling wild rice as a natural resource (see Chapter 12,13).

Yet, as chapter six documents below, the *Anishinaabe* people know that wild rice is guaranteed by Treaty #3 as a resource which they can continue to use "as by the past". An objective reading of what "as by the past" entails is the goverance of the ricefield, including:

- the extension of areas through seeding,

-management of the growth of the plant through water level control, removal of competing plants and debris, restriction or removal of predators,

-monitoring of the growth,

-preparation and apprenticeship of pickers, and the continuation of traditional practices of hand-harvesting ("..rigorous adherence to disciplined ricing practice will ..raise production" as well as strengthen tradition", van de Vorst, 1987:155) (Figure 6)

-"the construction of housing near the manomin beds; the manufacture of canoes to gather and plant manomin; the fabrication of containers and tools for harvesting, processing, and storing manomin; and the collection of firewood" (for processing and cooking) (Grand Council Treaty #3, 1992a, "Wild Plant Useage") (Figure 7)

-preparation for appropriate ceremonies and continuation of cultural traditions,

-continuing the tradition of choosing the rice chief(s) and the community discipline of abiding by his/her experienced guidance and decisions ,

Powassin patching a canoe, photos by Linde (n.d.)

-continuing the tradition of respect for family territories and the rice chief(s) settling disputes

-utilizing manomin as a staple in the *Anishinaabe* daily diet, as well as for medicinal and ceremonial use

-processing, both hand and mechanized,

-marketing and retailing

-continuing research and development into appropriate technologies for harvesting, processing and marketing

Given the detail of the Treaty #3 *Anishinaabe* system of governance in the Great Spirit's garden , a re-examination is required of the question: "What is it about wild rice anyway?". Modern science asserts that wild rice is not rice. When consideration is given to documentation of how it has been tended by Treaty #3 *Anishinaabeg* for centuries, is it really wild?

From this quandary comes the question, if Treaty #3 *Anishinaabeg* have a system of governance in the Great Spirit's Garden that is identifiable, documented, and practiced, then is this not a system of law?

The Anishinaabe governance of *Manito gitigaan* can be characterized as customary law rather than codified. Unwritten, traditional law - or "immemorial law" - has been the subject of disparagement in Canadian courts, subject to the same myths of public debate that have too long gone without analysis. For example, in the Delgamuukw case of 1992, tried in the Supreme Court of British Columbia, Chief Justice McEachern stated that Gitskan-Wet'suwet'un traditions, presented to the court as law , are "too flexible and uncertain" and "often not followed" to be considered law. In response, Law Professor Catherine Bell of the University of Alberta, counters that the same description could be equally applicable to English Canadian common law (Legal Pluralism Seminar, University of Manitoba, November 1992). University of Manitoba Dean of Law, Roland Penner, described the McEachern judgment "astonishing":

> "... no reference is made to contemporary instruments of international law and morality...but only to decisions of the Privy Council, a colonialist court specifically established in the middle of the nineteenth century to wield legal power over the vast British Empire, upon which, it was once said, the sun will never set. Well, the sun has set on that empire, but the decisions of the Privy Council apparently still cast a very long shadow.
>
> "The right of the Imperial Crown to proceed with a settlement and development of North America without aboriginal concurrence was confirmed by the Privy Council in the St. Catherine's Milling case... can it really be argued that aboriginal rights depended on the constructs of common law, which constructs were intended, in fact, to do nothing more than derogate from and invalidate the notion of inherent aboriginal rights."
> (Roland Penner, Dean of University of Manitoba Faculty of Law, in Cassidy, 1992:248-249)

It is evident even to such legal scholars that what is clouding the debate regarding Treaty #3 *Anishinaabeg* and their rights to care for the Great Spirit's garden are the myths perpetrated against them. The symbol of *manomin* is relevant in many contexts, for it is the wildness of wild rice that connotes the wildness of the Indian and the areas where it grows. It is as difficult for non-Indians to see wild rice as a cultivated, managed crop in the northern wilderness, as it is for them to believe the *Anishinaabeg* developed the science, technology and governance of *manomin* . This is not, however, a difficult concept for the *Anishinaabe* people who live with *manomin* as an integral part of their lives and culture.

Another myth that prevents understanding and acceptance of *Anishinaabe* governance over this natural resource is the dual concept of "progress" and "development". Just as Jenks saw the *Anishinaabeg* on an evolutionary scale, so too do non-Indians in Northwestern Ontario. Ben Ratuski, a Keewatin, Ontario businessman in wild rice, dedicated his recipe book, Wild Rice, Naturally Yours, to his late father, "One of the original pioneers in the Wild Rice industry,..who started marketing Wild Rice from the Lake of the Woods region some fifty-five years ago (circa 1935)(Ratuski 1990:1). Within such a short collective memory of EuroCanadian newscomers, there is no acknowledgement of the discovery and inventiveness of the "tool-making society" that brought this plant into use as a food, medicine, and lifegiving source of connection to the

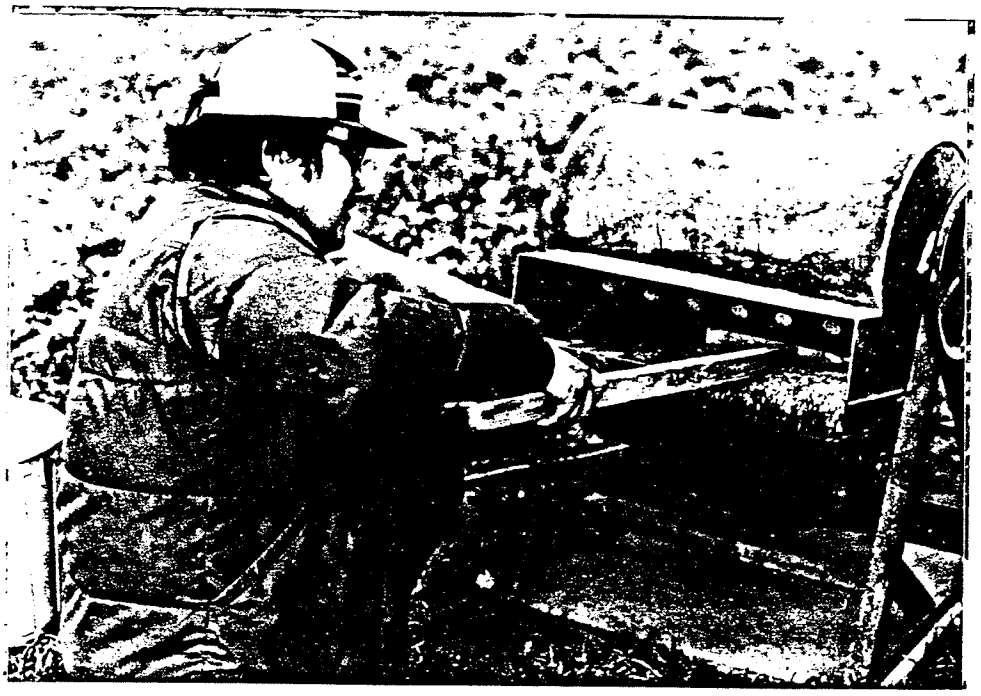
Creator. There is also no acknowledgement of the original technology developed over centuries by the *Anishinabeg* and neighbouring tribal nations, nor their own innovative mechanization.

Big Grassy River ricer Ben Copenace created roasting and thrashing machines to process the rice many decades ago, but his contribution is not mentionned in any review of approriate technology in Northwestern Ontario, although it precedes many others (Figure 8: Photo of Ben's machine copied by his son, Fred Copenace, Big Grassy First Nation).

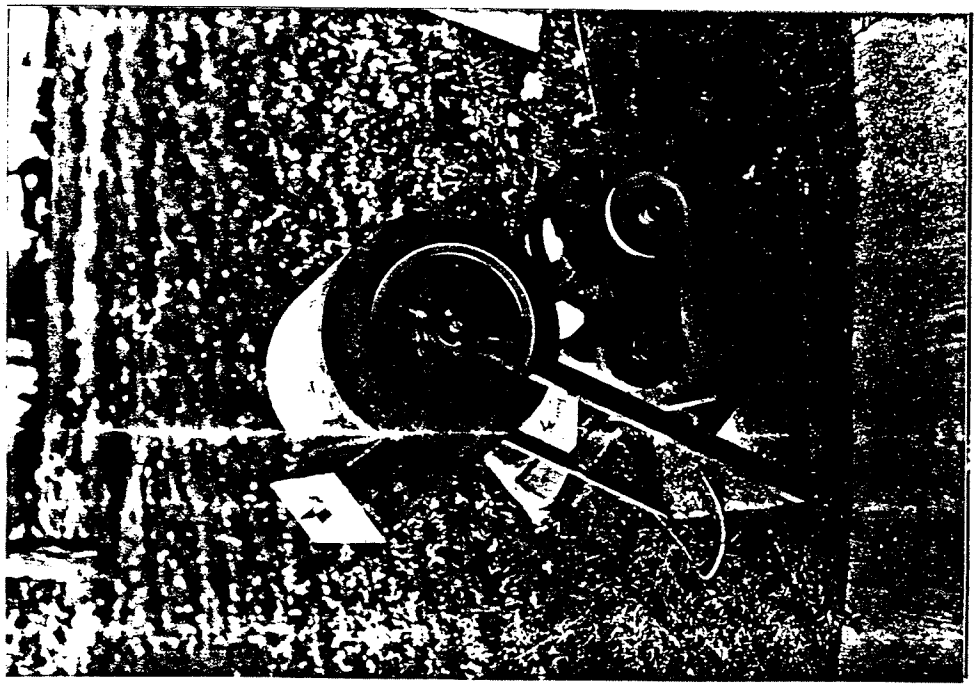
With the introduction of harvesting and processing machines, non-Indians came to believe their own myths that they were the masters of all nature and machines could conquer all obstacles. The development of a "technocracy" in which the technology of machines takes over the process of production, does lead people away from their primary role and its integration with their cultural, spiritual and religious life (Postman 1993). This was definitely not the thought-world of the *Anishinaabeg* who nurtured the plant as a gift of the Creator.

The use of mechanization in the ricefields is a controversial topic in several respects. As is usually the case, no credit is given to the *Anishinaabeg* who also experimented with mechanical harvesters and processors, and developed prototypes of their own. Treaty #3 Anishinaabeg developed motorized parchers and thrashers for processing the rice. Some of their designs are still used today as labour saving devices in family ricing. And, as is related in Chapter 11, the Kagiwiosa Manomin processing plant at Wabigoon First Nation, Treaty #3, has developed, with the Mennonite Central Committee agricultural engineers, a processor which relies on wood burning technology rather than gas fires. In using traditional *Anishinaabe* processors adapted in a meld of mechanized and traditional know-how, Wabigoon considers their brand superior to others.

7. Anishinaabe Industrial Design Fred Copenace at thrashing machine, Big Grassy 1980



Thrashing machine by Ben Copenace

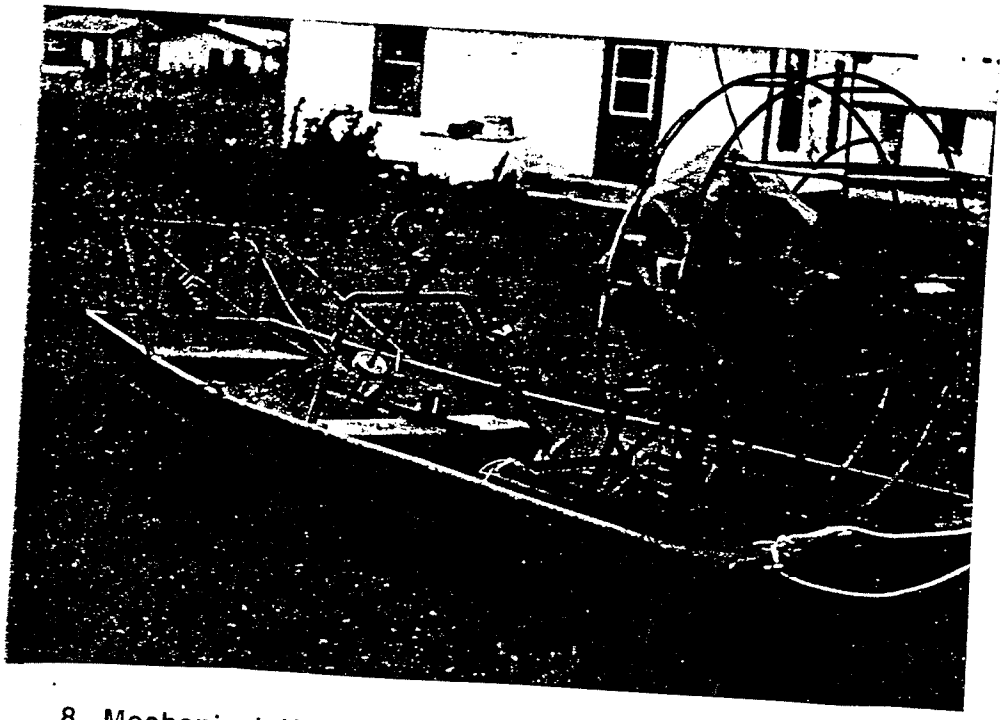


Mechanical pickers for harvesting the rice are far more controversial, and in many more places than Treaty #3. The first prototypes developed did uproot plants and took so much of the seed that many fields did not regenerate. Traditional harvesting allows for natural reseeding, when seeds fly across the canoe and into the water. The quantity of rice taken by such machines and the violence to the fields led them to be legislated out of the ricefields of Minnesota and Wisconsin (F. Green 1990; P.F.Lee 1990). This remains the case today.

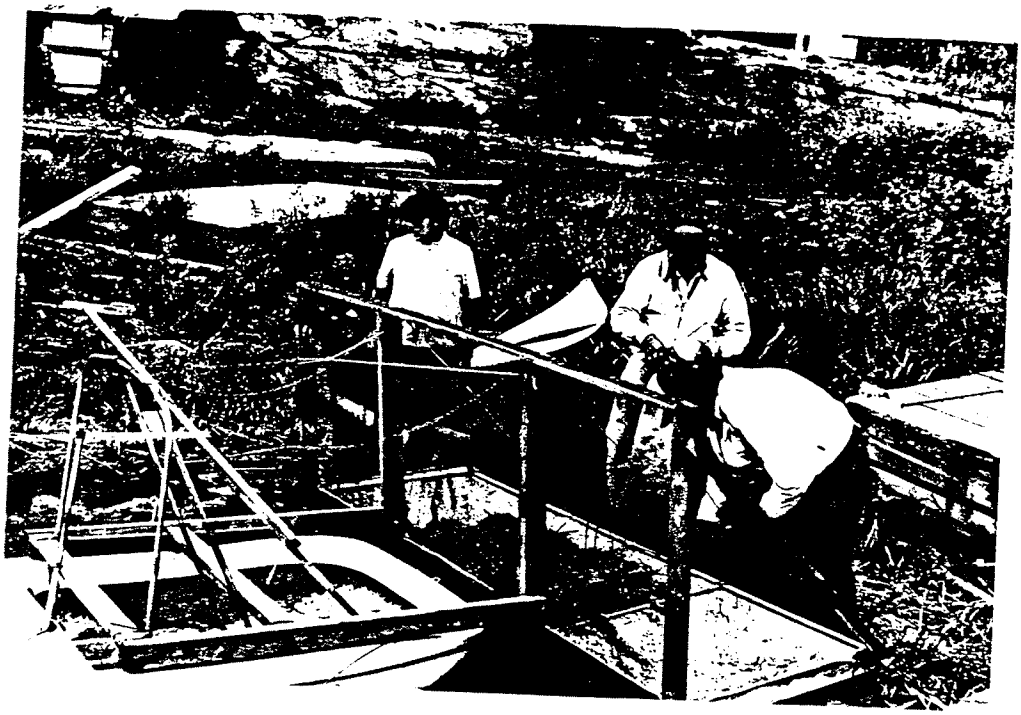
Once airboats became available, *Anishinaabeg* developed some of their own mechanical pickers by modifying boats, and adding a Volkswagen or airplane engine and a speedhead. (A speedhead is a wiremesh scoup mounted on the front of the picking machine. The machine speeds across the field, with rice grains falling into the wire mesh.)(Figure 8: Mechanical harvester of Ron Sandy, Northwest Angle #33, with daughter Ronni and Tobasonakwut Kinew, 1984). Today First Nations like Shoal Lake, Northwest Angle, Eagle Lake and Manitou Rapids all use airboat harvesters to increase their harvest.

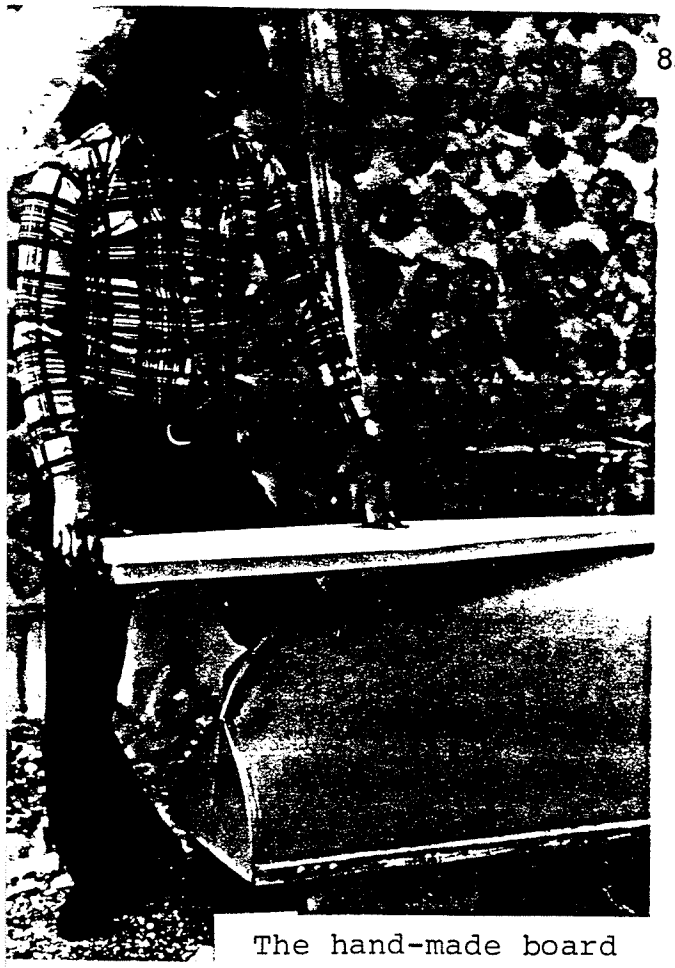
Anishinaabeg are often in the forefront of appropriate technology. The "Osnaburg picker" is a model which puts a speedhead of wire mesh across a canoe driven by a small motor mounted on a flatboard back. The motor was prevented from uprooting the rice by a board nailed to underside of the canoe at the flat rear where the motor is mounted. This underwater panel then leans diagonally backwards and under the motor blades. The canoe would be propelled across the fields and the rice would be caught in the mesh of the lengthy bucket of the speedhead. This mechanical picker was only useful in the thinner fields of northern climes such as Osnaburg, just north of Treaty #3 territory. (Figure 8a: Martin Tuesday with Osnaburg picker, Big Grassy, 1980).

By the 1980s, the "technopoly" of the mid twentieth century led non-Indians to believe the answers to wild rice production were in mastering the information about wild rice through scientific studies and data manipulation, and government legislating



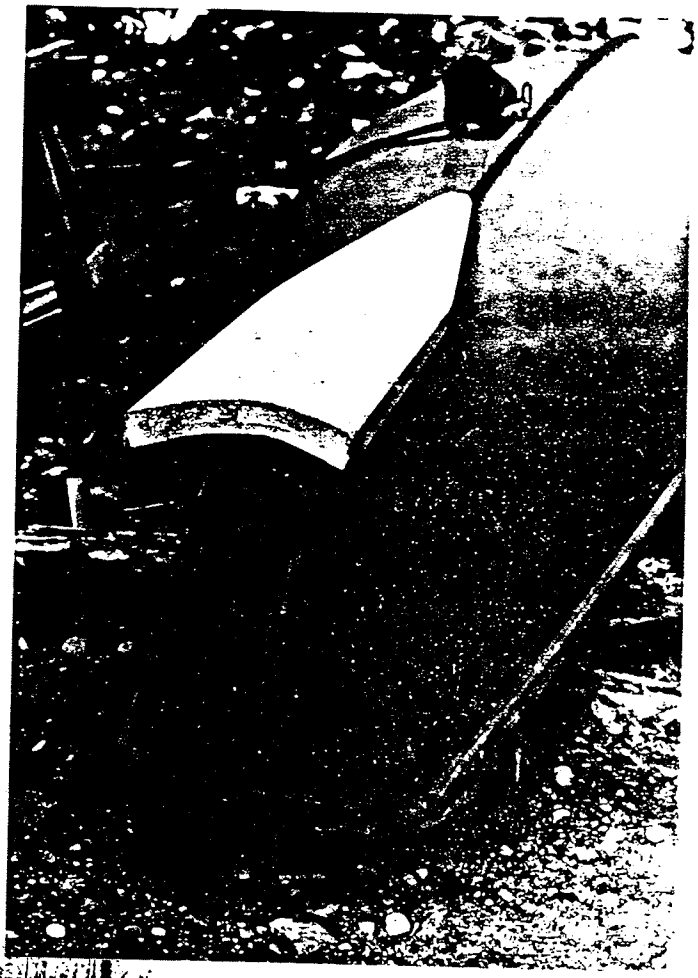
8. Mechanical Harvester of Ron Sandy with daughter Ronni and Tobasonakwut Kinew, Northwest Angle #33, 1984



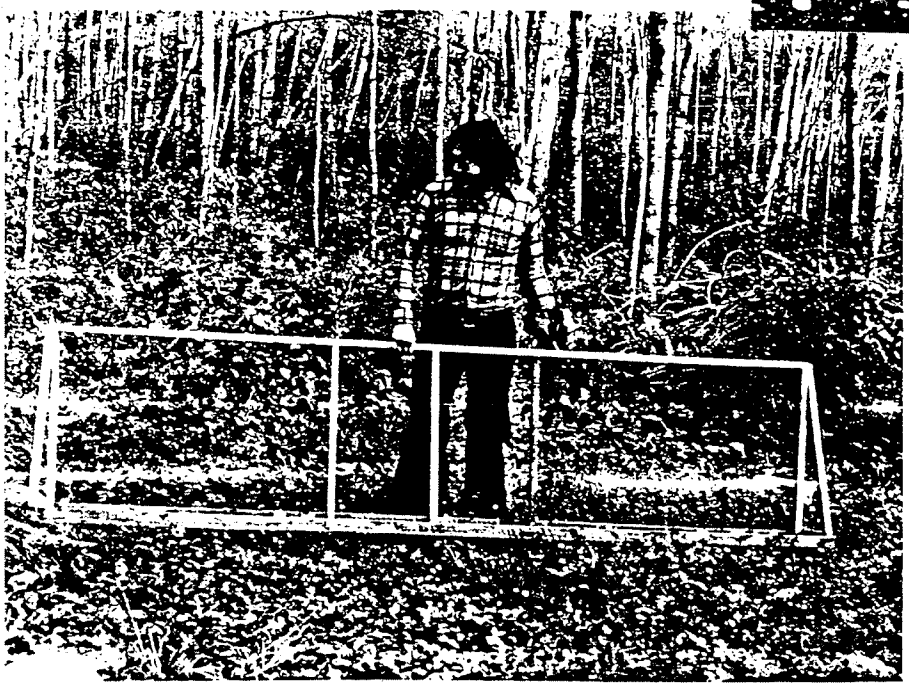


8a. Martin Tuesday at Big Grassy with Osnaburg style harvester

Sept. 1980 - Chief Martin Tuesday of Big Grassy shows the Osnaburg model of mechanical harvester.



The hand-made board fits on keel at bottom of freighter canoe, and prevents motor propellor from uprooting rice plant as boat skims across rice fields.



This "speed-head" which catches the rice by sitting at the bow of the canoe is hand-built then covered with screen and a bottom catcher added.

regulations and policies to control the harvest and sales. This is a definite "surrender of culture to technology", a capitulation (Postman 1993). Information technology and legislative control dismiss not only the symbiotic relationship between the indigenous peoples and an indigenous plant resource, but also the identity of the people whose sacred ties with, respect for, and knowledge of*manomin* led to its introduction into present day society.

It is precisely the dichotomy between humans and nature, "the belief in man's calling to dominate nature", "the western thought of radical disjuncture between nature and culture, man and animals" that has led to the modern crisis of pollution, global warming, and doomsday scenarios (Christian Bay in Bodley 1988:267; Maybury-Lewis, 1992: 55). Modern, technology- driven society has "overlooked the necessity of respecting nature's limits and nature's vulnerability" (Christian Bay in Bodley 1988: 267-268).

The *Anishinaabeg* accepted a humbler role within creation. The *Anishinaabe* system of governance of the Great Spirit's Garden intricately joined sound ecological practices with the cosmology of the people, a kind of "ecosophy", as coined by Swedish anthropologist Kaj Arhem (Maybury-Lewis, 1992:55). Yet, what the 'moderns' fail to recognize is that through this ecosophy, under an indigenous system of governance, the *Anishinaabeg* were able to ensure the continuance of wild rice as well as extend its territory.

The 'myth' of progress has almost reached the status of an "all-encompassing myth", that is, one we believe in so much that it is taken for granted as true, and any challenge to it present an angry response (David Keenan Lower1993). Western societies claim universality for its myths, but an examination of "progress" from a Native viewpoint exposes the irrationality of that certainty. By any measure of standard of living, health, mortality rates, nutrition, Indigenous peoples around the world have a lower standard after contact with western society (Bodley 1982). Yet, "..almost by

definition, members of the culture of consumption consider another culture's resources to be underexploited and to use this as a justification for appropriating them" (Bodley 1982:7). Underutilization was one of the main rationales for the imposition of the 1960 Ontario Wild Rice Harvesting Act and the Ontario government's 1970's attack on *Anishinaabe* control of wild rice in block areas throughout much of Treaty #3 (See Chapter 8).

The 'myth' of progress allows modern scientists and corporations to patent the medicines of the rain forest without consultation, credit or royalties to the Indigenous peoples. It leads to the same hubris that enables a non-aboriginal to apply to the Canadian patent office for official sanction of the age-old *Anishinaabe* process of "popping" wild rice (Globe & Mail, Social Studies section, Nov.11,1993; Willie Wilson at Rainy Lake Tribal Chiefs meeting, Dec. 20,1993).

Myths operate on two different planes within Treaty #3 territory. Wider society's underlying 'myths' serve to justify action against indigenous peoples and their laws and customs. *Anishinaabe* 'myths' define who a people are and are kept private to their own membership lest they be ridiculed. There is no communication or understanding between the mythology of these two peoples precisely because their 'myths' work on differing levels of consciousness. Wider society's 'myths' seem, to the people that hold them, to be founded in science and objectivity, while the *Anishinaabe* 'myths' reaffirm for the *Anishinaabeg* the spiritual connection of their people to the resources as the Creators's gifts to the original peoples. As Joseph Campbell explains, myths relate to "what we cannot know" (Campbell 1990). To connect the two worlds would seem to require nothing less than a paradigm shift that would incorporate the sacred and the secular. The *Anishinaabeg* themselves, however, carry their myths into their seasonal activities regarding *manomin*, which serves to further integrate *manomin* into the *Anishinaabe* psyche.

Endnotes:

1. "The genus, zizania, was chosen to describe a plant specimen sent to Holland from Virginia in 1739. It comes from the Greek word, zizanion, a weed of the Mediterrean grain fields thought to be the tares of biblical parabale" (Aiken et al, 1988).

2. Its preferred habitat includes shallow waters, yet either too shallow ot too deep or sudden fluctuations in water levels can severely affect production (Aiken, et al, 1988:39). A slight current in the water also aids the growth of *manomin* (Aiken et al 1988: 39-41) .

3. Storing food was an important aspect of making their annual seasonal round. The people of Northwest Angle, lake of the Woods, live at a place called "Aanumakee WaZhing", which could be translated as "Thunderbird's Nest", but, according to Elder *Tans* (Ron Sandy) actually refers to 'the people who would cross the lake and store their food in caches'. *Aanamukeewazh* is the name for a medicine bag. *Aanamuk* , the red earth of the Mite'iwin also a form of food (Kinew, 1992).

4. Although at the time of writing and publication, the Paypom Treaty stating the wild rice promise was in the public domain (as of October 1981), this Ontario Government Recipe Book and History of Wild Rice fails to mention Treaty #3 in any form, whether as a nation to nation agreement or as territory. The reference is always made to "northwestern Ontario". As well, Ojibways (*Anishinaabe*) are only referred to as "the tribe", after the original reference. And there is no mention of traditional caretaking particularly seeding by the Treaty #3 *Anishinaabeg* .

Chapter Four

Manominikenshii and the mystique of *manomin*

The sacred myths record the spiritual connection the *Anishinaabeg* have with *Manito gitigaan* . Yet it is the actual partaking in the annual harvest that develops the visceral attachment. This is so strong it has been described as the mystique of *manomin*, that is, "the body of attitudes that become associated with the thing and give it mythical or supernatural status" (Webster's Dictionary, 3rd edition). [1] This is *Manominikenshii*, the culture of manomin (KInew 1994).

It is through the family and communal sharing of the harvest that the *Anishinaabeg* feel so related to *manomin* and their responsibility as expressed in "*Manito gitigaan* ". It may be supposed that the converse may also be true: through continuing years of high water levels (Chapter 11), the disruption in annual harvesting may have lessened the bond that *Anishinaabeg* feel for *manomin* . Yet, it remains a perennial topic at Grand Council Treaty #3 meetings of Chiefs and Elders. And, the Treaty #3 *Anishinaabeg* have sought to overcome this weakening of a sacred, cultural bond by continuing the oral tradition regarding *manomin.* Treaty #3 First Nations are ensuring that school curriculum of schools on reserve, and the Native language component in schools off reserve, include wild rice in several ways. The Native language instructors working for the Fort Frances-Rainy River School Board, and some from neighbouring reserve schools, have developed curriculum materials, relating the language and customs of wild rice (Ojibwe Language Program, Fort Frances-Rainy River Board of Education, 1990). Lake of the Woods Ojibway Cultural Centre near Kenora has published a book of photos regarding the harvesting and processing of *manomin* with recipes (Lake of the Woods Ojibway Cultural centre 1995). Science and social studies from elementary and high schools on reserves hold demonstration days when community

adults and Elders show and involve the youngsters in the processing of wild rice. In years of low crop yield, the green rice is obtained from areas where a crop was able to be harvested. While this community activity cannot replace the family experience of ricing itself, these activities illustrate once again the significance Treaty #3 people place upon *manomin* . It is worth noting that the sheer hard work of 'ricing' does not take away from these pleasureable and memorable times.

"I live for that first green rice right out on the lake.. you just grab a handful and chew it right there..Mmmm!" said Eli Carpenter of Whitedog, capturing the feeling of Anishinaabe people in anticipation of the ricing season.

The sensory experiences of the ricefield yield an annual yearning so strong it seems almost instinctual. You can hear the canoes whispering the rice stalks apart, the swirl of the water when the poler pushes, the brushing of the sticks along the plant, and the spill of the grains into the bottom of the canoe. Memories are built on those sounds. The close relationships on the ricefields are echoed in the laughter of the people, the chit-chat of the picker and poler in a canoe, or good hearted kidding across the field from one canoe to another: "Remember Agnes screaming and shaking the rice worms out of her clothes?!"

And the smell is like no other. A sweet, pungent smell of rice, swelled with moisture. The sight of the glistening golden brown *manomin* , some red grains on a slender green stalk, looking so fragile. Yet this stalk is strong enough to withstand strong winds and even the bending by picking sticks and canoe, to upright itself again.

Being in the canoe in the ricefield is assuredly a super-natural experience. The ricefield is like a wheatfield on water , where the picker and the poler are both within it and a part of it. As the picker gazes up at the sky, that harvester can feel a communion with the Creator and all the gifts bestowed upon the *Anishinaabeg* .

The harvesting season, *Manominikigiizis* (the ricing moon) or *Manominikayigiizis* (the rice making moon), when the moon is full and golden call for

bustling community activity (Translations by TP Kinew). Everyone begins the annual procedure of getting the canoe, picking sticks, pole, and bags ready. The remembrances of this time of year from mid August to mid September are some of the warmest of the *Anishinaabe* Nation. The exigencies of modern life have shortened the harvesting period to a couple of weeks when it used to stretch into October or the first snowfall (S. Jack, 1975; van de Vorst 1987; A. Wilson in Holzkamm 1989). It is certainly a time of family togetherness, with several generations and families bound together by the expectation of and cooperative effort required by a good harvest.

The late twentieth century generation of leaders of Treaty #3 grew up as "canoe brats", a term Philip Gardner of Eagle Lake uses to describe his youngest remembrances on the ricefields. Children were expected to play around the shoreline campgrounds, with some older ones watching, while other children joined their grandparents on the ricefields.

> "My grandmother was the one who taught us. We lived the typical nomadic life out on Rainy Lake. We picked rice and roasted it, and sturgeon. We picked berries. I remember the social times. PowWows on the ricefields. Fun times about 50 years ago (1940s). My grandmother would tell us *atasokaanon* , the real traditional stories. Then the priests would come to take us away to residential school and tell us we were pagans."
>
> *Mitigomukakiins* , Raymond Bruyere,1990

Unlike non-Aboriginal families whose closest family times may be Christmas holidays and birthdays, *Anishinaabe* memories of family celebration are based upon seasonal activities. It was only during the summer months that their families were allowed, by Canadian law, to be together. The rice harvest at the end of the summer was one of the closest times for family relationships. Yet these pleasant memories were also intermingled with the bitter sadness of separation, when the priests came to take all the school age children away to Fort Frances, Kenora or McIntosh residential schools. This is likely another reason why the *manomin* harvest has such an intense emotional tie for

Treaty #3 *Anishinaabeg* - it was one of the few times of the year when the people lived again on the land, with close family and tribal ties.

The harvest fields brought relations together from many surrounding reserves. While the Indian Act separated people into reserves, assigned band numbers, and forced out the "enfranchised" relatives who no longer had a band member, the rice fields brought everyone back together. Peter Seymour remembers returning to Lake of the Woods as a veteran after the second World War. That was in 1947, when manomin covered the entrance and most of Obabikon Bay. His uncle, *Miskwakapince* (Jim Elliot), a Grand Chief of Treaty #3, invited everyone to come and pick, to share the bounty. Many, many families came from all parts of Lake of the Woods, and relatives from both Canadian and United States sides of Rainy River.

Ann Wilson explained:

> "They (Rainy River people) used to go to Nett Lake, U.S.A., for the ricing..or to the Rainy Lake, whichever was the best place or where there was plenty of wild rice. It changed from year to year. We would be at Rainy Lake, Whitefish Lake, and one year in Lake of the Woods, wherever the rice was plentiful. At that time Bands did not go to certain lakes to pick rice. They amalgamated together wherever there was plenty of rice.. They gathered together to have their ceremonial feats and they were precautioned as to how they would harvest their rice, what days to pick and rest their rice fields. Their ricing periods would be extended as long as possible" (Holzkamm, 1989:25).

Nancy Morrison recalls travelling with her husband to the Whiteshell area on the Manitoba side of Treaty #3 in the 1950s. It was all part of the twentieth century "annual round" (Waisberg 1979; Vennum 1988) : cutting pulpwood and living at the camp in the winter; guiding all summer, also picking blueberries in the summer, and rice in the late summer-early fall, going to where the work and the resources were.

> "Steve (Copenace, her husband) was a good provider then. He would guide all summer and cut wood in the winter. We'd live at the pulpwood camp. In the summer, we'd all go by canoe to Sand Point off Dogtooth Lake and pick blueberries. We'd stay there till ricing time, then we might spend a few days in Kenora spending our berry money and we'd get on the boxcar and head for Malachi. Some (*Anishinaabe*) people used to live there. It was bush then, in the middle of nowhere. But we'd get out and pick rice there for a while, then got on the boxcar again and head for the Whiteshell. ..A truck would meet us and take us to the ricefield.

> There'd be a whole group of us - a party - some of (husband's) relatives, my grandmother (who was also with a Copenace), Alex Copenace's parents, George Crow's grandparents. Our own little group. There were lots of little groups around the Whiteshell area - people from Kenora, Shoal Lake, Whitedog, Whitefish Bay, Fort Alex "(note: all are Treaty #3 reserves except the last, known also as Sagkeeng reserve in Manitoba) (Nancy Morrison, 1992).

This scene was repeated in major ricing areas throughout Treaty #3. Families would camp together under the direction of one elder, sometimes called the 'rice chief' in non-*Anishinaabe* observation, but referred to as *Manominiki ogimaa* by the *Anishinaabeg* :

> "My grandparents used to camp at Log River with all of us kids, parents .. many families from all over .. Sabaskong (Onegaming), Northwest Bay, Manitou. Old man Shebabgegit (Petung) was the one who would check the rice and say when it was OK to pick and when to give it a rest."
> (Shtatim, Tony Copenace, Onegaming, 1994)

The *manominiki ogimaa* had specific duties: to check the rice personally during the growing season, and more often closer to harvest time, and decide when to pick and when to 'rest' the rice during harvesting. These decisions affected the duration and quality of the harvest because *manomin* ripens at differing times throughout the harvest. As *Azawashkwagoneb* (Green Feather, also called Fred Greene) of Shoal Lake #39 stated, the rice chief's intimate knowledge of the rice and the people's willingness to be regulated by this "one man" led to an "almost perfect system":

> "Years ago, I think it was easier to control. The people listened to the elders when they said, 'it's time to pick', they went picking. Or 'don't pick', then they didn't go. That way, everyone was happy, everyone was waiting for the next instructions to come. It would come maybe the next morning, or even at noon. The man in charge is always out there, checking and watching the rice, because you can literally see the rice that is ready, hanging. It looks dark on the grains. .. And it's no use to go out there, because they say, 'you're hurting the rice'. I remember going in the ricefields 'cause they'd say the grain is ready, chock full and ready to pick, even though it was picked maybe a day and half ago.
>
> The harvesting season was prolonged right into September. I remember picking until the snow started to fall in late September. That was the benefit of harvesting the rice that was ready and leaving the ungrown ones until they were ready to be harvested" (Fred Green, 1990).

The "one in charge" also had to resolve any disputes. The carrying out of such duties was the continuation of the ancient role of the 'rice chief' and harkens back centuries before to the rock painting of prehistoric times (See Chapter 5 on Pre-Treaty times).

A specific ceremony marked the beginning of the harvest:

> "Before anyone would start picking though, the old man Copenace (husband to my grandmother) would take some fruit and food and tobacco and say a few words of prayer and then burn (the dish of food). We'd give thanks and (then the actual harvesting could begin).
>
> Each group would have an Elder who would go campfire to campfire and tell everyone, 'today we don't go out' or '(go) for a few days' and that's mostly the reason why they picked a long time."
>
> (Nancy Morrison, 1992)

Raymond Bruyere remembers the same ceremony on Rainy Lake, to the south, as does Philip Gardner at Eagle Lake to the east, and Herb Redsky on Shoal Lake, the northwest arm of Lake of the Woods, and Annie Wilson of Rainy River to the south. The prayer gives thanks to the Creator for the bountiful harvest and humbly requests that the winds will stay away and the people be kept safe throughout the harvest time. It is the same prayer mentioned by Indian agent Robert Pither in the 1890's (Jenks 1899) and recorded by Eagle Lake Elder, Aaginjigoneb, Fred Indian in the Grand Council Treaty #3 -Anishinaabe Manomin Co-op film, Harvest of the Moon (1974).

Shuniaagoneb (Stuart Jack) of Onigaming told of the special dances in celebration of the harvest - "not like the PowWows today but a real "shake'em up dance" (S. Jack, 1975). His oldtime colleague at the early Cecilia Jaffrey residential school then at Shoal Lake, Pinotinoway (Walter Redsky) sings one of those songs on the NFB tape for the uncompleted film, "Manomin" (Dufaux 1981).

Across Treaty #3, the reverence for manomin endures:

> "The pickers take their first handful of manomin and place it with some tobacco into the water with a prayer of thanksgiving. It may be an individual act or one shared by husband and wife, grandparent and child, but we give thanks to the Great Spirit. After ricing, the pickers from the whole area join together for a pow-wow and feast of wild rice, ducks, fish and berries" (P. Kinew *in* Avery & Pawlik 1979:35).

This continues today even in the most unlikely places. Herb Redsky of Shoal Lake prefers mechanical harvesting, to obtain a larger harvest in a shorter time, and increase profits. He is joined by two brothers who also use machines, his sons who assist in packing the rice, and his wife who drives truckloads of the green rice to the processor in Keewatin, beside Kenora. Yet, the three brothers too, at the beginning of each harvest, meet together, and take some of the first few grains of rice with some tobacco, offer it into the water, and say the prayer of thanksgiving to the Creator (Herb Redsky 1990). Philip Gardner of Eagle Lake follows Elders' advice of making an offering into the water. "I take a coin, some cloth and tobacco and place it along the shoreline - the waves will take care of the rest. I say thank you in whatever way I think we should" (Philip Gardner 1990). Such an offering and prayer is made by *Anishinaabe* people throughout the lakes, rivers and bays of Treaty #3 territory each harvest time.

When I lived at Onigaming in 1970s and 1980s, particularly the bumper crops of 1972-74, I could feel the community's anticipation of the rice season as the summer days turned colder. The Elders, Shuniaagoneb (Stuart Jack) and Anama'egaabo (Bob Indian), would be sent to check the rice each day. They would return with reports that filtered through the community, "a few more days", "maybe by the end of the week". When the word that the rice was "ready" was sent out, the people too were ready - camping gear, tents or tarpaulins, blankets, axes, matches, pots and pans as well as specially carved ricing sticks, knife and shovel for the other tasks of the rice field. And, a canoe and paddles, of course.

The home community became almost a ghost town for ten days to two weeks, as extended families camped on ricefields, and spread out onto smaller, nearby bays, in areas that the grandparent had harvested as a child. The small bays closest to the home community at Onigaming was reserved for older grandparents and children who did not have the wherewithal to reach the outlying rice fields. It is no exaggeration to say that everyone participated.

The inauguration into *Anishinaabe* ricing culture begins at birth, with families camping on the ricefields and all generations helping. Watching from the*tikinaagan* (cradleboard),the baby becomes imbued with the smells, sights and sounds of the rice harvest. Elder Bert Yerxa of Couchiching, the subject of a film "The Rice Dancer", first remembers ricing at about age 5 on Rainy Lake. His family used to portage in to a bay where lots of people from nearby reserves were camped together - Couchiching, Stanjikoming, Nickicousemenecaning, Naicatchewenin. The small boy learned by watching and helping, so that the next year when he returned, he started right away to make a hole in the ground to "dance" the rice. He was preparing to step-dance on the rice to loosen the roasted hull from the grain (a stage of traditional processing before winnowing the chaff away).

In reviewing the early historical records, I was often struck by just how long the tradition of caring for the rice is for the Treaty #3 *Anishinaabeg* - and how integral to their identity and character. The methods, the ceremonies, the governing structures connected with *manomin* described in accounts of two centuries before, were graphically portrayed to me when I first accompanied my husband to the rice fields of Sabaskong Bay, Lake of the Woods in 1972.

We went by motorboat, dragging our canoe, to the favourite family ricing area of my husband, that is, the area where his parents (*Wabanakwut* , his father from Assabaska, now called Onigaming and, *Naynaygizhigook*, his mother from Big Island) harvested rice while the children and other relatives camped nearby. We approached Button Bay (off Sabaskong Bay at the southeast end of Lake of the Woods), waving to his relatives from Big Island and Big Grassy who were camped near the entranceway. Nothing in my experience had prepared me for the sight around that bay. A wheatfield on water - all around the shoreline of the bay and extending across to its fullest. The rice stood about four to five feet above the water! We parked the boat on one side of the bay, got into the canoe, and proceeded across.

Tobasonakwut instructed me to push the canoe with the pole he had given me - about eight feet long with a metal clasp resembling a duck bill to push off the mucky bottom. He told me to make a path parallel to the shore and make one "pass" after another through the marsh while he picked the rice. This he did by using two light weight, carved cedar sticks about two feet long. (Figure 9 of Scoben at Onegaming carving sticks 1973). The sticks were easily gripped, one in each hand, and then one was used to stretch out and pull the stalk gently but firmly across the front of the canoe. With the other ricing stick, Tobasonakwut would thrash the rice into the canoe - not in a downward motion which would break the stalk, but in a long "push away" stroke which allowed the rice grains to fall into the canoe. This practised movement was so quick and dextrous that the ricestalk would spring back to its height once released. (Figures 10,11 of canoe harvesting).

In a few passes, I was using my utmost strength to push the flat bottomed canoe and my 190 pound husband through the marsh - not to mention his ever increasing load of rice, and my weight - although that was rapidly diminishing from sweat! I remained astounded at the miracle of this plant and the technology of the *Anishinaabeg* who harvested it. The paths through the rice caused by "passes" that we made almost disappeared once the canoe went through. (Figure 12, drawings of proper steering technique for picking canoes, based on Alex Moose in van de Vorst 1987).

Some of the rice stalks were trodden down by the canoe weight but others sprang back up. And some rice was left on the stalks, as I was later to find out, left to ripen for another day's harvest. Wild rice ripens at varying times (hence the modern, scientific term "shattering") and requires "days of rest" for the pickers so that the pickers can return and harvest more another day. .

It was in the early to mid 1970s, in joining Tobasonakwut on the ricefields, that I discovered the *Anishinaabe* governance of the ricefield. It was as Nancy Morrison described the 1950s, Fred Green the 1930s, and Jenks, the 1890s. Each reserve

9. Scoben Copenace at Onegaming, carving thrashing sticks, 1973

10. Harvesting the rice from canoe, with thrashing sticks - a tradition continues

Jack Spencer, Seine River, c.1973

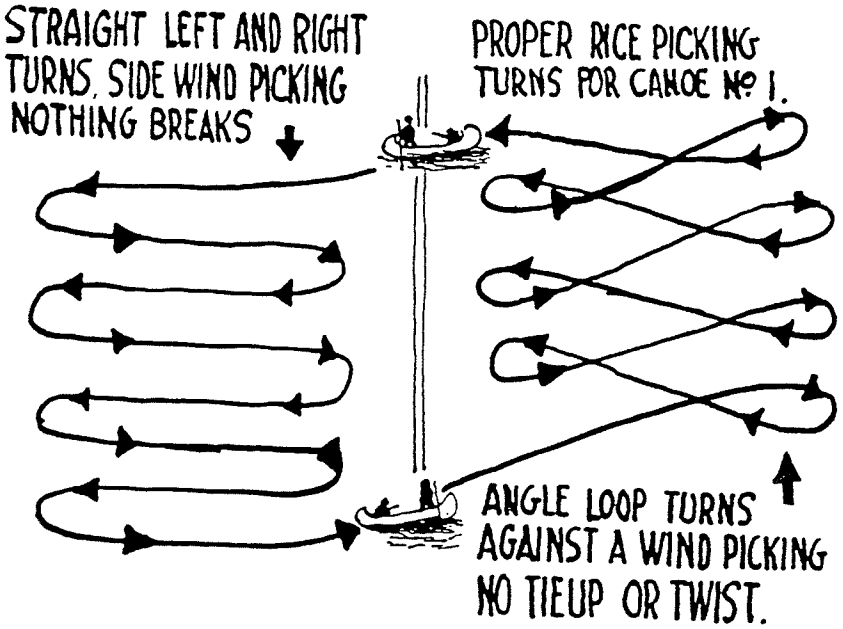
11. Wabanakwut Kinew, ricing on Sabaskong Bay, 1987

12. Sketches of Poling Techniques by Alex Moose in van de Vorst 1985:145.

Appendix F

SKETCHES OF POLING TECHNIQUES

(after Alex Moose 1969:52,70,72,73)



community had Elders, or an Elder, continuously checking the rice to see how it was ripening. That Elder or group of Elders would let the word go out that harvesting could begin. Within a couple of days, the word would come that the Elder(s) said to 'rest the rice' - and the pickers would stay off the fields. During the rest period, the Elder(s) would check the rice to see how the sun, rain, wind or predators and insects were affecting the plant and then decide when to allow the pickers to resume. Some pickers might also go out onto the field, to see for themselves as a second opinion, but no one at Sabaskong contravened the word of the Elders, *Aanama'egaabo* (Bob Indian) and *Shuniaagoneb* (Stuart Jack 1973).

In those days of the early seventies, ceremonies of thanksgiving regarding the rice were held by families. Each canoeload of pickers would make their own offering of tobacco into the water, some with the first grains of rice. Others would make the tobacco offering and then take the first few passes of rice, bring it to shore and lay it in the sun to dry. At the end of the day, this first rice was processed - roasted, danced on, and winnowed - to provide a green, wonderful tasting dish for a feast of thanksgiving for the family. All ages would join in the ceremony and feast to offer thanks to the Creator for the special gift of sustinence for the people and the culture, and to pray for the good weather that would enable the harvest to continue.

The prayer that opens the Grand Council Treaty #3 film, "Harvest of the Moon", (co-produced with Anishinahbe Man-O-Min Co-op in 1974), is so similar to the one reported to Jenks by the Rat Portage Indian agent Robert Pither in 1898 that it appears to be the same prayer:

> What I am now about to voice in thanksgiving is for the wild rice (*manomin*). .produce (gift) of the Great Spirit (*Manitou Gitigaan*) which we are about to partake.
>
> I beseech Him - He who lives in this land, who creates this rice that He bear no suffering upon us, that by partaking of it, we shall benefit from it and also our children.

> I beseech all who will harvest that they shall first hold a feast of thanksgiving to acknowledge gratitude to the Creator for this rice and His blessings upon us.
>
> May the Thunderbirds and origins of the winds withhold their storms for a while so we may harvest in peace. This is my prayer."
>
> *Aaginjigoneb* , Fred Indian of Eagle Lake in Harvest of the Moon, Anishinahbe Man-O-Min Co-op film 1974

> "The Ojibwa Indians in Canada, about Lake of the Woods, perform the following ceremony: "Before commencing to gather the rice they make a feast, and none are allowed to gather the grain till after it. They thank the Master of Life for the crop, asking him to keep off all storms while they are harvesting."
>
> Robert Pither, Indian Agent, 1898 to Jenks, in Jenks:1899:1091

This litany was uttered by the rice chiefs of Treaty #3 since time before memory in the estimation of Elder Walter Redsky of Shoal Lake #40. That prayer would accompany the feast:

> "The harvest feast was very important to the old people, years ago, to have the feast for wild rice because we prayed to the wind not to damage the wild rice, and to the thunder so no storm will come while we are making rice. And again to the birds, the fowl of the air, not to destroy our ricefields. Cause the Indians thought, the Indians think, it should be for the Indians to pick wild rice first, that the wild rice is theirs. And we pray that nobody doesn't get hurt. There's a lot of ways someone can get hurt. if they overwork themselves.. hulls in the eyes or throat, damage to your body. ... It's important that the ceremonies be carried on."
>
> Walter Redsky in DuFaux 1980

The people persevere with their ceremonies of thanksgiving. Although they have adapted to the changing family and community patterns of the day, the reverence for *manomin* and the harvest time remains.

Azawashkwagoneb (Green Feather, also called Fred Greene) of Shoal Lake #39 described how the people cared for *manomin* , particularly during the "glory days" of the 1920's to 1940's - checking the rice well before harvest, trapping muskrats around the ricefields to stave off some poachers. Sometimes, *Anishinaabeg* would cover the rice with large nets to keep the *saaganuk* (blackbirds) from feasting on the rice. The people

always replanted some seed for the next year. Some of this replanting was done by the very act of thrashing which allowed some seeds to fall from the plant by the side of the canoe. Other planting was deliberate, such as wrapping rice grains in a mud ball and purposely dropping the mudballs in certain waterways (Fred Greene 1990; Stuart Jack 1978; Frank White 1990; van de Vorst 1986; Vennum 1988).

The technology of the *Anishinaabe* people regarding *manomin* is fascinating. Describing the usual method when the water was quite low, *Shuniaagoneb* stated that people would don snowshoes and use two poles with gunny sacks (or fawnskins in the 'old days') between, as an apron to catch the rice that they would thrash, just as if they were in a canoe; the only difference was, this time the rice would fall into the sack instead of the bottom of the canoe (Stuart Jack 1977; Fred Greene1990). Another version had two people holding the poles with gunny sacks so that the front person was the main holder and guide, with the person behind being the picker (Kinew 1993).

Different approaches were taken to curing. This stage is called *obaasaan-nawa manomin* or drying the rice. Most often these days, Anishinaabeg just spread the rice out on canvas or another cloth and let it dry in the sun and wind. In earlier days, they would arrange the rice on a scaffold and build a slow fire underneath. The rice would slowly dry this way and gain a new flavour. (Figure 13)

> "The best rice that I ever tasted was the rice right off the ricefields. After it has been dried, say in the evening, then you roast it and the men tramp on it with moccasin feet. The women would winnow it and finish it that one evening. It was really a treat to eat. In this condition it remains green just as it is right off the field. It doesn't turn brown. And it's so soft that you can literally eat it by the mouthful. Not like machine processed. You can just throw a handful of that rice into soup or stew and eat it right away. Again, you can pop it in oil - just like popcorn - fresh. You don't have to wait" (Fred Greene 1990).

Azawashkwagoneb (Green Feather or Fred Greene) described how "each method of processing rice produces its own finished product .. with its own flavour":

> "They used to store the rice in bins and then construct some kind of form using small logs 2-3 feet in diameter. They would put a stack of that wood with cross pieces underneath a screen wire... I don't know what

13. Obaasaan-nawa manomin - Tobasonakwut drying the rice

14. Kaapizige - Tobasonakwut & Wabanakwut roasting the rice at Onegaming 1988

15. Nowkomigok & Migizikwe Kelly
Shawonipinasiik Kinew training on t
at Onegaming 1988

16. Wabanakwut Kinew in jigging pit at Onegaming, 1988

17. Totoons, Edwin Kelly, "dancing" the rice in barre

at Onegaming 1988

18. Camaraderie in the jigging pit -

Wabanakwut Kinew & Makwa Copenace at Onegaming, 1

> they used before that - about 3 feet from the ground. You may have 15 to 20 feet of wire mesh stretched over the fire built underneath. Then the rice was poured onto the screen to be roasted and turned over and over till browned to your liking. Then it's finished. After that, they would put the rice again on canvas - I remember my grandparents used birchbark scrolls - this is where they poured the rice to dry after roasting." (Fred Greene 1990)

That next stage was the roasting or *kaapizige* , so called for the popping noise made while the rice is slowly parched. At this stage, a person uses a paddle to push the rice around in a washtub placed over a glowing fire. The wood itself provides some of the flavour through the natural smoke. (Wisconsin harvesters may prefer hickory, but Boundary Waters people usually prefer poplar. (Kinew 1978; A. Wilson in Holzkamm 1989). (Figures 14,15,).

Once the husk is loosened through parching, the grain is placed into a pit (*waabikon*, i.e., hole in the ground) and a person begins to dance on the rice (*Nimbaabaa pawe'ishkam*). (Note:*wabegun* means to knock against the earth, or in *waabikon*, to mix bottom clay with rice. Kinew 1993) This action might also be accompanied by certain songs while the man would step, almost as in powwow (traditional dance), as he moved across the rice. (Figures 16,17,18).

Annie Wilson of Manito Rapids described the processing she has participated in:

> "(The rice) was dried first before we started to parch the rice or whatever you want to call it. The women used to parch or roast the rice in a washtub over a small fire .. sort of more hot coals in it. The men would be there to help with the wood and stuff like that. It's ready to be danced on after it cools off a bit.
>
> "All this time, the men are making the hole for the rice to be danced in. It was made smooth with clay or sometimes a hide was used to put the rice in. All you did after dancing it, you would lift the hide with the rice in it and put it into birchbark winnowing baskets. You would winnow the rice to take out the husks. Another thing that I found was that they didn't prepare things like you do today. ..Everything was done at the right time and so when the rice was being processed for dancing, the men would just start on this digging the hole to dance in.
>
> "There was a special place for this. It would be there where you could work together. You would have two poles and an area would be like a stall. You would hang on to these two poles, one on each side of you. Sometimes, when there was a bunch of them, one would have a hand drum and sing for the dancer. It was such a chanting affair, it made you feel like working, or maybe, it was a thanksgiving that made

> you happy. It was indescribable..But this person knew how to dance to that certain song. There was a certain way to dance the rice in this hole. Just the men did this. If a man was not available, the women would have to use the other tools like a rounded pole and pound with it." (Annie Wilson in Holzkamm, 1989:29-31) (Figure 17)

In the 1920s and earlier, Treaty #3 *Anishinaabeg* would also follow the method similar to that documented by Diamond Jenness at Parry Island (Jenness 1931):

> "Then they would dig a pit about 4 feet deep. The bottom was probably 14-15 inches in diameter, and wider up top so you could work in it if you had to. They used to use poles about 8 feet long - maybe even longer, 10 feet - to poke at the rice down in the pit. There was say maybe about 10 inches of rice laying down in the pit. They used top start 4-5 or 6 men on top, each with a pole. They used to just pound it away - for not more than 15 minutes. Then they'd take half the rice, bring it out and lay it again on the birchbark scrolls. The women would then put it into *wigwaasinaagan* (shallow birchbark containers with gradually ledged sides) and begin to winnow away the chaff. While they were doing that, the men used to put another load of rice in the pit. Once you started doing this, you could regulate your work. It takes hours to finish a bag of rice (ed: maybe 50-90 pounds of green rice)" (Fred Green 1990)

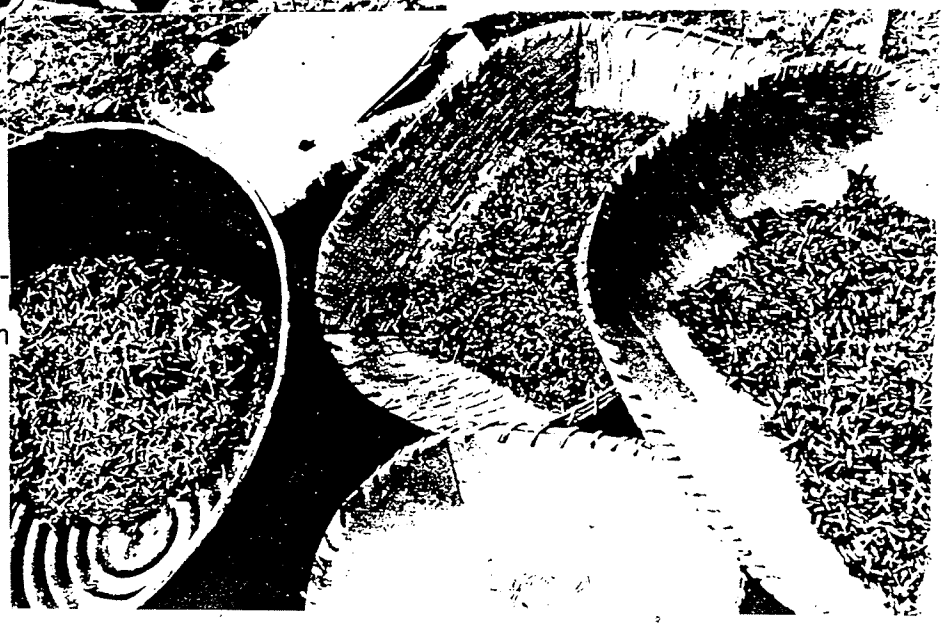
During the 1930's to 1950's, several machines were developed, some by *Anishinaabeg* , to try to take the monotony and hard work out of thrashing. A model in use today is a metal potbellied stove-type container with rubber encircled bars that paddle the rice as they turn. The turning is accomplished by a belt connected between a 2 hp motor and the thrashing paddles on a rotating bar. (Figure 8)

Finally, the winnowing phase, known as *poweshkajigeh* to the *Anishinaabeg* , usually sees the women shaking the manomin in a curved 4 inch deep birchbarch container, perhaps 2 feet long. The winnower develops a rhythm in shaking the rice up, up and then allowing the chafe to blow away in the wind. A few decades ago, people would keep this chafe as good cereal food called *mazaan* but it seems more to be prized by older than younger today, although some continue this tradition. (Figures 19,20,21)

> "The women would not dance on it. ..We cleaned the husk off and then the man does it (ie, dances on the rice) over again. It was any man that would do it or had the energy to do it, .. a boy or anyone who knew how. He could finish that and we would winnow the rice. This is where they saved everything. There was a dust after the second time they danced on the rice. They would save the dust and the fine rice.

19. Poweshkajigeh: winnowing Tobasonakwut poweshkajigeh at Onegaming, 1988

20. Alysia and Denise Copenace, daughter and mother, winnowing at Onegaming, 1988



. Manomin in stages - clockwise from left -
d rice in pan for roasting, after parching in
akik, after winnowing, maazon (husks)

> They separated the rice by placing a cloth on the ground. It's hung down where you are and there you separate the dust and fine rice. The dust was used in pemmican or sometimes they would put grease or oil into it. I've tasted that. It is delicious. It looks dirty because it's black but it's very nice. It's got a smoky flavour to it. Sometimes blueberries were put into it. It was like buying a chocolate bar for a snack. It was used for snacks, but it was very nutritious" (Annie Wilson in Holzkamm, 1989:31).

Without continued planting by *Anishinaabeg* , the ricefields would have remained where previous generations had seeded through harvesting, that is, where seed falls from the stick and flail method into the water instead of all into the canoe. Elders on Lake of the Woods and Rainy Lake both remembers deliberate seeding of lakes and bays by *Anishinaabeg* . Such testimony could also be gathered for the northern areas of Wabeseemong, Grassy Narrows, Wabuskang and Lac Seul, as well as the eastern lakes and rivers of Lac des Mille Lacs, Eagle and Wabigoon.

> "I saw Joe Nottaway seeding rice at Pipestone Lake. He was an old man who portaged many sacks of rice into that lake where he trapped. He threw the rice around and it grew well. Since the dams have been built all over, maybe there's no rice now. (Bert Yerxa, 1990).
>
> "George Crow's grandfather sewed rice around Assabashkoshing, out on Lake of the Woods. It really took." (Frank White, 1990).
>
> (*This oral testimony corresponds directly to a Grand Council Treaty #3 TARR report on national archival material submitted in 1880s by Inspector McColl at Assabaskoshing)

Anishinaabeg also knew the importance of maintaining water levels during the critical growth periods of the rice.

> "We had a beaver dam at the opening of Crowduck Lake. We would open it up and regulate the water levels for the rice to grow. Especially during the 1950s and 1960s." (Fred Green, 1990)

One of the first projects Wabeseemong (Whitedog) reserve undertook in the 1970s was the damming of a lake to ensure an annual crop, no matter what action would be taken by the Lake of the Woods Control Board to benefit Manitoba Hydro dams farther downstream on the Winnipeg River (Grand Council Treaty #3-University of Manitoba, 1972). Local water level control remains a high priority for Wabeseemong , Grassy

Narrows, and on the drawing board for First Nations such as Big Grassy to dam the mouth of Obabikon Lake, to bring back the glory days of bumper crops when everyone would be invited to pick (P. Seymour, 1990). Water level control is a major issue for all Treaty #3 First Nations. After the negotiation of Treaty #3 in 1873, all sixty-six reserves chosen by *Anishinaabeg* lay along the water, and all their ricefields are affected by decisions of the Lake of the Woods and Rainy Lake Control Boards (see Chapter 11, Flooding the Rice Bowl).

It is not the search for simplistic solutions that has brought local water control proposals forward. It is the *Anishinabeg* 's intimate knowledge of the plant coupled with the underlying belief that *manomin* is a gift of the Creator for the *Anishinaabeg* . Certainly, there is understanding that a string of annual bountiful crops would accumulate too much straw on the bottom to allow such plenty to continue unimpeded. And harvesters look to a variation in water levels and weather to move out that straw, or they must do it themselves.

Once harvested, the *manomin* must be cured soon or mold will appear. *Manomin* that is dried through curing may keep for weeks or months; rice that is processed through all the stages and kept dry may be stored for years. "*Manomin* is so much a part of our tradition, an essential food that could be kept indefinitely. Our people stored it in caches for use at another time" (Kwatook (Rosie Bob) 1992; T.P. Kinew 1992).

Mitigomukakiins (Raymond Bruyere) of Couchiching remembers the 1930s and 1940s when ricing was a lot simpler: "No fancy paraphenalia then, just brand new moccasins, a hole in the mud and canvas cover for dancing on the rice. If a visitor came while we were making rice, then we gave him enough to make a meal" (R. Bruyere 1990).

This sharing ethos is a deeply held belief of the *Anishinaabeg* that has been described as a practical, essential means of survival - helping a relative now means that you can expect reciprocation later. In fact, this belief also related to the worldview of

the *Anishinaabeg* , that how one treats another being, human or animal, bird, fish or plant, is how one can expect to be treated later in life. It is the view of humans as just another of the Great Spirit's creations, no more or no less, that enabled the *Anishinaabeg* to live in harmony with the world for so many generations. This balanced reciprocity was disrupted by outside governments invading areas hitherto the exclusive domain of the *Anishinaabeg* . Outside governments passed laws, imposed policies and unleashed enforcement mechanisms, that have created havoc for the *Anishinaabeg* and their culture, their traditional lifestyle, including the ricefield.

It was in the ricefield that the *Anishinaabeg* were able to maintain their traditions and its related form of government for much longer than in any other facet of life. When Treaty #3 was negotiated, there was no mention by Crown negotiators that outside law would determine who would be the leaders, or even the members of their community,. Yet that was the ultimate effect of successive Indian Acts being imposed. Under the constitutional responsibility for "Indians and lands reserved for Indians" (Constitution Act, 1867, s.91(24)), the federal government set about to disrupt and replace traditions and traditional government. [2]

In the ricefield, however, people continued to speak their own language, use their own *Anishinaabe* names or terms of relationship and endearment. Ceremonies were practiced, traditions carried on and taught to younger generations through actual practice rather than didactic teaching. And leaders were recognized in the *Anishinaabe* way of acknowledging expertise and experience. The rice chiefs were the Elders who knew how the plant grew and prospered, knew the best conditions for harvesting, and either they, or other Elders, knew the ceremonies of thanksgiving to hold to ensure a good harvest.

Expertise in dispute resolution was also required of the rice chief. In 1868, S.J. Dawson, later to be a Treaty #3 Commissioner for the federal government, noted that

> "it was during the rice harvesting time that the authority of the (rice) Chiefs was put to the test, deciding disputed claims, administering justice and reprimanding interlopers, who sometimes had to be forcefully driven from the wild rice beds allocated to others" (Grand Council Treaty #3, 1992a, "Indigenous Government of Treaty #3 Indians").

Jenks reported for the period at the end of the nineteenth century that ,

> "Among the Ojibway Indians property right is quite generally recognized in wild rice. It seems to be due not to tribal allotment, but to preoccupation. Certain harvest fields are habitually visited by families which eventually take up their temporary or permanent abode at or near the fields. No one disputes their ownership..(Jenks, 1899:1073)

In the 1970s, large gatherings of people on ricefields were mainly extended families, camping according to territories established by the grandparents' generation, and these areas were widely respected. By the 1990s, pickers continued to return to their grandparents' areas although there was not as much on site camping as in the 1970s.

Despite outside governments increasingly interfering with the harvest, the efficacy of the rice chiefs was not undermined. dams of the twentieth century disrupted water levels by controlling for hydro-electricity rather than considering wild rice and the other natural gifts of the Creator, the rice (Chapter 11). Yet, preparation for and carrying out of the rice harvest, processing and marketing had been handled well in the respected system of *Anishinaabe* governance in the ricefield. Any instances of trespassing were handled appropriately where the rule of the rice chief was respected.

With the gradual lessening of social norms as a legacy of Indian Affairs administration, residential schools, and in turn alcohol abuse, conflicts amongst *Anishinaabeg* was reportedly caused by trespassing on ricefields. This was cited as one reason the Ontario Department of Lands & Forests reported holding meetings with *Anishinaabeg* in the late 1950's (Schreiner 1979; P. Seymour1990). Incursions into traditional government continued through the Province of Ontario passing its Ontario Wild Rice Harvesting Act in 1960, and then gradually increasing its presence (Chapter

8). Most recent attempts at control have been by scientific data gathering and analysis (1970s-1980s) and by provincial government promotion of the generic wild rice "product and market", without reference to *Anishinaabeg* (1990s) (See Chapters 9,12 & 13) .

Certainly, one of the most insidious activities of the Ontario government to undermine traditional governing of the rice has been the campaign to portray *Anishinaabeg* as ignorant of the ecology of rice. A reading of early historical documents and listening to the oral tradition of the people relates a history of sound management practices (s. Jack 1978; F. Green, 1990; van de Vorst 1986) Yet, with the exception of van de Vorst (1986) and Vennum (1988), *Anishinaabe* governance, technology and business management have not been included in official government or academic reports on the biology or business side of wild rice.

> "A lot of things have not gone right since the rice was legislated. What used to be in the old days, how we were as Native people, that's when I saw freedom, that's when I lived freedom. The way it was is, in my mind, the almost perfect way to manage wild rice," (Fred Greene, 1990)

It is in returning to this intimacy with *manomin*, together with the practicing of the traditions, that the Treaty #3 Elders say is the way in which the wild rice will again grow in abundance and the government of the rice will be reasserted. Elder Nancy Jones from Nickicousemenecaning states when respect for *manomin* is demonstrated, the rice will be there as before (Nancy Jones1992). Elder Alex Skead of Wauzhushk Onigum told the Treaty #3 Chiefs' assembly in October 1988 where the ceremonies are practiced, the rice will return in abundance.

In preparation for the 1988 Grand Council Treaty #3 assembly, the Treaty #3 Elders proposed a "Grand Council Treaty #3 Nation Declaration on Anishinabe Manomin":

> 1. The Creator put what we need to survive, including Anishinabe Manomin, on the land. He gave this to us. We have a duty to protect these things for future generations. If we do not, there will be trouble ahead.

2. Anishinabe Manomin is a sacred gift from the Creator. It must be used properly, according to the Elders' teachings. It must be respected and honoured.

3. Anishinabe Manomin was not given to the white people by the Creator. They do not know how to respect it. We did not give it to the white people in the Treaty or at any time. The Treaty agreement was that we would keep the Anishinabe Manomin. It says:

"The Indians will be free as by the past for their hunting and rice harvest."

4. How Anishinabe Manomin should be planted, picked, processed and sold will be decided in our communities, according to our Elders.

5. Our rights are from the Creator and guaranteed in the Treaty. If we honour the Creator, and if the white people honour the Treaty, we will not lose our rights. The white people must honour the Treaty because it says:

"This Treaty will last as long as the sun will shine and water runs, that is to say, forever."

Grand Council Treaty #3 Nation
Declaration on Anishinabe Manomin, 1988
(Figure 37, Appendix 12)

It is in the carrying out of age old traditions that Treaty #3 *Anishinaabeg* assert and practice their government. If governance is the "exercise of authority" (Funk & Wagnalls Canadian College Dictionary 1989), the *Anishinaabeg* would add 'which allows people to live in harmony with all the gifts of the Creator' . This is part of what Grand Council Treaty #3 refers to in 1994 as "sacred environmentalism" (Draft Political Accord between Grand Council Treaty #3 and the Minister of the Indian Affairs 1994). The spiritual identity of the *Anishinaabeg* entails caring for "all my relations" - the land, the waters, animals, birds, *manomin* and other fruits of the land, according to the "rules" that the Creator gave to the people. It is these rules or customs of the people that establish the law. *Mawendopenais* , one of the Grand Chiefs negotiating Treaty #3 in 1873, explained:

> "We think where we are is our property. I will tell you what He (the Great Spirit) said to us when He planted us here; the rules that we should follow - us Indians - He has given us rules that we should follow to govern us rightly." (Morris, 1888:59; Grand Council Treaty #3, 1992).

Endnotes:

1. "Mystique: a complex of transcendental or semitranscendental beliefs and attitudes directed toward or developing around an object (as a person, institution, idea or pursuit) and enhancing the value or significance of the object by enduing (sic) it with an esoteric truth or meaning" (Smith & Vogel, 1984:748 fn.8)

2. In the early part of the twentieth century, Anishinaabe names were replaced by Anglicized names. Kinew's family became Kelly (T.P.Kinew, 1972). One brother, George, smaller than his older brother, so Indian Affairs officials gave the family names of "George" and "Big George", seemingly distinct families today but actually closely related (S. Jack, 1977). At Seine River, an Indian agent happened to ask someone a question, and the man replied to what he thought was the question, "Bush -kaygiin" or "It's up to you", then that became the family name (S. Jack, 1977). The missionaries also contributed to the anglicization when children were taken into residential schools; enforced baptism ensured an anglicized name would be given and registered on the official Indian Affairs band membership list. Decades of such increasing intrusion indicated an increasing lack of respect and understanding.

The supression of indigenous religious ceremonies has been well described in Pettipas 1988, and of traditional economic activities in Holzkamm & Waisberg 1989, 1990, 1993.

Chapter Five

Manito Gitigaan, the Great Spirit's Garden

Early history of the Anishinaabe People and Manomin In Treaty #3 prior to 1873

The Lake of the Woods and other Boundary Waters of Northwestern Ontario and northern Minnesota are known as the "wild rice bowl" of North America (Jenks 1900; Aitken et al 1988:8). Archaeological data can assist us in determining how long rice has been growing in North America, but not how it appeared. In their oral tradition, the Boundary Waters *Anishinaabeg* relate its supernatural origin .

The *Anishinaabeg* believe that wild rice is *manomin* , literally, " a delicacy from the Creator". *Man* is part of the root of the word, *Manito,* the 'Great Spirit' or Creator, and *min* means 'good berry' or delicacy (Kinew 1978; Avery & Pawlik 1979). The ricefields are *Manito Gitigaan*, literally, "the Great Spirit's garden" (Kinew 1978; Alex Skead 1988; P. Gardner 1990). Indeed, the tending of the garden of the Great Spirit is a special gift entrusted by the Creator to *Anishinaabeg* . An integral part of *Anishinaabe* legend and ceremony, *manomin* has been known to *Anishinaabeg* from the earliest times of the Nation's memory.

The great teacher in *Anishinaabe* legends, *Nanaboozhoo* has been called a trickster for his supernatural abilities to transform into other animals or rocks, trees - and for his art of deception (Overholt & Calicott 1982). Actually, Nanaboozhoo is considered the original *Anishinaabe* (Kinew 1978; Binai 1981). The relating of his inventions and discoveries, along with his foibles and failings, are lessons in survival and cooperation in this world (Kinew 1974; N. Copenace 1976; Binai 1981; Overholt & Callicott 1982).

> "Albert Reagan in the 1910s collected the story: 'Manabozhoo [Wenabozhoo] goes Visiting" ... On his journey, the hero comes to a distant village of his people. Duck-Bill invites him home, but his wife has nothing to feed the guest:" 'Get things ready,' commanded Duck-Bill. "I'll get you something to cook. ' Then the men continued to tell more stories for a considerable time. As the [cooking] stones began to show a white heat, Duck-Bill began to flap his wings. In a few minutes he flew over the country to a rice field and soon returned with his mouth full of rice. This rice he put in the cooking tray and it soon swelled till it had filled the whole vessel. His wife then threw in the heated stones and in due time a feast of wild rice was set out before them and they had all that they wished to eat."

> On the following day Wenabozhoo reciprocates, and his wife is without food for her guest. Attempting the same solution, Wenabozhoo changes himself into a large clumsy duck and flies off to find wild rice. On his return, he loses his balance, falls, and injures himself badly, but manages to stagger to the cooking tray to spit out the rice he has gathered. Instead and unexpectedly, out flows sour mud, quickly filling the tray. Wenabozhoo has mistakenly turned himself into a mud-diver. The horrible odor of the mud causes the wife to throw it out, whereupon Duck-Bill gets rice for them. Once it is cooked , Duck-Bill refuses to eat it, saying., "No . . . This is for hungry people. My people have plenty to eat.'(Vennum 1988:63-64)

The humour of the above passage should not mislead people. This legend is a teaching, which conveys the ritual and richness associated with wild rice. The story speaks to the qualities of*manomin* as a tasty food, with the ability to fill anyone's stomach! It speaks to its purpose as a lasting, nourishing food to be shared. *Anishinabe* teachings throughout rice country, and particularly in Treaty #3, speak of the spiritual origins of *manomin* and the reverence due to this plant.

Plants are an integral part of *Anishinabe* spiritual life, as are wild meat and fish. Plants such as *wikeh* (bitterroot or sweetflag), *kiizhig* (cedar), *zhingoop* (spruce) are used in a medicinal tea for fasting and other ceremonies. Their inclusion in ceremonial life conveys the significance of such foods of sustenance, nutrition and healing that the Creator has bestowed upon the *Anishinaabeg* : *Manomin* (wild rice), *miinun* (blueberries), *shiiwaataagaanaabo* (maple syrup), *kiigo* (fish), *wiiaas* (meat) were foods considered at once blessed and part of the varied economy and diet that kept *Anishinaabeg* healthy. The harvesting of these foods, both plants and animals at different times of the year in an "annual round" was the sustainable development plan in the Boundary Waters of pre-Treaty times (Waisberg 1984; Vennum 1988). The importance of plants and medicines to the Anishinaabeg is increasingly finding its way into the literature (Densmore 1928; Moodie 1987; Holzkamm and Waisberg 1989, 1990).

In considering the origins of wild rice, science utilizes both direct and indirect evidence. Geologists posit that the whole Canadian region was under ice until some 23,000 to 13,000 years ago (Syms 1982: A-7). About 11,000 to 10,000 years ago, Lake Agassiz covered an area larger than the Boundary Waters to a depth of 100 feet of water. By 10,000 years ago, Lake Agassiz was retreating and a new fertile environment evolving (Syms 1982:B-4). The change

was from a warmer, dryer climate 7000 years ago to a cooler, wetter climate some 3000-2500 years ago (Rajnovich 1984).

The earliest palynological data has been found at Rice Lake in northern Minnesota where high pollen increases occurred at about 2500 +- 100 years ago (McAndrews 1969). Charred seeds have been found as well in the Boundary Waters dating from the middle to late Woodland period (E.Johnson1969; Kenyon 1961; Rajnovich 1984). Such positive evidence of wild rice growth is difficult to locate in the Boundary Waters to the north of those sites, due to changing water levels and erosion, and the greater difficulty of retaining plant remains rather than arrowheads (Rajnovich 1984). As Rajnovich notes, though, difficulties in present recovery and identification of wild rice do not necessarily indicate a real lack of utilization at certain periods of time (Rajnovich 1984).

Yet while researchers can determine that wild rice was abundant among the Boundary Waters 2000 years ago, some conclude "there is no evidence that the Laurel harvested it" (Swanholm 1978:21). These researchers consider that later forest dwellers, the Blackduck, probably the descendents of the Laurel, began the intensive harvesting of wild rice which enabled them to support larger populations in more settled communities (Swanholm 1978:23). "More recent research has stated that Laurel peoples extended into the thirteenth century (1240 +- 45), overlapping with Late Woodland Blackduck site in the area by as much as 300 years" (Reid and Rajnovich 1991:198, 219-220). Syms is confident that it was likely wild rice that allowed the moundbuilders of the Laurel culture to congregate:

> "A number of researchers have argued that manomin was spread by Indian peoples who left the remains of Laurel culture behind (McAndrews 1969, Saylor 1976, Stoffman 1973). In fact, it may well be that the seasonally concentrated manomin stands provided the surplus to enable the people to build the large burial mounds along the Rainy River system...The Indian use of manomin increased dramatically during the late Woodland period after 700 AD in part because of better preservation (Syms 1982: C-8)."

Archaeological researchers have also analyzed indirect evidence of *manomin* activity based on the location and nature of certain sites of wild rice harvesting of modern times. The office of the Ontario Archaeologist in Northwestern Ontario compared modern wild rice sites on Lake of the Woods with known settlement patterns of Middle and Late Woodland peoples (otherwise known as the Blackduck of 1,000 years ago and Laurel of up to 2,000 years ago).

The "site-stand hypothesis" was that settlement areas were chosen for their favourable access to resources. While a causal relationship was not established, the archaeologist noted that there is a "strong tendency for (Woodland)site-(wild rice) stand clustering", leading to the hypothesis that "the people of both the Middle and Late Woodland periods were aware of and gathered wild rice" (Rajnovich 1984:213).

By far the most significant find on Lake of the Woods is the Laurel site at the north end of the Lake, west of present day Wauzhushk Onigum First Nation (Rat (muskrat) Portage reserve) and the town of Kenora. Reid and Rajnovich's find of this Laurel site named Ballynacree indicates that ricing on Lake of the Woods and Boundary Waters was definitely of this early Woodland period of 2,000 years ago (Reid & Rajnovich 1991:219-220).

Within the Boundary Waters area, a number of archaeological digs have dated evidence of Aboriginal occupation from 5000 to 8000 years ago (Government of Ontario 1989; Halverson 1989; Reid and Rajnovich 1991). Artifacts dating back 8,000 years ago to Paleo Indians have been recovered near Lake of the Woods Provincial Park (the site of the Little Grassy reserve, just a few miles south of present day Big Grassy River First Nation) on the southeast end of Lake of the Woods ("Who Passed This Way?" Pamphlet of Ontario Regional Archaeologist, 1989).

At Nestor Falls, some 30 miles along the shoreline to the northeast of the Paleo site, and just a few miles south of the present Ojibways of Onigaming First Nation (formerly Sabaskong Reserve), a three year dig (1988-1990) found evidence of year round settlement over 3000 years (Halverson 1989). This site was not just a seasonal fishing station at the falls but a year round settlement where the people hunted buffalo and caribou, fished and harvested wild rice ("Indian settlement believed at least 3,000 years old", Canadian Press, Feb. 1990). Indeed, it is within memory of this generation of *Anishinaabeg* that both buffalo and caribou were seen and hunted on Lake of the Woods (Kinew 1990; Government of Ontario 1990).The discovery of a 2000 year old burial ground at the rapids at Whitefish Bay First Nation, Lake of the Woods, in 1989 provided further documentation of the site-stand hypothesis that settlement areas were chosen with favourable access to resources, particularly fish and rice (" Grisly discovery distresses tribal elders", Winnipeg Free Press, Sept.27, 1989; Rajnovich 1984).

One could ask, did the Boundary Waters *Anishinaabeg* find and follow *manomin* or did the people bring the plant? To historical geographer Dr. Wayne D. Moodie,

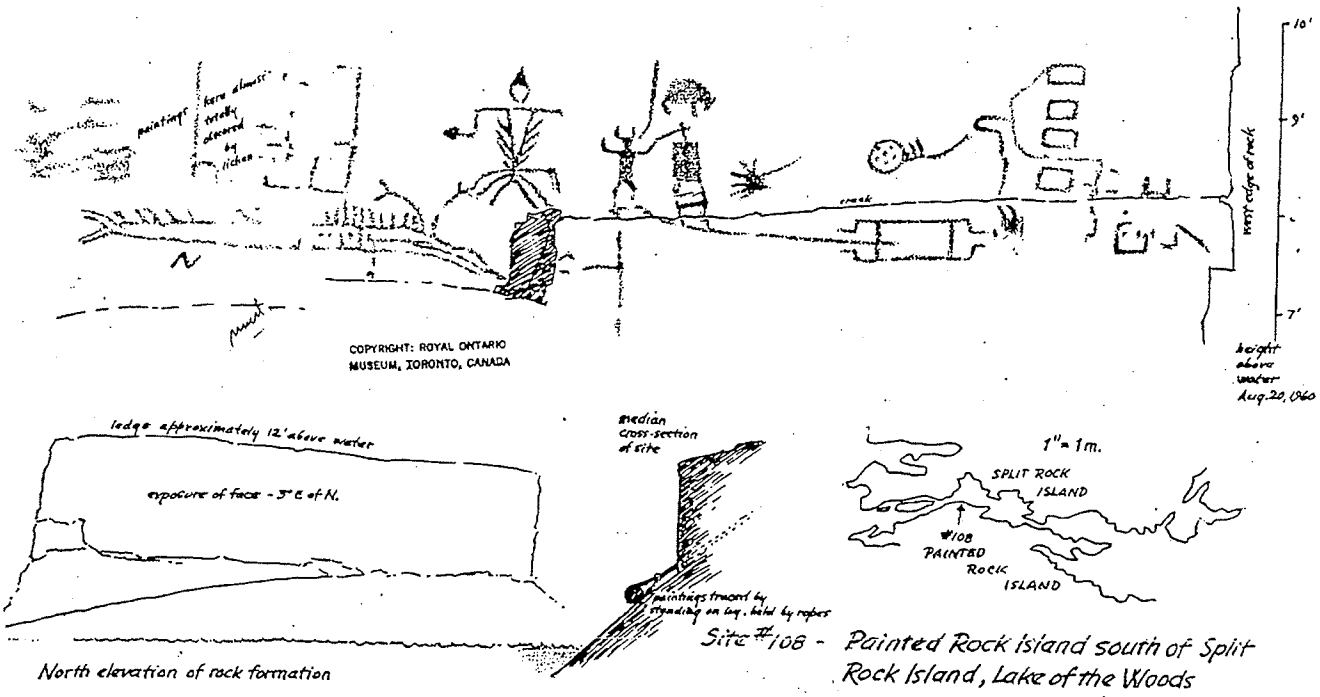
> "it would seem that all the rice producing areas identified in this region by Jenks at the end of the last century were the legacy, not of a bountiful nature, but of intentional plantings by the Ojibway people" (Moodie 1991:77).

According to Manitoba Museum of Man & Nature archaeologist, Dr. Leigh Syms, only Native peoples could have done this intentional spreading of the plant over vast distances. (Syms 1982: B-4/8). Moodie and others have documented "a variety of practices that were intended, not only to regulate the gathering of wild rice, but also to enhance its production" (Moodie 1991:71). These methods which altered its "geographical distribution" and enabled "more intensive forms of production" included intentional sowing of new stands, weeding, pest control (eg. trapping muskrats who ate the roots and stem, making perches for hawks to control the blackbird population), and bundling (ie, tying the rice grains to the stalks during ripening to protect from birds, wind, hail, rains) (Moodie 1991: 72-73; van de Vorst 1985).

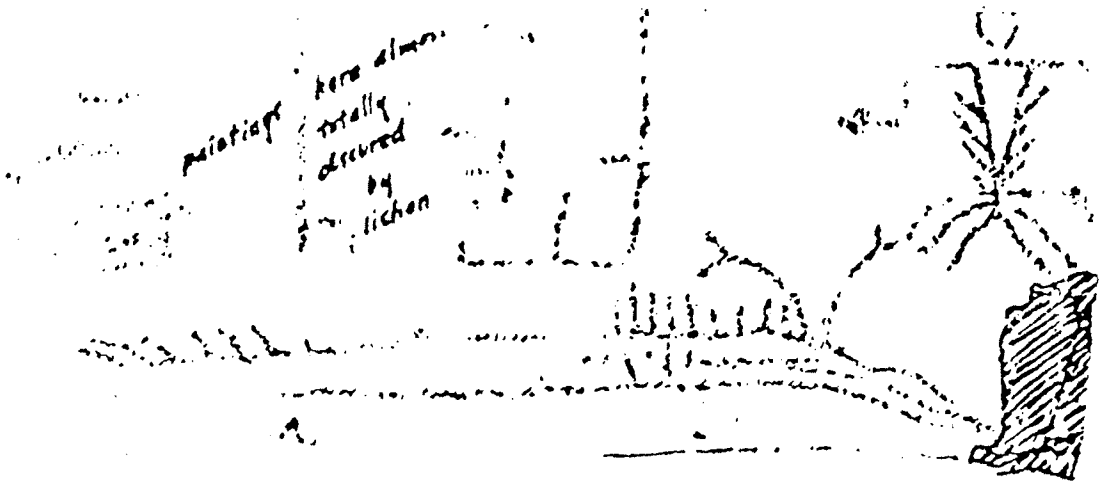
To the *Anishinaabeg* of the Boundary Waters known as Treaty #3, there is no question that they are the same people of the lakes and rivers where *manomin* and fish were prominent in sustaining their communal life many generations ago. The rock paintings throughout the Treaty #3 area of Lake of the Woods and Rainy Lake, and other inland lakes such as Berry Lake (close to Sioux Narrows) and Manitou Lakes (southwest of Dryden) are respected by *Anishinaabeg* today, as is evidenced by offerings of clothes and tobacco at these sites. These rock paintings are considered to be hundreds of years old. [1] While some academics conclude that the meaning of these rock paintings has been lost to the ages, the rock paintings contain messages that are understood by the *Anishinaabeg* , particularly members of their traditional religion, the *Mite'iwin* , whose birchbark scrolls contain many of the same symbols (Kinew1990; M. Seymour 1990; S. Bruyere 1990; Rajnovich 1994 and personal communication 1992). [2]

One of the most exciting pieces of evidence of the spiritual and cultural importance of *manomin* to the *Anishinaabeg* is the painting of an "anthropomorphic (human-like) manomin figure" on a rock face on Lake of the Woods (Dewdney 1975; Syms 1982; Rajnovich 1992 personal communication). (See Figure 22; also Appendix 3).

22. Rock Painting, Painted Rock Island south of Split Rock Island, Lake of the Woods, Dewdney Collection, Royal Ontario Museum



Enlargement of "Manomin Chief" in Split Rock Island painting (above)



The panel (Figure #22) is a replica of the rock painting located on the south shore of *Kichi Nayashi* (the Aulneau Peninsula) on Lake of the Woods, near Split Rock island (cited as #108, Painted Rock Island, Royal Ontario Museum files). At the upper right corner, one can see the manomin man with a rootlike leg structure, a body as a spreading leaf and grain such as *manomin* , and a pointed head. Manomin man (called the "Rice Chief" by Rajnovich, pers. comm. 1992) is connected in this rock painting to *kichi nameh* (the great sturgeon). This is a fish that was a mainstay of *Anishinaabe* diet and economy, and also a major *dodem* (clan) symbol for the Boundary Waters. To the left of the manomin man is a figure that may be a *Mite'iwin* lodge, but it has been "almost totally obscured by lichen" (Royal Ontario Museum replication, figure below). Immediately adjacent to and to the right of manomin man is a very characteristic painting of a *chisiki inini* (medicine man) doing a *chisiki* (shaking tent). The *chisiki* is a uniquely *Anishinaabe* ceremony of ancient times, recorded in many historic journals, and one still practiced by *Anishinaabeg* today. The *chisiki inini* (medicine man) enters a small, cylindrical tent, and calls spirits of animals and people. They are to answer questions given to him from petitioners who seek to know about health, safety, future of themselves or family members, or about other matters (Kinew 1990; Hallowell 1942). The bear figure on top of the shaking tent may indicate the very great power at work in this particular ceremony or may be the actual *dodem* of the artist and visionary. The line descending to the right of the *chisiki* (shaking tent) is attached to an obvious depiction of the *Mite'iwin* lodge (Kinew, 1993)[3] Thus, manomin man is both a central focus of the painting and indelibly linked with major symbols of the *Mite'iwin* religion.

This rock painting evidences the very significant role of *manomin* to the *Anishinaabe* people and their *Mite'iwin* religion, a fact that has been attested to many times by the Elders of Treaty #3 (Kinew 1990; Mrs. Kejick, Shoal Lake #39, and Walter Redsky of Shoal Lake #40, in Georges DuFaux, 1981; Stewart Jack 1977; Robin Greene of ShoalLake #39 in "A Grain of Dissent" Fifth Estate, 1982; John Jones of Nicickousemenecaning).

Who were the artists and visionaries who drew the rock paintings of the Boundary Waters? To the *Anishinaabeg* of Treaty #3, the answer lies in the drawings themselves - the *dodem* symbols of the people who live in Treaty #3 territory today, and the symbols of the *Mite'iwin* cermonies still practiced today (Rajnovich 1994). For years, academics have tended to ignore this relationship. In the late nineteenth century, when the first archeaologists delved into the Rainy River burial mounds of the Boundary Waters, speculation on the identity of the mound builders included speculations of Egyptians or one of the lost tribes of Israel. No thought was given to the *Anishinaabeg* who inhabit the area or their ancestors (Grand Mound Interpretive Centre tour and video, Little Fork, Minnesota).

Early missionaries and traders gave names to many Aboriginal peoples according to their location or family or characteristic of the time. By refusing to link those names to present day aboriginal peoples, some ethnohistorians and archaeologists have left successive generations more bewildered. Thus, the archeaological time line used across North America stretches from Paleo-Indian (3500+ before present), through Laurel (2000+B.P.), Blackduck (1000 B.P.), that is, early/middle/late Woodland periods including Selkirk. (Appendix 4). Some such labels are given according to criteria developed by an archaeologist who 'discovers' the dig. The Laurel people, for example, were named after the town of Laurel, Minnesota, which was used as a supply town for an archeaological team during the early 20th century digs of the Rainy River Mounds (S. Bruyere 1990). The Blackduck peoples were also named after another northern Minnesota town. Yet, academics now admit that Laurel and Blackduck were probably the same people whose pottery and culture evolved over time. Not surprisingly, this leads to amazing statements such as "experts agree that the Blackduck were ancestors of the Cheyenne or Assiniboine or Dakota or Ojibway or Cree" (Swanholm 1978:23)! Many scholars and Aboriginal people who have been introduced to archaeology prefer to recognize that the Blackduck are Ojibway and the Selkirk are Cree. Today, archaeologists state that "evidence suggests the northwest Algonkians are the same as the southwest" (Dawson 1983:23,26). Once again, social scientists of today are catching up to what is self-evident to the Indigenous people of this territory. Both Ojibway and Cree people refer to themselves as *Anishinaabeg* (Kinew 1972; S.Bruyere 1990).

A whole debate has raged about who are the Ojibway? Some academics conclude that the Ojibway are Cree (Morrison and Goldberg, 1986; Dawson 1983) while others consider the Ojibway recent comers to this Boundary Waters territory, likely in the late 17th century (Hallowell 1955, Dewdney 1975).

Who did the first explorers meet in the Boundary Waters? There are accounts that, in 1608, Jacques de Noyen, considered by some to be the first non-Aboriginal to see Lake of the Woods [4], met the Cat people. This is the *dodem* or family clan symbol of the *pizhew* (lynx) who live today at various First Nation communities throughout the Boundary Waters and beyond - from Lac La Croix near Quetico Provincial Park to Roseau, Manitoba, from Onigaming and Whitefish Bay on the east side of Lake of the Woods to *Wabeseemong* on the English River to the northwest (Kinew1990).

This academic debate matters not to the *Anishinaabeg* . While some historians argue the Ojibway migration occurred from the east only a few hundred years ago, many *Anishinaabeg* , especially on the north and west side of Lake Superior, argue an earlier time (Kinew 1990). One may even argue that their saltwater origin could have been what archaeologists call the Tyrell Sea that receded into Hudson Bay (Kinew 1990), which would also explain many of the teachings. The *Anishinaabeg* know from legend that they travelled from saltwater (where legend says Nanboozhoo spit out the bitter tasting water) and saw *mishipizhew* or lions in the waters. (TP Kinew considers these likely sea lions and walruses). The people followed the*Miigis* shell, an incarnation of the Creator (Benton-Binai 1981). Several academics question whether it was the people themselves who migrated - or was it their religion, the *Mite'iwin* , that moved (Moodie 1989; Waisberg 1984). Yet, the *Anishinaabe* people themselves accept both versions of the origin and live happily in that acceptance (Waisberg 1984).

The *Anishinaabeg* who now live in the Boundary Waters are the people of the *manomin* culture. It was both wild rice and fishing that enabled the Ojibway to maintain permanent settlements long before other nomadic peoples were able to do so (D.W.Moodie and James G.E. Smith, University of Manitoba course lectures on The Ojibwa, 1989). A closer examination of historical records of the late nineteenth century has afforded a view of the Boundary Waters

Anishinaabeg as people who incorporated as a major portion of their diet, plants such as wild rice, and gardens of potatoes, squash, pumpkins, beans, carrots, onions and corn (Holzkamm & Waisberg 1993:417) Indeed, "two bushels per person of rice should be considered a conservative average harvest", taking into consideration "occasional failures in the rice crop" (ibid). The *Anishinaabe* people of the territory that became known as Treaty #3 recognize their relationship to *manomin* as being, at once, ancient, sacred and nourturing - a gift from the Creator .

Early historical records bear witness to this legacy. In the early seventeenth century, LaVerendrye's travels west from Lake Superior, into what became Treaty #3 territory, led him into the rice bowl of "wild oats .. found in abundance" throughout Lake of the Woods and the lakes and rivers interconnecting (Holzkamm 1985:89, Appendix B). About thirty years later, Alexander Henry reported at Lac des Iles or Lake of the Woods that the *Anishinaabe* women bartered their rice for goods with him most of the night, while their men drank rum from the traders. Henry reported that "without a large quantity of rice, the voyage could not have been prosecuted to its completion" (Holzkamm 1985: 66, Appendix B).

Traders frequently reported the gifts of wild rice and dried meat or fish that were presented to them in the formality of trading of the day. *Manomin* was often packed and sold in fawn skins or kept in bark boxes called *moccucks* (Fred Greene 1990; Jenks 1900).

Peter Grant, at the turn of the nineteenth century, remarked about the importance of *manomin* to the "Saulteaux"(yet other name for the *Anishinaabe* people):

> "A kind of wild rice grows spontaneously and in abundance in most of their small muddy creeks and bays. This wholesome grain is of infinite use to the Natives, being an excellant food when boiled with a little fat, fish, sugar or any kind of meat, and, as it costs them nothing but gathering and husking, which is a very simple process, they never fail to lay by large quantities of it for the comsumption of the year." (Holzkamm 1985:59, Appendix B)

Grant also related the importance of wild rice to the feasting in ceremonial life:

> (For a departing war party) "Smoking and singing were alternately repeated in this manner for the first part of the night; we were then entertained with a feast consisting of wild rice, pounded meat, bear's fat and sugar, all mixed in a large kettle, which the Michinawois himself distributed to the company, not, indeed, by their ordinary custom of giving each individual his share on a separate dish, but in this particular occasion, the feast was too sacred to be poluted with either dishes, spoons or even the fingers of the profane, the Michinawois alone, as the

> immediate minister of the ceremony, could presume to handle it. He, therefore, took the kettle in one hand, while, with great solemnity, he crammed the other in the kettle, taking a small portion of the victuals between his fingers and forcing it in the mouths of the company as he went around the circle" (Holzkamm 1985: 59-60, Appendix B).

Despite Grant's evocative language, one can draw a ready paralle to the Roman Catholic priest dispensing the communion bread.

The major exploring expeditions of the early nineteenth century found the wild rice plant to be in great abundance, particularly on Lake of the Woods, and the Chippewa/Saulteux/Ojibway (all names for *Anishinaabeg*) very occupied in collecting it. William Keating in his 1823 expedition recounted:

> The Chippewas obtain the wild rice, upon which they chiefly subsist, by going in canoes, (two men in each canoe)[5] into the rivers or lakes in which it grows. Both men are provided with long poles. When they have reached a field of rice, one of the men with his pole turns down into the canoe the plant from one side,. and the other thrashes it until all the grain is separated from the stem. The same operation is performed with that on the other side; after which they move the canoe to another place, and continue until they have obtained a sufficient supply. They can, in this manner, often collect with ease from twenty to thirty bushels per day. The grain is subsequently dried over a small fire by placing it in a fine sieve made of reeds, secured in a square frame. It is then collected into a small hole, and trampled under foot in order to separate the hull without crushing the grain, which is afterwards separated from the chaff by stirring it in wooden platters, exposed to a gentle wind. (Keating 1959:156).

Simon J. Dawson, an engineer and explorer of the 1850s, who eventually became a commissioner to Treaty #3, reported on the Ojibway country of the Boundary Waters in 1859:

> "As many as 500 (*Anishinaabeg*), I have been told, sometimes assemble together .. the fact of their having an abundance of food at certain seasons enables them to collect in numbers sufficiently great to be formidable if inclined to be troublesome. Sir John Richardson, who passed several times through their country, describes them as being 'saucy, and independent of the Hudson's Bay Company, from the fact that they have abundance of sturgeon and wild rice, so that they can feed themselves without having recourse to the supplies or clothing with which the Hudson's Bay Company supply their Indians'. " (Dawson, S.J., 1859, in "We Ask for Fair Play: Wild Plant Useage in Treaty #3", Grand Council Treaty #3, 1992)

It was Dawson who recognized not only the economic and strategic importance of *manomin* to the *Anishinaabeg,* but also the intertwining of *manomin* with the governance of the *Anishinaabe* people:

> "At the time of the rice harvest the authority and patience of the chiefs are put to the test in deciding disputed claims and meeting out justice to all, which however, they manage to do, to the general satisfaction except in the case of the Indians from the Winnipeg, who, although belonging to the same tribe, are looked upon as a sort of outside barbarians and being the weaker party, are driven off without much ceremony." (Dawson, 1870 in Grand Council Treaty #3, 1992)

Although Albert Jenks captured in more detail the unpredictability of the crop in his classic study of the Wild Rice Gatherers of the Upper Great Lakes (1899), Dawson succinctly described the natural forces at work in the rice harvest:

> "It may be mentioned that the rice is not always a sure crop. If the water should be too high, it in a measure fails, and even when it promises well, if heavy rains with strong gales occur when it is ripening, it is beaten down to the water and considered valueless and the moment it begins to ripen the wild fowl attack it, sometimes in such numbers as to impair the harvest." (Dawson, S. J., 1870 in Grand Council Treaty #3, 1992)

In recognition of these natural forces, the *Anishinaabeg* carried out ceremonies to humbly ask the Creator for good weather to ensure a good harvest (Chapters 3 & 4). And from this reverence for *Manito gitigaan* came intimate knowledge and the mastery of technology, "the picture of aboriginal economic activity which is absolutely unique, and in which no article is employed not of aboriginal conception and workmanship" (Jenks 1900:1019). The aboriginal character of *manomin* and the *Anishinaabeg* themselves are intertwined.

There is no system in place in Canada that can comprehend or deal with such an understanding of *Anishinaabe* relationship to the land and resources. To the *Anishinaabeg*, this is not an issue. It is their sovereign jurisdiction, their self-governance that will be practiced no matter what outside law may say. This is what is understood in having a "right", whether Treaty, aboriginal or *Anishinaabe*. The right continues. What is problematic is "the facts which show the inability to be sovereign in the sense of having absolute control over one's territory ..The Anishinaabeg do not need this test to assert their identity and rights" (Paul Chartrand, pers comm 1995).

Yet, if one were seeking recognition of outsiders to the *Anishinaabe* right to self-governance in Manito Gitigaan, one can consider the tests established in Canadian law for aboriginal control of territory. Canadian courts have utilized a test for proof of aboriginal title,

detailed by Judge Mahoney in Baker Lake v. Min. of Indian Affairs & Northern Development, [1979] 3 C.N.L.R.:45. It set out the following conditions:

> "The elements which the Plaintiffs must prove to establish an aboriginal title cognizable at common law are:
>
> (i) That they and their ancestors were members of an organized society
>
> (2)That the organized society occupied the specific territory over which they assert aboriginal title
>
> (3) That the occupation was to the exclusion of other organized societies.
>
> (4) That the occupation was an established fact at the time sovereignty was asserted by England." (Woodward1989:216)

It is important to note that this Baker Lake test is "only relevant to legal proof of aboriginal title in a Canada court", and that some legal authorities question whether it is "right in law" (Paul Chartrand, Norman Zlotkin pers. comm. 1995). The fact remains that this test has been used by judges in subsequent cases, and has informed the public with expectations regarding a 'proof' to be required for aboriginal title . At the risk of second-guessing another judge, it is worth noting that the Boundary Waters *Anishinaabeg* of Treaty #3 do meet this test.

The *Anishinaabeg* continue to be an organized society, a people"having institutions of their own, and governing themselves by their own laws"(Hall J., in Calder 1973, cited in Woodward 1989:216). Their traditional Boundary Waters territory began to be carved up when the United States and Britain declared an international boundary in 1789, and was further circumscribed when the 55,000 square mile territory was described in Treaty #3 of 1873. However, the ancient occupation of this territory by the *Anishinaabeg* (both Cree and Ojibway) is an accepted historical fact. And, Canadian law recognizes that "no tribe (was) wholly self sufficient or occupied its territory to the complete exclusion of others" (in Sparrow, cited in Woodward 1989: 217). *Anishinaabe* occupation of the Boundary waters certainly predates the British assertion of sovereignty in 1763, and had carried on for "a substantial period" as required in the Baker case (Woodward 1989: 216-218; Reiter 1991). Under such a test, the Treaty #3 *Anishinaabeg* would demonstrate beyond a doubt

that theirs was the culture and governance of the Great Spirit's Garden in the Boundary Waters.

As archaeologists continue to extend our knowledge of early peoples of the Boundary Waters, and new 'discoveries' are made about the tenure of *manomin* in this territory, Treaty #3 *Anishinaabeg* continue to plant, harvest, process, and keep or trade the rice - as they have since time before memory.

Endnotes:

1. Recent research by Bob Salzer and crew at the Gottschalt site in southwestern Wisconsin is analyzing paint spills near rock art. Their analysis will allow a radiocarbon dating not presently available to Shield art situated beside the water. Reports indicate that the Wisconsin rock art is dated to 900-1000 A.D. and should indicate as early a date for Shield Art (Grace Rajnovich to Kathi Avery Kinew, July 13,1992 correspondence).

2. In interpreting rock art, researchers are beginning to acknowledge that *Anishinaabeg* of today, who are initiated into the *Mite'iwin* , can understand the birchbark scrolls (with pictographs written on, used in religious ceremonies) and may act as guides. As one archeaologist says, "The idea is really very common sensical - listen to the Elders of today and of the old days whose thoughts were written down by trustworthy people like Frances Densmore and others. They told their stories and philosophies for a purpose - they wanted us to know!" (Grace Rajnovich to Kathi Avery Kinew, July 13,1992 correspondence)

3. " (This figure) is ..a pictograph on Lake of the Woods in northwestern Ontario.. The rock art panel is Midewiwin, showing at the right the floor plan of the Mide lodge where ceremonies take place. A path leads out to a horned Mide master playing a drum and Bear, a powerful spirit of the Midewiwin. On the left is the Sturgeon and , above it, a figure that is probably a depiction of the Wild Rice Chief, either a person who is chief of the annual rice harvest or a spirit of the rice. Both sturgeon and rice are ingredients of a feast." (Grace Rajnovich, "Going Straight to the Heart at Gottschall", Gottshcall News, Newsletter of the Gottschall Rock Art Project, Logan Museum of Anthropology, Beloit College, May 1993, vol.9: 9-10)

4. Grand Council Treaty #3 Treaties & Aboriginal Rights Research (TARR) dismisses de Noyen's importance and challenges whether he was, in fact, ever at Lake of the Woods (L. Waisberg pers. comm. 1993).

5. There is some debate about whether planting, tending, harvesting and processing wild rice were historically women's or men's tasks. Some early historical records refer to women bundling the crop and then harvesting it, and some early drawings depict women only in the canoe harvesting. However, some early descriptions, such as Keating's in 1823, refer to "two men". More likely is the joint involvment of both sexes. For example, botanist John Bigsby reported of Lake of the Woods in 1830's reported that men and women were involved - the men harvesting, the women in storing them away.

By the twentieth century, within Treaty #3, all combinations of people would plant and harvest - married couples, grandmother and grandson or grandaughter, sisters or brothers, best friends, young and old. The processing of the rice became more circumscribed to gender in

that, while both sexes may lay out the rice for curing, the women usually did the roasting and the men would do the thrashing or 'dancing' on the rice. Either sex, more often the women, would do the winnowing - and would have made the birchbark baskets for this purpose, as well as containers for the post-roasting phase and the final "finished" phase. The men more likely carved the "rice sticks", the two foot length poles of light weight used to bend and thrash the rice into the canoe.

The question of what sex roles were historically prominent in ricing came about in historian Jean Friesen's consideration of Treaty #3 manomin. She was questioning why the government printed version of Treaty #3 does not even refer to wild rice. Then some students asked if ricing were mainly the women's task. Friesen considered that if this were the case, then the Crown representatives would not have taken it as seriously as the men's occupations, or "avocations" of hunting and fishing, as the government text of Treaty #3 reads (Jean Friesen pers. comm. 1991).

Early historical records attest to the importance of wild rice to the fur trade and the economy of the *Anishinaabeg* . Such records also indicate the prominent role women played in trading as well as ricing. On the basis of historical records alone, it is unclear but likely that defined sex roles regarding ricing existed and have changed through time.

Chapter Six

The spirit and intent of Treaty-making in the Boundary Waters, 1869-1873.

"The Commissioners don't wish that their Indians leave their harvest immediately to step into their reserves..The Indians shall be free as by the past for their hunting and rice harvest."
Treaty #3/Paypom Treaty, 1873

A fiercely cold wind blew across the Northwest Angle Inlet on October 3, 1981. The Governor General's helicopter added a dusty force to that wind but managed to land safely at Northwest Angle #33B reserve on Lake of the Woods, at the juncture of Northwestern Ontario, Manitoba and Minnesota. Chief Ron Sandy, *Tans* , and his wife, Josephine, and family greeted the Governor General Schreyer. His Excellency would later say, he was greeted just as Chief Peguis had welcomed the first Selkirk settlers to the mouth of Winnipeg River 160 years earlier - with warm clothes and good food. The Governor General wore Chief Sandy's parka the rest of the day . (Figure 23)

Chiefs, Elders, band members of all ages from the 25 member First Nations of Treaty #3 had assembled at this site of *Animakee Wa Zhing*, the sacred place of the Thunder Birds. [1] They had gathered to celebrate the 108th anniversary of Treaty #3 near the site where it was signed.

Master of Ceremonies, Chief Charlie Nash of nearby Northwest Angle #37, welcomed everyone by explaining the significance of Treaty #3. It was a treaty signed Nation to Nation, after four years of negotiations, that was to be the model for all remaining numbered treaties of western and northern Canada. Even Treaties 1 & 2 of 1871 had to be renegotiated in light of the stronger terms of Treaty #3 (Speech by Chief Charlie Nash, Oct.3, 1981).

Chief Nash explained why Treaty #3 people were rededicating themselves to the Treaty in that 1981 assembly:

Schreyer to tell Ottawa of claims that governments violating treaty

By Joe Rubin
Winnipeg Free Press

NORTHWEST ANGLE, Ont. — Gov.-Gen. Ed Schreyer has promised area Indians he will tell the federal government of their concerns about Ottawa's alleged disregard of fishing and rice harvesting rights granted them in an 1873 treaty.

Schreyer made the comments Saturday at the Indian reserve here, about 40 kilometres southeast of Falcon Lake, during a special ceremony to mark the site where Treaty No. 3 was negotiated and signed by the Indians and the Crown.

The 1½-hour ceremony, held on a granite outcropping on the shores of Lake of the Woods, began with a traditional prayer ceremony and ended in the unveiling of a marker dedicating Animakee-Wa-Zhing — Sacred Place of the Thunderbirds.

Treaty No. 3 gave 8,000 Indians in 25 Ontario and Manitoba bands the right to hunt, fish and harvest rice in the 140,449-square-kilometre area between the Lakehead and Whiteshell Provincial Park "as long as the sun will shine and the water runs."

The original treaty, handwritten on two sheets of parchment and preserved between pieces of plastic, was shown to Schreyer by Allan Paypom, an elder of the Washagamis Bay band who has been in charge of the document's safekeeping.

It was the first time a representative of the Crown had been shown the Indians' copy of the 1873 treaty since its signing.

Charlie Nash, chief of the Northwest Angle band, said both the Ontario and federal governments have broken the terms of the treaty.

WAYNE GLOWACKI/WINNIPEG FREE PRESS

23. Schreyer to tell Ottawa of claims that governments violating treaty, Winnipeg Free Press, October 5, 1981

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Grand Chief Robin Green of Shoal Lake smokes a sacred p
the ceremony marking the site of the signing of Treaty N

A few days ago (Prime Minister) Trudeau said he would bring the Constitution home to Canada with an entrenched charter of rights. He said this Charter recognizes our Treaty and Aboriginal rights. But the Charter can be changed by any six provinces and the federal government. Thus, our Treaty and aboriginal rights are in jeopardy without the Indian people even being consulted. This is not what our ancestors wanted or negotiated for in 1873.

In the 108 years since the Treaty was signed, what has happened to the promises made Nation to Nation? The Anishinaabe have kept our promises. We have allowed settlement in our lands. We have gone further and allowed development never dreamed of - we've done more than our share ..

What about the promises the Crown made? Today we see our people being arrested for fishing with nets - their boats and gear confiscated - their lives disrupted by court. Why? All because our people continue to live according to our Treaty...

Today we see the Ontario government is trying to manipulate and take our wild rice harvest away from us. The Ontario government imposed a five year moratorium on any changes to the Wild Rice Harvesting Act during which time they were supposed to help us develop a better Native wild rice industry. Next year is the end of that moratorium. We have seen two years harvest flooded out completely, one year badly affected by high waters and only one good year and no practical assistance from Ontario in developing our industry. This moratorium must be extended.

Yet we know our Treaty protects our right to rice. **As you will hear our Elder Allan Paypom of Washagamis Bay tell you that Treaty #3 promised wild rice would be ours "free as by the past" - to our people.** That means we would be able to continue to sell rice, gather it, and develop new areas and new methods of harvesting and processing, just as our ancestors did. **Manomin is a gift to the people from the Great Spirit, guaranteed to us by Treaty.** Our rights must be recognized.

"Today when our rights are under attack by the very governments who pledged to uphold the promises of our Treaty, when our tie with the Imperial Crown is threatened to be cut forever, it is time that we rededicate our selves to the promises that our forefathers won through years of negotiations. It is necessary for everyone to **remember that Treaty #3 promises the continuation of our traditional livelihood and the future of economic development.**"
(emphasis added, NFB recording of October 3,1981 celebration at Northwest Angle #33B, for uncompleted film, "Manomin")

Northwest Angle Elder Frank "Shorty" Powassin, a direct descendent of one of the main *Anishinaabe* negotiators of Treaty #3, expressed his happiness at everyone

coming. Powassin said that to relate all that his ancestors told him about the Treaty would keep him talking all day. And then, octogenarian Elder Allan Paypom from Washagamis Bay, at the north end of Lake of the Woods, presented, for the Governor General to view, a parchment copy of Treaty #3.

Paypom had kept this document in his possession since 1908: "I have this old document in my hand .. I suppose no other government ever had a look at it - this old copy - now I want him to have a look at it." (Dufaux recording, 1981) Chief Nash told everyone "We're going to let the Governor General have a look at it and read it over and we're not going to present it to anybody." (The parchment treaty remains to this day in the safekeeping of Allan Paypom's family.) (Appendix 5)

The Governor General later said, that "in the few minutes I have had to read it, I can certainly say to all of you that I believe this to be the terms of Treaty #3 signed back in 1873". This pronouncement was greeted by applause and cheers from the audience. Schreyer undertook to write a personal report to the Queen and senior people in government, with a copy of the Paypom document if the Elder and Chiefs would allow, to report on what transpired at the Angle, in this "reenactment of history". The Governor General said he would communicate with higher officials if there were documentation of "some aspect of Treaty solemnly entered into that is not being kept". Treaty #3 Grand Chief Robin Greene thanked the Governor General and assured him that a copy of Paypom's document would be made available for him to take the Treaty #3 message to the Queen and senior people in government "that can protect our rights".

With *Anishinaabe* singers of the Lake of the Woods drum singing their traditional songs, and the British flag flapping in the bitter wind, the Governor General joined Elder Powassin and the two Chiefs of Northwest Angle, Ron Sandy and Charlie Nash, in unveiling a newly minted plaque.

Grand Council Treaty #3, whose Chiefs and staff had planned this historic event, had a bronze plaque cast. Chief Sandy had then mounted it on a concrete platform. The

plaque still stands on a rock promontory surrounded on three sides by the waters of Lake of the Woods, and and encircled on one side, by sweetgrass, the medicinal plant of purification in *Anishinaabe* ceremonies.

The historic plaque is situated near the actual site of the several days of negotiations where Treaty #3 was finally signed in 1873. The Grand Council had tried to interest Parks Canada and the Ontario Heritage Council in contributing to this historic site and adding it to their list, but there was no positive response. The Grand Council proceeded with its own celebration. Chief Ron Sandy built the monument and the Grand Council had the plaque engraved. The dedication of the plaque reads:

> **Animakee Wa Zhing - Sacred Place of the Thunderbirds**
>
> Near this site, on October 3rd, 1873, Powassin and Mawin Do Penais, spokesmen for the Ogitchi Taug of the Anishinabe Nation, concluded the Northwest Angle Treaty, Treaty Number Three, with Lieutenant Governor Alexander Morris, representative of Queen Victoria.
>
> This Treaty between the British Crown and the Anishinabe Nation recognized the sovereignty of the Anishinabe people in the Lake of the Woods and Rainy Lake country, to the English River and Lac Seul in the north. Treaty #3 was to become the model for all Treaties made in western Canada thereafter. The Anishinabe permitted safe passage to settlers, the Crown recognized the rights of the Anishinahbe people to their lands, waters, resources, government and culture.
>
> In the words of Treaty #3, these rights will last as long as the sun will shine and the waters run, that is to say forever.
>
> This plaque is dedicated to the continuation of our rights by the Chiefs and Elders of Grand Council Treaty #3, this third day of October, 1981.

The unveiling of the plaque in what Schreyer called a "reenactment of history" was memorable in itself. This October 3, 1981 was also the first time the Chiefs and Elders of Grand Council Treaty #3, and Elder Paypom himself, had agreed to bring the parchment document of the "real" terms of the Treaty into the public domain. Yet, perhaps the most significant legacy of this historic event was the public acknowledgment of the Elders as the keepers of the Treaty, and the "spirit and intent" of the Treaty.

October 3rd 1981 celebrated the oral tradition that kept alive the 'spirit and intent of Treaty #3.

Grand Council Treaty #3 Treaties & Aboriginal Rights Research (TARR) program has documented the written evidence of the Paypom document, now referred to as the Paypom Treaty. The Elders know this Paypom Treaty by the name, *Manito Mazina'igan* , the sacred document. Yet it was the oral tradition of the Elders which had always kept the promises of the Treaty alive in the collective memory of the people.

Common practice among *Anishinaabe* people in those days of the nineteenth century was to assign people who would commit to memory the important discussions and conclusions of treaty making and other important meetings. Their memories provided the invisible texts that would form the records of historic events ("Indigenous Rights of Treaty #3 Indians" pamphlet, Grand Council Treaty #3, 1992). Promises were committed to the future by the safekeeping of the oral tradition.

With Treaty #3, the *Ogitchi Taaug*, the renowned and spiritually guided leaders, had gone further than this usual practice. The leaders had obtained the services of two Metis interpreters who consigned the promises to writing. Messieurs Joseph and August Nolin listened to the Ojibway and English negotiations and wrote the agreements on paper. This parchment document was given to one of the lead *Anishinaabe* negotiators, Powassin of Animakee Wa Zhing. Lt-Gov Morris attached a copy of these "Nolin notes", written in English and signed by the interpreters, to his official report to Ottawa. They can be found today in the Public Archives of Canada in Ottawa as well as the Manitoba Archives in Winnipeg.

The Paypom document of Powassin's was obtained by Elder and Chief Paypom of Washagamis Bay in the 1920s from a local photographer Charles Linde. The Nolin notes of the two archives and the Paypom Treaty are in effect the same, and the order of promises contained therein closely follows both Lt-Governor Morris and the Manitoban

news report of negotiations and conclusions of the Treaty making process (Morris 1880, Grand Council Treaty #3 TARR 1992).

Treaty #3 was one of the most strategic locations necessary to building the new Canada, a mari usque ad mare. By the terms of the Act admitting British Columbia to Canada in 1870, the Canadian Pacific Railway had to be built through this territory (Morris 1880; Daugherty 1986). The Boundary Waters *Anishinaabeg* had "objected to the progress of surveyors and troops through their territory", and the government had begun talks with them even before the Red River resistance had been dealt with (Miller 1989:161). Treaty commissioner Simon J. Dawson was an engineer who explored the area, and then designed and built the route of portages and corduroy roads connecting Fort William with the Red River settlement, through the boundary waters that became Treaty #3. He was well aware of the abundant timber and mineral resources of the area.

The *Anishinabeg* were also keenly aware of the riches of their land . At the Treaty negotiations in 1873, Grand Chief Mawedopenais told the Lt-Governor, "The sound of the rustling of the gold is under my feet" (Morris 1880:62). The *Anishinaabeg* were secure in their military prowess, having been challenged and victorious in years of warfare with the Sioux. Importantly, they had a long-established tradition of treaty and alliance making, to ensure peace or to secure trading relations (Warren 1885). Treaty-making had become one of their "major tools of adaptation" (Friesen 1985:7; Miller 1989: 168).

Accordingly, the original meeting to inaugurate the Treaty process with representatives of the British Crown, took place - not at the Angle Inlet in 1873 but - in Fort Frances in 1869. Boundary Waters *Anishinaabe* leaders or "headmen" (as they were dubbed by the British Crown delegates) presented Simon J. Dawson with a list of items including clothing, food, and agricultural implements and animals that would be required in any treaty. They also required payment for the use of their land as a thoroughfare, particularly the overland and water route from Port Arthur through

Treaty #3 area of Crane Lake, Lac La Croix, Rainy Lake, Rainy River through Lake of the Woods and across the corduroy road known as the Dawson Trail to the Red River settlement. The *Anishinaabeg* were definitely seen as a threat by future Treaty #3 Commissioner, S.J. Dawson:

> "These Indians hold a very critical position on the line of route and that, if disposed to hostility, they might give a vast amount of trouble and occasion an outlay greatly in excess of what will be involved in a conciliatory and liberal policy such as that I have recommended". (S.J.Dawson 1870 report on the Saulteaux and resources of the boundary waters, cited in Grand Council Treaty #3, 1972:27).

In 1870, the representatives of the British Crown and the *Anishinaabe* Nation met, but could reach no agreement, particularly regarding compensation for past use of their territory. The federal government decided to treat with Indians closer to the Red River settlement the following year, and Treaty #1 and #2 were made in 1871. In 1872, the Lake of the Woods meeting closed early due to the outbreak of an epidemic, and no treaty was made.

However, discussions held up to that point led to an early drafting of the legal jargon of Treaty #3 in Ottawa prior to 1873. According to Commissioner Dawson, it was the 1872 version that was "finally adopted and signed" at Northwest Angle; Morris, "in his haste to conclude an agreement, used as a finalized version the draft treaty which did not reflect the new items of agreement" reached at the Angle (PAC, RG10, v.3800, f.48,542, S.J. Dawson to Deputy Minister of Indian Affairs, Hayter Reed, 26 April, 1895). (Appendix 6)

Indeed, a review of Lt-Governor Alexander Morris' report of the proceedings needs to be tempered with other sources regarding the Treaty, notably the papers of Alexander Morris and Simon J. Dawson, his fellow commissioner; the Manitoban newspaper report of the 1873 proceedings; the Paypom Treaty and Nolin Notes; and the oral tradition of Treaty #3 Elders. With an analysis of such documentation, it becomes clear that the government printed version of Treaty #3 is misleading.

According to research undertaken by Grand Council Treaty #3 Treaties and Aboriginal Rights Research, the actual contents of Treaty #3 include:

(i) the written promises of the Paypom Treaty (to keep manomin "as by the past")

(ii) 'outside promises' that can be documented as having been discussed and agreed upon by both sides in 1873; some agreements were omitted or adapted in the government printed text . There are several examples. The setting aside of the fisheries was absolutely insisted on in negotiations in 1873, and meetings leading up to that time. Treaty Commissioner S.J. Dawson related twenty years after Treaty that the Ojibway never would have signed the Treaty if they had known their fishery would have been affected; "Years afterward treaty commissioner S.J. Dawson remembered assuring the First Nations that they would "forever have the use of their fisheries" (Treaty rights to Fisheries pamphlet, Grand Council Treaty #3, 1992). In another instance, minerals were part of the natural resources retained by the *Anishinaabeg* ; the government printed Treaty is silent on the issue of minerals, though later legislation and policy acknowledged the 100% ownership in Treaty #3 (Holzkamm1988). There was also a fundamental misunderstanding regarding reserves; the *Anishinaabeg* never considered them to be enclaves where only they would permanently settle; they expected to continue to use their traditional territories in their annual round of utilizing all resources. As reserves became their only home, the *Anishinaabeg* came to call them "*shkunigan* " or "leftover land" (P. Kelly 1972, N. Copenace Jr. 1993).

(iii) rights of the *Anishinabeg* that were considered so integral to their way of life that they were not even mentioned, that is, the right to self government, freedom of religion and the maintenance of culture and language (Grand Council Treaty #3 TARR 1992, 1995).

The *Anishinaabe* language holds the key to understanding the conflict which has existed for generations between the newcomers (and their imposed governments) and the *Anishinaabeg* over the terms of their relationship. To the *Anishinaabe* people, it is the

Treaty which governs their relations with the Crown governments and the newcomers. All authority to enter into Treaty comes from the Creator, and all life and land come from the Creator. To the newcomers and their governments, it is the Crown that holds underlying title to all land and resources. Once a Treaty has been made, thereby fulfilling the terms of the Royal Proclamation of 1763 and the philosophical tenets of the day, then the Crown can proceed as it wishes to dispose of Indian lands (Dickason et al 1992; Kulchyski 1994).

The *Anishinaabeg* know that the Paypom Treaty holds the closest documentation of the spirit and intent of Treaty #3 for two very significant reasons. First, the English words can be easily translated into the *Anishinaabe* language; such is not the case with the 'legalese' of the government printed version. As indicated, Grand Council Treaty #3 TARR has also undertaken archival research which shows that the government written version was actually written in Ottawa before the 1873 negotiations and brought to the site for signature (Waisberg and Holzkamm 1992:48). Secondly, once translated from the English on parchment back to the Ojibway language, *Anishinaabemowin* , the Paypom Treaty accurately reflects much of the oral tradition of the Elders regarding what was said at Treaty in 1873. The oral tradition of the Elders kept the spirit and intent of Treaty #3 alive, just as they have the traditional teachings - within the sacred ceremonies and with members of the extended family and *dodemuk* (clans). Ceremonies had to be conducted in secret due to the repression of government officials, the R.C.M.P., and missionaries, whose harsh penalties were approved under successive Indian Acts (Pettipas1988).

Many historians used to plead the case that the Indians were not real participants in the treaty process but mere receivers of the word drafted by Ottawa (Friesen, J. 1973:1-2 regarding Stanley, et al.) . More modern historians have revisited the archives and found evidence of actual negotiations and keenness of strategy by the *Anishinaabeg* and other Treaty Nations that grew from their experience in the fur trade

and making alliances with neighbouring Indigenous Nations (Friesen, J. 1973, 1984, 1985; Taylor, JL 1975, 1991; Hall, D.1984; Price 1979).

Yet, historian J.L. Taylor notes that when one realizes "those treaty provisions that best support a claim for deliberation, wisdom and benevolence came from the Indian side", then "the picture is one of a government seeking to forestall potential trouble from the Indian inhabitants occupying the site of its prospective development project and attempting to do so at least cost" (Taylor, 1991:210).

First Nations leaders agree with this interpretation. *Anishinaabeg* of the Boundary Waters were experienced in Treaty making and had the benefit of advice from relatives who had entered major treaties in the United States; Treaty commissioner Simon J. Dawson referred to the Boundary Water *Anishinaabeg* as "expert diplomatists as compared to Indians who have never had such advantage" and considered their leaders "in their actual dealings (to be) shrewd and sufficiently awake to their own interests" (PAC, Sessional Papers, v.9, n.81, 1861). The *Anishinaabeg* also looked to "hearty cooperation and sufficient aid" from their relatives, the Metis of the Red River, who acted as interpreters at the Treaty proceedings, and, likely on more occasions than just 1873 (Grand Council Treaty #3 TARR files on Treaty #3; McNab 1984). It was Metis interpreters who performed the valuable service of recording the Nolin notes and Paypom Treaty.

The Canadian public is just beginning to hear the oral tradition of many Treaty Nations. The Elders relate a common theme, that the Treaty guaranteed the *Anishinaabe* governance, traditional livelihood, and way of life would continue and be strengthened. This theme is echoed in the comments of Treaty #3 spokespeople:

> "At the time Treaty #3 was signed, the Ojibway (*Anishinaabe*) people of our region had a concept of our rights which has continued to this day. Our people were committed to protecting all of their First Nation rights. During the negotiation of Treaty #3 the Chiefs of the Ojibway people of the Treaty #3 region were given a mandate. The mandate was to ensure that our First Nation rights would be respected and protected through the treaty relationship.
>
> "We must keep in mind that, at the time Treaty #3 was signed, our Chiefs did not speak, read or write English. A government version of the treaty was presented for signature. Before signing the non-Indian treaty negotiators once again made verbal representations that through the treaty relationship our way of life would be protected. Our Chief signed the treaty on the basis of these understandings."
>
> (Chief Arnold Gardner, Eagle Lake First Nation, Treaty #3, Address to the Treaties Conference, Edmonton, Alberta, April 8, 1992)

The oral tradition of all Treaty Nations in Canada records the "spirit and intent" of the treaty, as understood by the indigenous peoples. It also richly enhances the description of the actual treaty negotiations. Not recorded in Morris' official report to Ottawa, nor by the Manitoban news reporter, are the events that occurred in 1873 which signify the sacred nature of the treaty.

Oral tradition in the Treaty #3 area relates that the *Anishinaabe* negotiators of Treaty #3 included some of the most powerful medicine people of the region. They were there with their pipes, medicine bundles and offerings. Some of these people were so powerful with their pipes that one had been known to be able to change shape into a huge bear in order to scare off Sioux warriors (Robert KaKayGeesick, Sr. 1990). That pipe was at the Treaty #3 negotiations (Robert KaKayGeesick Sr. 1990). At *Animakee Wa Zhing,* the Northwest Angle Inlet, when Treaty #3 was negotiated, ceremonies were held such as purification sweats, pipe ceremonies and *chisiki* (literally, a shaking tent, where a medicine man within the tent, intercedes in speaking with the spirits for answers to questions or to divine guidance). While Morris and the newsman reported days of seemingly endless waiting for more than 1400 people to arrive (Morris,

1880:53-54, quoting The Manitoban newspaper report), the leaders, the *Ogitchi Taug* , were actually involved in days of spiritual readiness, which continued throughout the negotiations (Rene Councillor, Naicatchewenin, and Bill and Alex Skead, Wauzhusk Onigum, Treaty #3 Elders meeting, 1973).

For these reasons, well known to the *Anishinaabe* people, the Treaty was spiritually guided and is considered as sacred today as it was then. Indeed, meetings held in 1993 have included Elders, Chiefs and pipecarriers who bring some of the very same pipes and medicine bundles that were present at the 1873 negotiations (T. Kinew1993).

The agreement that the *Anishinaabeg* sought included guarantees for the continuation of their way of life which involved an "annual round" of activities to harvest the foods of the land - hunting and trapping in the winter, fishing in spring, fall and winter, gathering syrup in the spring, berries in the summer, and *manomin* (wild rice) in the fall. As well, the people had, for generations before Treaty #3, kept gardens of corn, pumpkins, beans, squash and potatoes on the islands (Waisberg, 1984b; Vennum, 1988). This variety of foods and methods of collecting and preparing them made these people some of the most prosperous in North America. They did not wish to have their way of life, including their spiritual ceremonies at the four thanksgivings of the seasons of the year, to be disrupted. Their medicine people had had dreams, read prophecies in the rocks and elsewhere (Andy White1979) . They also knew from relatives from afar, of the dire consequences the whiteman would bring .

Further, they wished to prepare for new developments and opportunities that might occur, such as expansion of their gardens into farming operations. But they did not feel the need to abandon their way of life, and instead offered to share their education by having outside children live with them and their children would in turn live and learn with the newcomers for a while (Morris, 1880: 63). It was a true "balanced reciprocity" that was offered (Friesen, Jean, 1973; 1984). There is agreement among

all Treaty Nations that the true intentions of the government to impose the Indian Act and make the Treaty Nations wards of the Crown was never discussed or mentioned.

> "We were to learn of .. government intentions' to assimilate us.. after the government version of the treaty was signed. Had our Chiefs been informed (of the Indian Act, of the horrors of the residential school system), we know they would never have given their consent to signing the written version of the treaty" (A. Gardner 1992:2).

A treaty medallion was given to each signatory of each numbered Treaty. Cast on a background of the sun shining and the waters flowing, it depicted the Treaty commissioner in flamboyant military uniform with a widebrim hat, one hand behind his back, the other extended to shake hands with an equally elaborately dressed Chief wearing a headdress of eagle feathers. At the National Treaties Conference in 1992, Chief Jerry Antoine of Treaty #8 summed up the Treaty Nations' viewpoint of the government printed treaties. He laughingly asked delegates to the April 1992 National Treaties Conference in Edmonton, "What are we discussing (with the government) - the handshake? Or the paper the whiteman hides behind his back?!".

This conflict is the major impasse in understanding and interpreting the treaties. At the 1992 National Treaties Conferences, Elders and Chiefs were adamant that the "spirit and intent" of the treaties must be honoured (ie, the handshake). At the same conference, Governor General Ray Hnatyshyn echoed the 1973 speech of Her Majesty the Queen when he stated that the government would honour the "spirit and terms" of the treaties (ie, the paper hidden behind the back of the Queen's representative).

Recent historians accurately record that Treaty Nations "never consented to give up self government, their religion or their institutions" (Friesen 1973:24; Taylor 1991; Price 1979). However, lacking any knowledge of the indigenous languages or what is contained in the oral tradition, and relying solely on the English records of the Treaty negotiations, even the most enlightened historians have come to some erroneous conclusions.

Prof. Jean Friesen has concluded that, for Treaties #1 and #2, "There is no doubt in my mind that at least some Indian leaders at Treaty #1 were well aware that this was a land sale on an enormous scale" (Friesen, Jean, 1985:35). From years of researching these original documents of the numbered treaties, she believes that (Treaty #3 *Anishinaabeg*) "were prepared to transfer land rights - their birthright - to the incoming Europeans for a guaranteed income and material comfort with an assumption that their present harvest would continue and their transitional path to a more (but not entirely) agricultural base would be eased" (Friesen 1973).

The *Anishinaabe* oral tradition in Treaty #3 completely denies that any such concept of "selling" the land was possible even for the *Anishinabeg* to comprehend. The Treaty #3 oral tradition states that the *Anishinaabeg* were willing to share the land, only as deep as a plough could furrow (Walter Oshie 1990; Kinew 1974 and see also footnote 3). It should be noted that while Prof. Friesen is quoted regarding Treaty #1, the damaging inference extends to all treaties. How can we assess these opposing views?

Treaty #3 *Anishinaabeg* understand the spirit and intent of Treaty #3 through their oral tradition, through their language. At the October 3, 1981 celebration, Elder *Neogezhik* (Walter Oshie) of Northwest Angle #34 remembered much of the oral tradition surrounding Treaty #3. He spoke of how the redcoats of the Northwest Mounted Police lent a coercive atmosphere to the Treaty proceedings - the effect of their guns being just what Lt. Governor Morris has intended in asking for a full dress military escort.

Recorded on NFB film for posterity, *Neogezhik* spoke in his own language regarding more specific events at the time of the treaty.

> "An unnamed Elder who was not part of the official signing of the Treaty asked permission to speak. His own sons tried to discourage him but Mawedopenais, in his wisdom, suggested that he go ahead. The Elder drew a circle on the ground and drew a line across. He said to the others, 'Did you stand aside and allow them to use all your land?' He went on to say that only half the circle be (shared) and that half be used for people who would be living in time forward...

> At the conclusion of the Treaty, Chief Powassin got up and took some earth from any place on the ground. He took out the grass, the twigs, the leaves and said, 'All these items I have taken away from the ground itself represent the natural resources and the natural resources are not included as a result of this signing.
>
> As he (Powassin) was talking about the ground, he said, 'As deep as the plough and the harrow would go, that is all we are allowing you to use. The islands of this lake are not relinquished as a result of this Treaty .. only the ground as I have outlined. The Queen's representative then went on to say, 'That this is the way it shall be, as you have outlined.' "
>
> (Neogezhik's words, as translated by T. P. Kinew, in Georges Dufaux, Manomin (incomplete) film, NFB, 1981:reel 8)

Tobasonakwut Kinew, who later translated Neogezhik's speech, explained the intent of the *Anishinaabe* word , *Kii ta wi'in* , that Neogezhik chose to use when he said "to step aside and allow you to use":

> " 'Ki ta wi'in' is used in the sense that 'you can push me so you can use the land but that doesn't mean we give up the land'. Instead, we say 'I'll stand aside and allow you to use so much'. The Anishinaabe word "ki ta wi'in" conveys the outsiders could 'use the land to stay alive but you shall return it to me. Neogezhik deliberately did not use a word like "in da ta waa'gen" which means 'to sell or barter'. Such a word is restricted to convey certain material things. The land could not be sold. *Anishinaabe* society would not allow that - you cannot sell your mother.
>
> This is a genuinely new concept for outsiders to comprehend. Anyone knowing our language would intuitively grasp its meaning. What the Elders are saying here is nothing less than a 'reverse usufruct'!
>
> Since the racist decision of the Privy Council in their 1988 St. Catherine's Milling Co. case, the Canadian legal and political system has said that aboriginal title was no more than a 'usufruct' or use of the land that was 'dependent upon the goodwill of the sovereign'. Actually, what Neogezhik and Treaty #3 Elders know to be true is "kii ta wi'in" , the concept in our language, that the Treaty retains *Anishinaabe* ownership of the land. It allows the newcomers to use the land only, not the natural resources, and only at the goodwill of the Anishinaabeg. We are the guardians, the custodians, the trustees for all that the Great Spirit has given us." (TP Kinew January 1993)

This *Anishinaabe* concept related by *Neogezhik* turns all conceptions of aboriginal title and treaty rights upside down. *Anishinaabe* conceptualization even reverses the divine right which Kings of Europe assumed for centuries and which continues to underline the real property law of western civilization. To western thinking, Crown title underlies all land title. In the St. Catherine's Milling Co. case referred to, the Privy Council (at that time the highest court of appeal to Canada) decided that Crown title even underlay the possessory right of the indigenous people, the First Peoples of that land.

To *Anishinaabeg*, the ultimate authority is the Creator. [2] In aboriginal concepts, referred to by Chief Roy Fox of Treaty #7 as "immemorial law", only the Creator can 'own' anything (Fox, 1992). All of life is given by the Creator to share; humans have a special responsibility to care for all living things of this world. There is a relationship amongst life expressed by Anishinaabeg: the prayer for "all my relations" expresses as much for rocks, trees, fish, birds as it does for blood relatives (Little Bear 1991). The *Anishinaabeg* are the caretakers of their own region, including the special gifts of that area, *manomin* or wild rice, prominent among fish, berries, roots and medicines, animals and birds that the Great Spirit gave.

Any non-speaker of aboriginal languages needs to be wary of English translations of speeches made by *Anishinaabeg* . Even letters and petitions that *Anishinaabeg* had drafted for them need to be corroborated with the keepers of the oral tradition as to the real intent of the signator or speaker. For example, Lt. Governor Morris reported what has become a poetically haunting phrase for all the numbered treaties, when Treaty #3 chief negotiator, Mawedopenais, spoke at the conclusion:

> "and now in closing this council, I take off my glove, and in giving you my hand I deliver over my birthright and my lands: and in taking your hand, I will hold fast all the promises you have made, and I hope they will last as long as the sun rises and the water flows, as you have said." (Morris, 1880:46)

What could have led to Morris' report? In his record of negotiations, the Boundary Waters *Anishinaabeg* were "fully alive" to their interests. Earlier in the

week of negotiations, Lt Gov Morris spoke against compensation for the wood and water used by newcomers before the Treaty: "wood and water were the gift of the Great Spirit, and were made alike for the good of both the white man and red man" (Morris 1880:57). Mawedopenais countered, "What was said about the trees and rivers was quite true, but it was the Indian's country, not the white man's"(Morris 1880:57). And later, when discussions turns to farming and fishing, Chief Sakatcheway of Lac Seul proposes the accept the offer to "borrow your cattle..I will find whereon the feed them. The waters out of which you sometimes take food for yourselves, we will lend you in return" (Morris, 1880:63).

These speeches allude to the "balanced reciprocity" which is characteristic of *Anishinaabe* treaty-making. The "deliver over my birthright and my lands" speech of Mawedopenais, as reported by Morris, is totally out of character for the determined person this lead negotiator was. His character in *Anishinaabe* oral tradition is reflected in newspaper accounts of Treaty negotiations and in later historical files (Grand Council Treaty #3, 1992, Education Promise & Indigenous Government pamphlets). And, tellingly, *Anishinaabe* Elders relate that such concepts of "delivering my birthright" in the English language is <u>not</u> expressive of the *Anishinaabe* language, as is also the case with English words "cede, release, surrender and yield up ..all rights, titles and privileges to the lands.." used in treaty documents. [3] It is significant indeed that a less poetic version of Mawqendopenmais' closing speech has been located in archival documents by Grand Council Treaty ## TARR:

> "And, I trust, what we are about to do today is for the benefit of our nation as well as for our white brothers - that nothing but friendship may reign between the nation and our white brothers. And now I take off my glove to give you my hand and sign the Treaty. And now before you all, Indians and whites, let is never be said that this has been done in secret. It is done openly and in the light of day." (Grand Council Treaty #3 1995)

Five decades after Treaty #3, a1927 letter by Jim Netamequon of Assabaska to the Department of Indian Affairs lends further credence to the oral tradition of Treaty #3. The Treaty is portrayed in this letter as an agreement, a promise by Anishinaabeg to share the land with the newcomers, but not give away the whole territory nor any of the resources. As a son of a Chief and signator of Treaty #3, Netaquon stated:

> "..you ask the railway track to be going through my land and you promise me $3.00 for it and I give it to you and farming land you were ask you promise me $2.00 for it and we give it to you and you were not asking and gold mine not any timber not any muskeg not any water not anything about hunting not any thing for that you were told us we suppose to owned....
> ".. I wish you could let me have something so I can feeled we were told when first treaty made time we Shake hands we Said that we never have any change and if it happens to be change we will talk over again.." (Jim Netamequon, Assabaska, to Department of Indian Affairs, October 10, 1927; on file at Grand Council Treaty #3 TARR).

How are we to reconcile these thoughts with Morris' report of Mawedopenais' "deliver over my birth-right" speech? Such dissonance in understanding can only mean that some insight into the nuances of the *Anishinaabemowin* language and cultural concepts is required in order to fully understand what the *Anishinaabeg* understand by the spirit and intent of Treaty #3.

Neogezhik related that the *Anishinaabeg* would share the land "as deep as a plough could furrow", but that they did not consider giving up the whole territory nor the resources (Dufaux 1981). Nancy Jones remembers hearing exactly the same story as she was growing up around Seine River (Nancy Jones 1992). There was such agreement amongst Elders across the numbered treaty regions in the 1970s regarding this particular concept about land tenure from treaty, that DIAND specific claims staff and the 1970-1975 federal claims commissioner staff felt that there was collusion amongst the Elders of Treaty Nations (Personal observation 1974)! Indeed, in each numbered treaty area, the indigenous peoples "assumed freedom of access" (to resources), and in Treaty #3, they assumed "perhaps exclusive use of wild rice" (Friesen, J. 1973:20).

Though wild rice is not even mentioned in the government printed version of Treaty #3, it is mentioned twice in the Paypom Treaty. Treaty #3 was negotiated at the end of *Manominiikigiizis*, the September harvest season of the wild rice moon, in one of the most bountiful wild rice areas in Lake of the Woods, often referred to as the "ricebowl of North America" (Jenks 1900; Aiken et al 1988). Thus, government representatives concerned about the present and future costs of their newly assumed wards, urged that "the Commissioners don't wish that the Indians leave their harvest immediately to step into their reserve" (Paypom Treaty, item #13. See appendix 5). The Northwest Angle side of Lake of the Woods, where Treaty #3 was signed, has shallower bays which allow for a more regular crop than the rest of the lake, even in years of high water. It is likely 1873 was a good year for so many people to be gathered at Angle Inlet during the harvest time.

Importantly, the Paypom Treaty also notes that "the Indians will be free as by the past for their hunting and rice harvest" (Paypom Treaty, item #11). This wording is similar to some in the 1830s US treaties with the Chippewa (*Anishinaabe*) (Holzkamm 1985:16,19-21). It also harkens to the 1850 Robinson Superior Treaty which guaranteed the right to hunt and fish throughout the territory "as they have heretofore been in the habit of doing" (Friesen, Jean, 1985:32). Also, in 1871 Treaty #1 (covering what has became known as southeastern Manitoba), the Indians were "to make use of (the lands) which you have in the past" (Morris, 1880:29) . "Free as by the past" became understood as the protection for the continuation of the traditional way of life.

For *manomin* , this freedom to continue "as by the past" meant that *Anishinaabe* people would continue to have exclusive use and stewardship of the wild rice. This freedom "as by the past" would include all aspects:

-sewing and spreading the crop;

-bundling and protecting the crop from birds, weather, predators;

-preparing for harvest by building canoes, carving sticks and paddles, and

-holding spiritual preparations by making offerings and holding appropriate ceremonies;

-organizing and managing the harvesting (ie, respecting family territories, organizing rest days (for the rice to grow), setting picking days and length of season);

-processing and marketing (see Chapter 3).

Instead of recognizing *Anishinaabe* jurisdiction over wild rice guaranteed by Treaty, the Provinces of Ontario and Manitoba have assumed control and management of wild rice through the enactment of their own legislations in 1960 (Ontario) and 1983 (Manitoba). This would seem to be an untenable position in this period since 1982. The Constitution Act, 1982 recognized and affirmed the "Treaty and Aboriginal Rights of the Aboriginals peoples of Canada" (s. 35).

The provinces state, however, that the government printed version of Treaty #3 says nothing about wild rice, and therefore, wild rice is unprotected and remains a crown resource by virtue of s.92 of the Constitution Act, 1867. Treaty#3 First Nations state clearly that *manomin* (wild rice) remains theirs, protected by Treaty #3.

The basic disagreement is highlighted in their differing interpretations of the Paypom document/Nolin notes which states "The terms of Treaty #3" (McNab 1991:160-161). The provincial government may question whether the document is a record of the Treaty #3 negotiations but not necessarily the final agreement. However, in 1980, the federal government went on record as stating that the Paypom document stated the actual Treaty promise regarding wild rice (June 26, 1980 letter from Hon. John Munro, Minister of Indian Affairs, to Justice Patrick Hartt, Indian Commissioner of Ontario). The *Anishinaabe* know: they refer to the Paypom Treaty as "*manito mazinaaigan* ", the sacred document.

Grand Council Treaty #3 argues that there can be no other interpretation of the Paypom documentation than its protection of *manomin* as an *Anishinaabe* resource. They base this assumption on the historic fact that no non-Indian in the Treaty #3 territory

ever cared for or harvested wild rice until well into the twentieth century. *Manomin* was the singular resource that the Boundary Waters *Anishinaabeg* retained for their own exclusive use; all others were shared. [4]

According to Grand Council Treaty #3 Treaties and Aboriginal Research, *manomin* is covered as an 'outside promise' under the Agreement known as Treaty #3 (Grand Council Treaty #3 TARR, "We ask for Fair Play: Wild Plant Usage", 1992:2). This means that the wild rice promise can be documented as part of the Treaty negotiations, but not formally recorded in the government printed version. According to ethnohistorians who have spent the better part of two decades researching files about Treaty #3, their evidence is sound:

> "The issue of discrepancies between the text of the document published by Canada as Treaty #3 and the written record of the oral discussions and agreements, was first explicitly recognized by Canada's officials in 1899. They concluded that the document was not a complete record of the treaty agreement of 1873." (Waisberg and Holzkamm 1992:48)

In 1991, the Aboriginal Justice Inquiry of Manitoba stated that, assuming the Paypom Treaty has equal status to the written terms of the 'official' treaty, "jurisprudence clearly supports the interpretation that its provisions would supersede provincial laws to the extent of any conflict" (Government of Manitoba 1991:190).

The case of R. v. Taylor and Williams (1981) was the precedent specifically referred to by the Manitoba Inquiry report. In that important judgment, the Ontario Court of Appeal found that oral promises recorded in the minutes of the Treaty negotiations justified the right to hunt (R. v. Taylor and Williams (1981) 34 O.R. (2d) 360 (C.A.)). After the entrenchment of recognition and affirmation of aboriginal and treaty rights in the Constitution Act, 1882, the courts could rule according to a "whole new ballgame" (CM Sinclair 1991 lecture to University of Manitoba Law School, Natural Resources Institute class). With such constitutional recognition, the Supreme Court found that

> "It is no longer acceptable to be bound by the biases and prejudices of another era"

and

> "Treaties impose constitutional obligations...the provisions to hunt "as before" are not to be interpreted as meaning only traditional techniques but as methods change with time" (R.v. Simon [1985] 2 SCR 287).

And, in another landmark judgment, the highest court ruled that "a treaty is to be construed liberally, in the sense that would be naturally understood by the Indians" (R. v Nowegejick, C.N.L.R. n.2 (1983) 94).

Grand Council Treaty #3 believes they have a strong legal case for Treaty protection, for the continuation of *Anishinaabe* governance of wild rice in their traditional territory. In *Anishinaabe* terms, the Chiefs and Elders of Grand Council Treaty #3 affirm Treaty protection for their continued role of caretaking of *Manito Gitigaan* , the Great Spirit's garden. This continued responsibility includes the historic and modern methods for seeding and extending its area, preparation and harvesting, processing and marketing. In *Anishinaabe* oral tradition which continues today, the Treaty protection for*manomin* extends exclusively and forever.

Endnotes:

1. *Animakee Wazhing* is also known as the place where food caches were kept, particularly before travelling on to the Dawson Trail overland to the Red River settlement. Food caches were located throughout the lakes and rivers of the boundary waters.

2. A belief that the foundation of government is God, the Creator, is still prominently held in Treaty #3. In 1992, Treaty #3 *Anishinaabe* leaders found it laughingly deplorable that Canadians should have any debate at all about including a reference to God in the constitution of Canada in 1982 (Robin Greene, Assembly of First Nations hearings on the Constitution, Kenora, January 1992).

3. Grand Chief Kinew responded to the Hon. Ron Irwin, Minister of Indian Affairs, quoting Mawedopensais' "I deliver over my birth-right and lands" in a speech to Treaty #3 Chiefs at Fort Frances, January 19, 1995. He recalled how his mother had "held her hand with thumb and little finger extended in opposite directions, to describe how deep a plough could furrow. Then she said, 'This only did we agree to share.' "

4. A strong case is being made by Grand Council Treaty #3 that fisheries were a certain promise of Treaty #3, on the basis of *Anishinaabe* oral tradition, and documentation by Treaty #3 Commissioner Simon J. Dawson:

> "taken by itself, the wording thereof (of government printed Treaty #3) does not convey an exclusive right, but it does convey to the Indians the right to pursue their avocations of hunting and fishing and of course this right, so conveyed, has in equity to be considered not from the wording alone, but from the evident spirit and meaning of the treaty, as well as from the discussions explanatory of the wording which took place at the time the Treaty was negotiated... I am in a position to say that, as an inducement to the Indians to sign the Treaty, the commissioners pointed out to them that, along with the land reserves and money payments, they would forever have the use of their fisheries. This point was strongly insisted on and it has great weight with the Indians, who for some years previously had persistently refused to enter into any Treaty." (S.J. Dawson, member of Parliament, letter to the Deputy Superintendent of Indian Affairs, 1888). (Waisberg & Holzkamm, 1992:50)

Chapter Seven

A "Few Crochety Kickers" and a "War Party"

The aftermath of Treaty #3: Protest to the Broken Promises

> "Indian Affairs wants to bury you in detail about the modern day incident. They don't want you to see the big picture, which covers a much longer time."
> Aboriginal Journalist, CBC Commentary, July 1990

As is the case with all situations regarding Aboriginal peoples in Canada, one must delve much farther back than just the immediate dispute that hits the newspapers. There is always a long historical background that forms part of the collective memory of the people and gives rise to the motivations and actions of today. Such is the case for Treaty #3 and the Treaty right to *manomin* .

This chapter focusses on the organization of Treaty #3 *Anishinaabe* leadership and their actions in decades after 1873 to gain respect for their Treaty. The reader will note that *manomin* is a continuing and prominent issue for Treaty #3 leaders, but that they are confronted by a multiplicity of issues. As Grand Council Treaty #3 approaches the twenty-first century, these issues seem to increase exponentially. And, the conspicuous issue of *manomin* takes on a more symbolic role as standard-bearer for the Treaty rights that must be protected after more than a century of dispossession and suppression.

In the understanding the *Anishinaabe* Elders of Treaty #3 today, and in the political jargon of the 1990's, Treaty #3 was signed Nation to Nation. The *Ogitchi Tuaag,* the traditional leaders of Treaty #3 were honour bound to deal with their counterparts, the Treaty Commissioner, Alexander Morris. One year after Treaty #3 was signed, Lieutenant-Governor of Manitoba and the Northwest Territories Morris was already planning his next "land cession", as he saw it, for the Ojibway and Cree farther west in what was to become Treaty #4 territory (the Qu'Appelle Valley of Saskatchewan). When Morris received the first letter of protest from Treaty #3 leaders in 1874, he

assigned his former Treaty Co-Commissioner, Simon J. Dawson, and his assistant, Robert Pither, a former Hudson's Bay clerk, to deal with the Treaty #3 *Anishinaabeg.*

This may have been the first indication that *Anishinaabe* Nation-Crown affairs were no longer of the highest importance to the Queen's government. However, there had been no mention at the time of Treaty negotiations about any change in their own government, nor any change in intergovernmental relations (Friesen, J. 1985; Taylor, J. 1975). Certainly, no federal legislation governing Indians, an Indian Act, nor even section 91(24) of the BNA Act had even been mentionned during Treaty #3 negotiations (Morris 1880). In the 1873 negotiations, the *Ogitchi Tuaag* had promised that they would bring their own wrongdoers to justice, while they looked to the Crown to police liquor and to protect their people from being called into the Queen's wars (Morris 1880; Paypom Treaty, 1990; Grand Council Treaty #3 1982) .

From this position of sovereignty and co-existence with newcomers, the *Anishinaabeg* of Treaty #3 continued to exercise their own government, for example, by meeting frequently in council to enforce rules and by carrying out the wild rice harvest as described in chapter four. They did not realize they were about to enter the totalitarian regime of the Indian Act, which was to control all aspects of their daily lives, from registration at birth to estates at death (A. Gardner 1992).

In 1874, the Chiefs and headmen who knew well the terms, spirit and intent of Treaty #3, protested the inferior cattle, the lack of action in delivering seed, farm implements, and instructors, and their wish to determine their special reserves for farming and wildlands (Waisberg 1984a) . They met with Dawson and Pither and made their issues known. Meanwhile, Dawson indicated in letter to the Lieutenant Governor that the Crown representatives were heeding other orders, from Ottawa, that " the reserves include no know mineral lands, and should be as far as possible from the line of known settlement"(PAC RG10, C11,111 v.1918 f.2790D Jan. 28, 1875 SJ Dawson to EA Meredith, Deputy Minister of Interior, Ottawa).

The following year, the Survyeor General, Col. Dennis, arrived from Ottawa to meet with the Treaty #3 leaders. The Chiefs and headmen indicated that they wished to travel themselves to Ottawa to present their own issues. Dennis replied that "the proper course" was for them "to await" delegation from Ottawa, and that he would transmit their concerns (PAC RG10 v.1918 f. 2790).

According to his report, Surveyor General Dennis met the Chiefs and headmen of the Rainy River and then Lake of the Woods, and after much deliberation, were able to reach an agreement on the location of the reserves. This occurred despite what Dennis called the *Anishinaabe* "deep laid scheme to claim the most fertile lands along the Rainy River" (PAC RG 10 C11,111 v. 1918 f. 2790D; Grand Council Treaty #3 1992a). This line of analysis always held sway whenever Crown agents characterized *Anishinaabe* protest; the protesters were always described as "stubborn" or "schemers" (Miller 1989). Col. Dennis presumed that he understood:

> "I was pleased to hear you say that you desired nothing but what was in the Treaty, because we understand one another properly perfectly. I was also pleased to hear you say that, while you would continue to agitate constantly, till these little complaints were settled, you would do so peaceably and quietly from year to year until a remedy was obtained. This is the proper way for the Indians to do, if they have any complaint, and you may depend upon it that, when you bring forward complaints in this way, if they prove to be well grounded, the Government will listen to your wants and will remedy all reasonable grievances." (PAC RG10, C11,111 V. 1918 f. 2790D).

Yet, there was not "perfectly properly" understanding. Col. Dennis spoke of the terms outlined in the government printed version dated 1873 . The *Ogitchi Tuaag* , however, were speaking of the spirit and intent of Treaty #3 as etched in the memory of the negotiators and to be preserved in the oral tradition of the *Anishinaabe* Nation.

The subsequent surveys of Treaty #3 reserves were carried out by the Dominion Lands Branch between 1876-1888. The reasons for the delays had somewhat to do with the lack of surveyors and rough terrain, but infinitely more to do with federal-provincial wrangling in some of the biggest battles after Confederation.

The northwestern boundary of Ontario was in dispute from 1875 until 1889, when the Privy Council in Great Britain decided on the boundary which now separates Ontario and Manitoba. In this decision, the 55,000 square miles of Treaty #3 was divided into two jurisdictions, with one-fifth to one-quarter of that area to be in Manitoba (known today as the Whiteshell region) (A.G. Can.v.A.G. Ont.[1897] A.C. 199 (P.C.). The Treaty #3 *Ogitchi Tuaag* were never informed of any new legal regime in their territory. They were never informed of any court case affecting them.

In 1888, the Privy Council also considered the federal and provincial jurisdiction over Crown lands and resources in newly acquired territories after treaty. The specific case centred on the St. Catherine's Milling Co., who was granted a timber cutting licence from the federal government to work in the Treaty #3 area, near present day Wabigoon and Dryden. The Ontario government sued the company for cutting timber with a federal not a provincial licence. The federal government intervened, stating that the federal government had effective control, having made Treaty #3 with the *Anishinaabe* Nation. The Treaty #3 *Anishinaabeg* were never informed of any court action affecting them.

Through the various appeal levels until the House of Lords Judicial Committee, the St. Catherine's Milling Co. case wended its way, with Ontario arguing that they gained the beneficial interest in the lands and resources, according to sections 92 and 103 of the then British North America Act, 1867. Ottawa countered that they made the Treaty with the Indians and the federal government gained the benefits. Despite the fact that the essential arguments dealt with aboriginal title and treaty-making, Treaty #3 *Anishinaabe* leaders were not involved, not consulted, not represented, and not even informed that such a monumental case was taking place (Cottam 1990; Dickason 1993).

While the learned judges spoke about the "rough redmen of the Northwest", "savages", and "poor children who know nothing about.." (Grand Council Treaty #3

1992a) , Commissioner Dawson was reporting to Ottawa the actual state of *Anishinaabe* government in Treaty #3:

> "The Bands of the Rainy River and Lake of the Woods meet frequently in Council. They discuss their affairs very intelligently and enforce sternly the rules and regulations considered necessary for common warfare.
>
> "They collect (wild rice) on a systematic plan enjoined by their self-imposed laws.." (Grand Council Treaty #3 1992a)

The reality of *Anishinaabe* government within the Treaty #3 territory was never discussed in the courts. Instead, the St. Catherine's decision, based on the misguided imaginations and Victorian attitudes of the late 19th century, became etched into Canadian legal history.

> "..these gentlemen (ed: The Lords),who had never set foot in North America and knew nothing about indigenous land-use traditions, came to the conclusion (very conveniently) that any rights the Indians may have were granted to them by the Royal Proclamation of 1763; and that these rights exist "subject to the goodwill of the Sovereign" (in other words, that they can be abolished if the Sovereign feels like abolishing them)." Richardson, B. 1993:290

The Judicial Council of the Privy Council stated that Ontario gained the beneficial interest in the lands and resources, even though the federal government had made treaty with the *Anishinaabeg* . Aboriginal title was considered a "usufructuary right" and a "mere burden" on the Crown and "dependent upon the goodwill of the sovereign" (St. Catherine's Milling etc. Co. v.R. (1888) 14 App. Cas. 46, 4 Cart. B.N.A. 107, 2 C.N.L.C. 541, 58 L.J.P.C. 54,60 L.T. 197, 5 T.L.R. 125, affirming 13 S.C.R. 577 (P.C.) (Ont.)).

The terminology of the St. Catherine's Milling Co. judgment led an outspoken Winnipeg lawyer experienced in Aboriginal land claim and criminal cases to state that the "Indians were used and fructed in this case" (Vic Savino, University of Manitoba 'Aboriginal Rights and Natural Resources' symposium, February 1989). This racist judgment has continued to define aboriginal title and rights in the most ethnocentric and demeaning way into the 1990s (Opekokew 1982; Colborne 1992; Savino 1989). Its awful legacy continues, even after the former Chief Justice of the Supreme Court of

Canada's remarked in 1984 that "the language used ... reflects the biases and prejudices of another era in history. Such language is no longer acceptable in Canadian law and indeed is inconsistent with the growing sensitivity to native rights in Canada" (Simon, (1986) 24 D.L.R. (4th) 390 (S.C.C.) at 399).

Indeed, any observer of the 1991 Temi Augami decision of the Supreme Court of Canada, and the 1992 and 1993 decision on the Delgamaakwu v. R. in Right of B.C. and A.G. of Canada [1991] 5 C.N.L.R. 1, 79 D.L.R. (4th) 185 (B.C.S.C.) case of the Gitskan-Wetsu-weten Nation would agree that such outmoded legal thinking of the nineteenth century is creating bad law today and perpetuating Aboriginal and non-Aboriginal conflicts into the next millenium (Legal Pluralism Seminar, University of Manitoba, November 1992). University of Manitoba Law professor Roland Penner stated, in the aftermath of the Delgammakwu case, expressed a legally-informed exasperation:

> "Listen to how dogmatically the law on these issues is stated (ed: in Delgamaakwu, repeating St. Catherine's): .."Common law aboriginal rights exist at the pleasure of the Crown.." Pleasure of the Crown? 'If it pleases me, you've got them, if it doesn't please me, you don't have them.' ... And what does "common law aboriginal rights" mean? Can it really be argued that aboriginal rights depended on the constructs of common law, which constructs were intended, in fact, to do nothing more than derogate from and invalidate the notion of inherent aboriginal rights."
>
> Roland Penner, "Power, The Law, and Constitution-making", *in* Cassidy 1992:249

The Boundary settlement and the St. Catherine's Milling Co. case, however, combined to insert the government of Ontario into the lives of the Treaty #3 *Anishinaabeg* . While the *Anishinaabeg* were to feel the effects immediately, in the disastrous mismanagement of their waters, fishery and timber, they were not to discover until the 1970's exactly how the Ontario government ever became involved. *Anishinaabeg* knew their Nation had signed a Treaty with the federal government, not Queen's Park (Grand Council Treaty #3 assemblies, 1970's and the Ontario Royal Commission on the Northern Environment Hearings, 1978-1979).

By 1892, the mismanagement of resources in the Treaty #3 territory had caused so many problems that the *Ogitchi Twaag* of Treaty #3 met in Council and sent a petition to Ottawa so that remedial action would be taken. Foremost in their concerns was the flooding of Lake of the Woods, the loss of the rice harvest, and overfishing by trawlers. (Appendix 7: 1892 Petition) Their petition was supported by statements by Treaty #3 Commissioner, S. J. Dawson, later a member of Parliament, who was adamant that Treaty #3 guaranteed "they would forever have the use of their fisheries" (Grand Council Treaty #3, 1986:36). Indeed, Dawson stated that they would not have been able to secure the Treaty were it not for this promise of continued fisheries (Waisberg 1992; Van West 1990).

The overfishing continued, without federal action to protect the Treaty right of the *Anishinaabeg* , only the oft-stated promise to "look into it" (Grand Council Treaty #3 1986:35). In 1898, *Ogitchitwaa*, Powassin, one of the chief negotiators of Treaty #3, saw no other recourse than to launch his own action. Powassin led a raiding party of several warriors, replete with warpaint, onto Lake of the Woods to destroy the trawler nets (Waisberg 1984a). Although the newspaper recounts this direct action, there is no followup story to indicate any charges being laid or what reaction occurred about this brave assertion of sovereignty and protection of the Treaty.

Powassin's was a futile albeit courageous attempt, as neither level of government acted to protect the fishery. Within a decade, the sturgeon were almost extinct on Lake of the Woods and Rainy River (Waisberg & Holzkamm 1992). This was the same fishery that the *Anishinaabeg* managed for centuries, enabling them to gather in huge numbers at various times of the year (Grand Council Treaty #3 1986; 1992a).

The *Anishinaabe* Chiefs and headmen never gave up . As they had warned the Surveyor General in 1874, they kept "complaining", writing letters and petitions to Ottawa, whenever an issue required action. In 1898, Lake of the Woods Chiefs again addressed Ottawa's attention to rising water levels, loss of rice harvests, and other

violations of the Treaty. Chief Thomas Lindsay of Rat Portage protested in a speech to the local Indian agent that "Our rice is a great loss to us" (Grand Council Treaty #3 1992a). [1]

In the meantime, the Ontario government had formally stated to Ottawa that their government must agree to the "extent and location" of the Treaty #3 reserves. Both governments passed joint legislation to that effect in 1891, followed by a joint agreement of 1894, stating preliminary points of agreement. Ontario undertook a thorough investigation of the land and resources of the Treaty #3 territory, reviewed the surveys and acreage, and took exception to several of the reserves agreed to by the federal representatives and the *Ogitchi Tuaag* of Treaty #3 (Grand Council Treaty #3 1975; McNab 1983b).

In order to gain Ontario's acceptance of the extent and location of Treaty #3 reserves, the federal government undertook a number of measures that subverted the the traditional *Anishinaabe* government and the location of Treaty #3 reserves. Indian Affairs "cancelled" one reserve, relocated and amalgamated others, at Ontario's direction. [2]

Neither Crown government informed the Treaty #3 leaders that any such agreements or laws were discussed or approved. The *Anishinaabe* oral tradition asserts that the islands were reserved for *Anishinaabeg* (whether part of the reserve survey or not). *Anishinaabe* Elders say their people are protected by Treaty #3 in continuing their traditional livelihood of hunting, fishing, trapping, gathering wild rice, berries and medicines, as well as other activities, throughout the whole 55,000 square miles of Treaty #3 traditional territory (Grand Council Treaty #3 Elders Meetings: Rene Councillor, 1974, Bill Skead, 1974, John Jones, 1980). As stated in the Treaty chapter, Neogezhik relates how , at the time of the treaty-making in 1873, Powassin

took some earth in his hand, and removed the twigs, rocks and other resources to indicate it was only the soil which their Nation agreed to share; the resources remained with the *Anishinaabeg* (Chapter six).

It would seem self evident that the *Anishinaabeg* would have been notified of all these court cases, laws and federal provincial agreements that affected them. They were not (Cottam 1990; Dickason 1993).

For decades after Treaty #3 was signed, large councils were held at two or three locations within Treaty #3 - at the agency reserve known as *Chi Nayashi* (Pither's Point) at Fort Frances on Rainy Lake, and at the agency reserve at Assabaskoshing on Lake of the Woods, as well as the Savanne agency east of presentday Dryden. At these treaty annuity assemblies, the Chiefs and headmen, and hundreds of *Anishinaabe* people, gathered to meet with the Crown representatives to receive their Treaty annuity ($25 per Chief, $15 per councillor and $5 per person) and advise the Crown representatives about any issues of concern. Indeed, the 1898 Sessional Report of the Indian agent stated that 800 gathered at Assabaskoshing that year, but the gathering only took three days instead of the usual 6 or 7 as there was "less talk" (GCT3 TARR files: Sessional Papers) . This may have been because the Chiefs and headmen had already petitionned Ottawa for action, knowing that local Crown agents had not represented their case well enough. This was also the year when Powassin took matters of overfishing into his own hands (see above).

As the reserves had been placed away from the "probably line of known settlement", there was not much direct contact between the *Anishinaabeg* and the newcomers. Although some *Anishinaabeg* found wage labour in timber cutting, their world continued to be the annual round of the seasonal gathering in the bush. Townspeople were still wary of the mythological "bloodthirsty savage" (Drinnon 1980). In 1902, when hundreds of *Anishinaabeg* gathered at Windy Point, just north of the town of Rainy River, non-Indian spokespeople called in the army to quell the

"uprising". When a few brave souls finally went to meet the *Anishinaabeg* , they were told that the *Anishinaabeg* were holding a religious ceremony and meant no harm (Waisberg 1984a).

In 1912, another similar incident occured closer to Kenora, according to Peter Seymour of Rat Portage (Peter Seymour 1990). *Anishinaabeg* gathered for a *Mite'iwin* ceremony at Blueberry Point. Worried townspeople, in fear of an uprising, called for army support. In neither case were the *Anishinaabe* people contacted before calling out the armed forces.

The beginning of the twentieth century was a time of considerable upheaval for Treaty #3 *Anishinaabeg* . The effects of the Indian Act were being felt in truly terrible ways. Children were being removed to the St, Mary's Industrial School at Kenora, and soon to the Cecilia Jaffrey Presbyterian School at Shoal Lake, moved later near Kenora. Every child by the age of 7 or 8 was required to attend school by the Act and those who did not have nearby 'day schools' (on reserve schools with teachers supplied by the Department of Indian Affairs) were captured by the priests or Indian agents and hauled off to school. Most did not see their families for the next ten months; some never again (TP Kinew 1968; Nancy Morrison 1992; Stuart Jack 1975-1977; Ontario Royal Commission on the Northern Environment 1978-79 Hearings).

The Indian Act was also imposing a new system of government within Treaty #3 - an elected system whereby the Chief and councillors would swear allegiance to the Queen or King (figure of Treaty medallion) and they had to have permission of the agent, usually as well, his presence, if they wished to hold a meeting (PAC, RG10, f.119-129, July 2, 1938 Letter from Captain Frank Edwards, Kenora agent to Secretary, Indian Affairs, Ottawa). Chiefs and councillors were required to report any infractions of the outside (non-Anishinaabe) law to the Indian Agent . The Agent would act as prosecutor, judge and jury in such cases. In the 1970s, Billie Archie, then an octogenarian member of the Big Grassy River First Nation(then part of the Assabaska Band)recalls Captain

Edwards of Kenora sentencing him to a fine for not reporting a band member getting drunk some 20 miles away by boat on another of their outlying reserves

As part of the avowed process of assimilation undertaken by the government of Canada, during the first decade of the twentieth century, Indian Affairs and industrial or residential schools began the process of anglicizing all *Anishinaabe* names. Within Treaty #3, many strange results occurred. When Treaty annuity was given at Assabaska, the agent asked one man what was his name, and he answered in loud, plain English, "Me Indian!". The agent called him and his family by the last name of "Indian", a family name still carried by his descendents at Onegaming and Big Grassy today (Stuart Jack1974-77). Two brothers at Big Island, one taller than another, became the forebearers of the family names, "George" and "Big George" (Stuart Jack1974-77; Kinew 1973). A man at Seine River when asked his name replied in the *Anishinaabe* language, "Pushkaygiin" ("It's up to you.") The agent there called him and his family by the last name of Boshkaygan (Stuart Jack 1974-77). The nuns and teachers at residential school imposed English names when children were baptised; many boys were called after disciples and given asecond name to relate them to their older brothers. Thus, two John Kelly's became John Jim Kelly and John Peter Kelly (Kinew 1969). While the children would continue to be known by their family, relatives and close friends by their *Anishinaabe* names, they would be addressed solely by their English names at school. Their mother tongue of *Anishinaabemowin* was not allowed to be spoken and this was strictly enforced. And one of the frequent lessons of the missionary teachers was that the parents were "heathens", "pagans", and their ways, evil and unsavoury (Kinew 1969; Nancy Morrison 1992). The emotional, spiritual, physical and sexual abuse that occurred over several generations to the children in Treaty #3 residential schools would warrent another book but is important background to an understanding of the assimilationist campaign of the government of Canada to subvert and suppress Anishinaabe government and cultural ways (TP Kinew 1969; Nancy Morrison 1992;

Gresko 1975; Pettipas 1988). The result of such massive undermining of cultural and family values became more and more evident in the homeless people who became known as the "street people" or "chronic public drunkenness offenders", particularly in Kenora, from the 1950s through the 1980s (Grand Council Treaty #3 1973; Torrie 1985).

Yet, Treaty #3 *Anishinaabe* leaders and members tried to remain strong in their cultural traditions, and unswerving in their understanding of the spirit and intent of Treaty #3, as continued through the oral tradition of their Elders. Mawedopenais, one of the chief negotiators in 1873, was still fighting Indian Affairs who wished to impose missionary teachers on his people until the turn of the century. The Grand Chief was always ready to tell the federal government what the true meaning of the treaty was (Waisberg 1984a; Savino 1992). Another Treaty negotiator and Grand Chief, Powassin, did not die until about 1910, and both he and his son, who was also present at Treaty making, passed on their knowledge of the Treaty to their relatives throughout Lake of the Woods (Frank Powassin &Neogezhik, October 1981). Those who dared to stand up to the local agents, or bypassed them by writing directly to Ottawa, were soon labelled "trouble-makers" (Taylor, J. 1984).

The Fort Frances Indian agent Wright complained about "a few crochety kickers" from the Rainy River reserves who petitioned Ottawa regarding dams and the flooding of their ricefields, as well as overfishing by non-Indians (PAC RG 10 v. 485/3-7 v.1 Delegations & Deputations 1909-1961) . In 1914, however, a Treaty #3 *Anishinaabe* delegation from Long Sault on the Rainy River did get to Ottawa, with Indian Affairs approval, in order that the Department ensure the surrender of those fertile farming lands (Waisberg 1984a). Later delegations did not always meet the approval of Indian Affairs, and they often travelled at their own expense (PAC RG10 485/3-7, v.1, June 10, 1940 TRL MacInnes to Fort Frances Indian agent Lockhart).

Such high level delegations followed major organizing meetings of *Anishinaabeg* . The usual course of action was to proceed by letter or petition to Indian Affairs first. In 1923, the Chiefs and headmen of several Lake of the Woods and Winnipeg River reserves took the hitherto unheard of step of obtaining the services of a lawyer to obtain information about their own reserves and financial affairs from the Indian Affairs branch. Kenora lawyer James Robinson wrote the Superintendent General of Indian Affairs on behalf of Whitefish Bay and Whitedog, and then several other bands. Upon receiving no reply, the lawyer wrote public letters in the Kenora Miner and News daily paper. The Chiefs legal counsel raised publicly for the first time, the grievances of these Treaty #3 reserves, such as the complete accounting by Indian Affairs of their trust funds from sales of timber on reserves (GCT3 TARR files: James Robinson's letters in Kenora Daily Miner & News, 1923). The local agent replied in the daily paper that such questions were from impertent councillors not the real Chiefs, but refused to answer the substantive charges. Public records do not indicate any higher level reply to the substantive issues. However, the Deputy Superintendent General was pleased to advise the lawyer of new amendments to the Indian Act, which outlawed the raising of funds and the undertaking of activities regarding Indian claims. This amendment was effective from 1927 until 1951 amendments to the Indian Act.

During the 1920s and 1930s, the provincial government stepped up its presence and enforcement of its game and fish laws against the Treaty #3 *Anishinaabeg* . Indian Affairs officials often urged protective action to their superiors in Ottawa:

> "I desire to draw your attention to the deplorable state of affairs that is existing at present among the Indians of the Lake of the Woods area (Treaty #3) due entirely to the action of the Province of Ontario in curtailing their hunting and fishing rights.
>
> I have seen many Indians practically starving on the shore, whilst they watched whitemen fishing commercially in the bays adjacent to their reserves, the Indians themselves being refused fishing licences by Ontario, although quite willing to pay the licence fee and purchase their own nets and equipment.
>
> Many instances of absolute persecution of Indians on the part of officious game wardens have been reported, the most glaring being the

> recent instance of Game Warden Hemphill descending on the Islington band and confiscating all deer meat that the Indians had taken for food, and also the deer skins which they required for moccasins.
>
> The Lake of the Woods Indians are physically suffering from the wrongful treatment meted out to them by the province, patiently awaiting the time when their wrongs will be redressed and their rights vindicated.
>
> ..[They] are possibly facing today the worst conditions of living that they have ever experienced. Prevented from hunting for food, restricted from commercial fishing, failing to secure a blueberry crop, they will assuredly need all the help and assistance that it is possible to give them to tide them over the winters." (HJ Bury, Supervisor of Indian Timber Lands, Indian Affairs, 1929 cited in Grand Council Treaty #3 1986:44-46).

But Ottawa did not act in their bests interests and the ramifications were felt at the regional level. Both the Kenora and Fort Frances Indian agents were despised by their "wards", the *Anishinaabe* leaders (Pete Seymour 1990; Billie Archie 1974). The Grand Chief of Treaty #3 and Chief of Assabaska during the 1930s, Miskwakapins, railed against the Kenora agent, Captain Edwards, for his military, oppressive ways (Peter Seymour 1990; Billie Archie1974). Couchiching Chief Hector Mainville made it clear to Ottawa that Fort Frances Indian "Agent Spencer is our enemy" (GCT3 TARR file on Delegations & Deputations). Yet so detrimental was provincial interference in the traditional *Anishinaabe* livelihood, even these agents felt obliged to complain to Ottawa about the provincial infractions of the Treaty #3 right to hunt and fish (PAC RG10 v.6761 f.119-129, July 2, 1938 Kenora Agent Edwards to Secretary, Indian Affairs Branch, Department of Mines & Resources, Ottawa; PAC RG10 f. 420-303, Sept.27. 1938 Fort Frances Indian Agent Spencer to Secretary, Department of Indian Affairs, Department of Mines & Resources, Ottawa).

Treaty #3 *Anishinaabeg* knew that their Treaty was intended to preserve their traditional livelihood, and they considered it their protection to continue hunting and fishing as they always had. However, the Ontario Lands and Forests game wardens enforced the Fish and Game laws with unrelenting severity during the 1930's and 1940's. The Indian agents were at a loss as to how to protect the *Anishinaabeg* and their livelihood, as well as how to protect the federal purse from having to support Treaty #3

Anishinaabeg who were daily denied their only way to feed their families (PAC, RG10, v. 6761, f. 119-129).

The Indian agents questioned Ottawa what they could do, while the federal government "adopted holus bolus, Provincial regulations regarding fishing and by such action has placed the Indians in the same position as the ordinary resident of the province" (August 24, 1938, Solicitor Cory memorandum to Mr. MacInnes, Deputy Secretary General in PAC RG 10 v.8865,f.1/18-11-13). The game wardens confiscated boats, nets and charged the Indians, who were later fined or jailed. Moses Tom of then Assabaska remembers as a young boy watching the game wardens come and take his dad's boat and nets away, and days later coming to take his dad away, who he did not see until months later (Moses Tom 1993). Despite the very great hardship experienced by these *Anishinaabeg* , many remained defiant. Captain Edwards reported that Nick Skeet of Rat Portage refused to give the game warden any undertaking that he would not fish again. [3] This is the collective memory of the Treaty #3 *Anishinaabeg* - both the unjust and severely repressive regime of the provincial game wardens, as well as the defiance of the people based on their knowledge and belief that Treaty #3 meant to protect their rights. (Figure 24: Photo of Treaty #3 Chiefs with Kenora Indian Agent Edwards).

During these repressive times, the Chiefs and headmen of several bands met to discuss what could be done to stop this unjust persecution. At that time, Baybomahsigey, Bob Roy, the Chief of Whitefish Bay, and Kokoko-o, Jack McGinnis of Manitou Rapids, brought people together in the form of the "Amalgamated Organized Indians of Northwest Angle Treaty #3". They prepared letters and petitions to Indian Affairs, which were sometimes written by themselves and forwarded by non-Indian friends, such as C.G. Linde, the photographer to the Department. [4,5] At that time, permission from the Indian Agent to hold meetings at the reserve, and permission to leave the reserves, was required according to the Indian Act. The Amalgamated Organized Indians of Northwest Angle Treaty #3 held their meetings, sometimes notifying the agent ahead of time,

24. 1940 photo of Treaty #3 Chiefs (some with medallions) and Indian Agent, Kenora District. Grand Chief Miskwakapins stands nearby Capt Edwards (Indian agent seated at left)

sometimes not bothering to do so (PAC RG10 v.6761,f. 119-129 Memorandum of a Conversation held in the Office of the Indian Agent at Kenora in connection with a meeting held by "The Organization of Amalgamated Indians", at Whitefish Bay Reserve No.32 on June 11, 1938).

The Amalgamated Organized Indians of the Northwest Angle Treaty #3 sent a petition to the King of England to protest the violations of their Treaty, by the harsh treatment by game wardens, and the flooding of their ricing areas, in particular. In 1939, a delegation of three *Anishinaabeg* went to Ottawa to see the visiting King and Queen, but no record or oral tradition has yet been located which finds them successful in gaining an audience (PAC RG10 v.6761 f. 119-129) . In 1940, the Amalgamated Organization pressed again for a meeting with the Secretary General of Indian Affairs. They were at first rebuffed, with the Agent being advised by Ottawa that such a delegation " wasn't necessary" and "they'd be wasting their time" as "we would await word from the agent anyway" (PAC RG10 f.485/3-7 v.1 Delegations & Deputations 1909-1961, June 10, 1940 TRL MacInnes, Secretary, IAB, Ottawa to Fort Frances agent Lockhart). However, because of the "considerable agitation among the bands of Northwest Angle Treaty", and the "willingness of Chief Jack McInnes and Chief Jim Horton of Manitou Rapids" to pay their own way, the delegation did make it to Ottawa (PAC RG10 v.6761 f.119-129). It was at this time that Chief Roy was advised that compensation for Lake of the Woods flooding was being finalized. That information proved totally erroneous: the Lake of the Woods, Rainy Lake and Lac Seul First Nations await compensation for flooding into the 1990s (Chapter 11).

In the late 1940s, the Treaty annuity trips by the Indian agent were no longer made to a huge gathering at an agency reserve, but, as part of a concerted approach by Ottawa, took place at individual reserve settlements (Grand Council Treaty #3 1992a). It was from such visits as interpreter for Lands and Forests, that Peter Seymour then of Assabaska and later of Wauzhushk Onigum, made his organizing efforts at bringing

together the leaders of Treaty #3 bands. During the fifties, Peter Seymour of Assabaska, Frank White of Whitefish Bay, Paul Pitchinese of Wabigoon and Fred Greene of Shoal Lake #39 were prominent in getting their people to consider what action they could take to make governments respect their Treaty. Through their own organizing efforts, the Amalgamated Organization was renamed Grand Council Treaty #3. And, with their own personal contributions of time and money, these leaders made delegations to Ottawa and Toronto to present their case (P. Seymour 1990; Frank White 1990). Peter Seymour was quite involved in pressing for a resolution of the headlands water boundaries to Treaty #3 reserves, and lobbied Parliamentarians to have an Indian Claims Commission bill passed into law, to seek justice for their many outstanding lands and resources issues. That bill was never passed, but the major issue of Treaty #3 in the 1930's and 1950's remains the major issue of the 1990's - how to honour and implement Treaty #3.

By the mid 1960's, Treaty #3 reserves were living in some of the most impoverished and oppressive conditions known in Canada.

> "At that time more than 80 per cent of Indian homes in Canada had no running water, flush toilets or electricity. Seventy-five per cent of Indian families were living on $2,000 per year or less and 47 per cent on $1,000 per year or less. The Kenora area, of course, was no exception. The squalor of native life in that region was almost unimaginable. Large numbers of native people spent much of the year on welfare. Unsafe, overcrowded shacks housed the greatest number of Indian families. ...Relations with the justice system were such that..if there was even a "shadow of suspicion" concerning the guilt of the arrested Indian people who couldn't afford bail, (the lawyer) advised them to plead guilty because "it's smoother, sweeter, and faster to do so and get on with serving the sentence." (Borovoy 1991:30)

This was the era of civil rights movement in the United States, and the beginning of an awakening in Canada that there might be problems of racism in this country as well. The favourite Canadian comedians of Ed Sullivan, Wayne and Schuster, immortalized the racist treatment of *Anishinaabeg* in Kenora by their offhand comment about "Sodom and Kenora" . The Indian-White Committee of the town called for assistance from human rights activists in Toronto, Alan Borovoy and Dan Hill. As the

press dubbed them, "the Jew and the Negro" became, respectively, General Counsel and founder of the Canadian Civil Liberties Association, and the first Executive Director of the Ontario Human Rights Commission. In 1965, Borovoy and Hill came to Kenora to work with the Indian-White Committee which wished to see improved conditions for Indians in town and on the reserves. Young activist Fred Kelly of Sabaskong (now Onegaming) shared membership with local lawyer Jack Doner, nurse Lassie Maloney, and others. Fred Kelly worked as a social worker for Children's Aid. He devoted himself to visiting nearby reserves and focussing their discontent toward solidified action. Borovoy and Kelly were able to focus on four main issues which they decided to present to the Mayor and Town Council, after a march from the local Presbyterian Church to Council Chambers: requests for the establishment of an office of the Ontario Human Rights Commission and the Ontario Addiction Research Foundation, for the extension of telephone service to the reserves, and an extension of the trapping season. (It should be pointed out that by the 1940's, Ontario had again contravened the Treaty by issuing trapping licences, quotas, and seasons to *Anishinaabeg* .) Such was the incursion of provincial laws and regulations into the lives of Treaty #3 *Anishinaabeg* that three of these requests were directly within the ballywig of the province.

The people of Kenora, aided by the national media, awaited the march with trepidation. "Town on a Powder Keg" blared the media, while Kenora leaders and rank and file accused outsiders of infiltrating "their Indians" and worried publicly about an "uprising". Busloads of *Anishinaabeg* came from Whitedog, Whitefish Bay, Rat Portage and other reserves in mid November. That evening, 400 men, women and children walked quietly through the streets of Kenora, together with the very few whites of the Indian-White committee to present their brief to Town Council. Grand Council Treaty #3 President Pete Seymour and organizer Fred Kelly read the brief. [6] Town Council

eventually supported the requests of the delegation, and forwarded them to the federal and provincial governments.

The 1965 Kenora March was a watershed event in the history of Indian-White relations in Canada. It served notice to one nation that there were civil rights and justice problems within its own Canadian borders. It was a coming of age for another nation - a revitalization of the Treaty #3 *Anishinaabe* Nation .

In the 1960s, Treaty #3 leaders had been involved in the Union of Ontario Indians (UOI), an organization of status Indians from reserves across the province. Under the organizing direction of Omer Peters of Moraviantown (near London), the UOI was becoming more prominent and outspoken about the need for improved conditions on reserves across the province. During the 1968-69 Indian Act consultation process across Canada by Trudeau's junior Ministers, Jean Chretien and Robert Andras, Treaty #3 leaders were adamant about Treaty rights. Both Fred and Peter Kelly of Sabaskong, Raymond Bruyere of Couchiching, Fred Green of Shoal Lake and many others spoke at hearings in Toronto and in northern Ontario about the importance of the Treaty and the necessity of settling land issues before revisions to the Indian Act could be taken seriously. Treaty #3 leaders were among the national leadership taken aback when the federal government responded to these hearings. The "White Paper" of 1969 which completely ignored the call of status Indians for just redress of their grievances and espoused instead Prime Minister Trudeau's wish for equality for all Canadians (Ponting & Gibbins 1980; Weaver 1981).

It was during this time, as well, that Treaty #3 leaders became disenchanted with the Toronto based UOI and took the step of incorporating their own Treaty based organization, Grand Council Treaty #3. The founding members included Fred Kelly and Peter Kelly of Sabaskong, Ralph and Ray Bruyere of Couchiching, and Philip Gardner of Eagle Lake. Ralph Bruyere became the first President elected by all the Chiefs of the 20 odd bands in the newly incorporated organization; Philip Gardner was its first

fieldworker. Gardner worked closely with the community development worker supplied by the Ontario Labour Council after the 1965 March. By 1969, Grand Council Treaty #3 hired its first executive director, Peter Kelly, and he set about the business of establishing programs to further the mandate of the Grand Council - to protect and strengthen Treaty #3 and to improve the socio-economic conditions of the reserves within that territory.

Through decades of suppression of what *Anishinaabeg* considered always to be the right to self government, as given by the Creator, Treaty #3 leadership adopted many strategies to have the Treaty they entered with the Crown adhered to. Immediately after the treaty signing, court cases of the fledgling Dominion of Canada changed forever the *Anishinaabe* Nation's relationship with the Crown. While the Treaty #3 *Ogitchi Tuaag* sought to continue the spirit and intent of Treaty #3 as a Nation to Nation relationship, the federal Crown sought to subsume *Anishinaabe* people under federal legislation, with the bounty of the lands and natural resources accruing to the provincial Crown.

Treaty #3 leadership at first addressed their concerns directly to the Treaty Commissioner. They were diverted to government officials. During the following decades, the tactic of the federal Crown was to have Indians deal with the lower level Indian agent. It was the purpose of the united efforts of Treaty #3 leaders to "take it to a higher level" (quote from anonymous Elder in Report on Reorganization of Grand Council Treaty #3, 1987). Thus, when requests for adherence to the Treaty were rebuffed repeatedly by the federal government, the Treaty #3 leaders would write Ottawa or petition directly to the King of England , as they did in 1892 and 1938. (Appendix 7:1892 Petition). If no corrective action was taken, *Ogitchi Tuaa* Powassin demonstrated that direct action would be taken to protect their resources, if required. From the 1890s on, *Anishinaabeg* were feeling the full force of assimilative policies of the federal government, and the punitive power of the province in its increasing "regulation" of lands and resources. Their leaders, however, brought their recommendations and "complaints" forward each year at

annuity meetings with the Indian Agent and Indian Affairs inspectors. By the 1930s, Treaty #3 had formalized their leadership into an organization which Indian Affairs preferred to ignore or undermine. When they did reach Ottawa in person, the leaders were either lied to, as was the case of compensation for Lake of the Woods flooding, or were dismissed, by the perennial favourite of politicians and bureaucrats - "we'll look into that". In the 1950s, renewed leadership efforts in Treaty #3 focussed on opening new communication links with the province and pressing for a claims tribunal to investigate and rectify the grievances from the past behaviour of Indian Affairs. The 1960s saw direct action again being undertaken by *Anishinaabeg* in the 1965 Kenora March . Building alliances with outside rights organizations produced political clout on the *Anishinaabe* side, and this growing expertise in lobbying led to a further reorganization of the Chiefs into a provincially incorporated organization, able to handle funds for meetings, advisors, research and programs.

The intrusion of the Indian Act had changed the leadership of Treaty #3, however. Although respected and spiritually guided leaders called *Ogitchi Tuaag* remained, Indian Affairs would exercise its power not to accept such leaders as "chiefs". An electoral system was imposed upon *Anishinaabeg* who had hitherto followed a traditional form of governance which encouraged leaders with qualities appropriate to the requirements of a situation to come forward (Chapter 2). It was a system that encouraged participation and consensual decision-making, whereby everyone had a voice and all voices were considered in the councils of leaders.

Despite the enforced system of chiefs and councils under the Indian Act, these "band councils" sought to act like traditional councils. They met to consider the best interests of their people - for example, how to help a recent widow and her children or whether to recommend per capita disbursement of timber dues or propose a saw mill project (TP Kinew 1969-73; Stuart Jack 1973-76; Tony Copenace 1992-4). Their leaders knew well the need for solidarity in order to have the Crown representatives live

up to the Treaty they had entered with such solemnity. And they tried new means of organization as they believed times required (Pete Seymour 1990; Frank White 1990). These leaders, both the political and the keepers of the sacred ceremonies, kept the oral tradition alive - not only of the spirit and intent of Treaty #3 - but of all the years of trials they had lived through in seeking the Crown government's observance of it. This is the sense of being *Anishinaabe* that is maintained through the unique events and ceremonies of *Anishinaabe* life. It was this identity that was attacked through these years of suppression, and *manomin* was to come to symbolize *Anishinaabe* defiance to one of its last remaining resources, always reserved and cared for by the Treaty #3 *Anishinaabeg*.

Endnotes:

1. This sorry story is part of a present day land claim against the federal and provincial governments for return of their land and compensation for the First Nation. With the biggest producing gold mine on Lake of the Woods on its land, Rat Portage Band actually paid out $600 to a company, whose federal licence proved deficient to the provincial one in court! (Personal observation of Rat Portage records in Record Group 10, Public Archives of Canada, 1972-1979).

2. Indian Affairs directed its Rainy Lake agent to amalgamate the seven reserves along the Rainy River into one reserve at Manitou Rapids, some 20 miles west of Fort Frances. This action took several years to complete and led the agent to make many promises, that were never kept and are the subject of a land claim today (The forced amalgamation of seven reserves led to a unique situation at Manitou Rapids, which continues to be officially called the Amalagamated Rainy River Bands or First Nations. For a period of time, there were seven Chiefs and many councillors at the amalgamated reserve. However, the seven Chiefs and many councillors were eventually whittled by Indian Affairs to the present one Chief and one councillor per hundred population, according to the Indian Act. As could be anticipated, the nature of the forced amalgamation led to very strained relations among the people. It is ironic to note that at least one renown anthropologist, Ruth Landes, built her analyses and theories about the "atomistic" Ojibwa on her fieldwork during the 1930's on Manitou Rapids, a reserve community which had suffered such aggressive dislocation only a decade or so before.).

In addition, Ontario refused to accept the Sturgeon Lake Band having a reserve on Hunter's Island. That Indian reserve was located in an area designated as a provincial forest preserve in 1910, and later Quetico Provincial Park. In a federal-provincial agreement, reserve 24C was "hereby cancelled". In actual fact, the Anishinaabe people were forced out of their territory in mid winter, according to nearby Minnesota observer who complained to the Canadian writer (personal knowledge from PAC RG 10 records, 1973-1974). The remaining members of the Sturgeon Lake band were transferred by Indian Affairs to different bands. No surrender vote was ever taken, as required by the Indian Act, nor any compensation paid. 24C is the subject of a land claim today, by their descendents at Lac La Croix, which borders presentday Quetico Park.

Other reserves, such as the Assabaska shoreline reserve between Big and Little Grassy reserves on Lake of the Woods, were never formally surveyed but were confirmed as reserves then later disputed by Ontario, and have become land claims today (personal knowledge). At issue was what Ontario perceived to be "excessive acreage" the federal government allocated to Treaty #3 reserves, based upon the Treaty formula of "one square mile per family of five". The source of the problem lay in a number of issues. During the several years of surveying, the lake levels throughout Treaty #3 were affected by provincial dams and surveyors often included marsh in the acreage thjat later became islands. Also, there were, in Ontario's estimation, disproportionately more reserves on the Ontario side of Treaty #3 than on Manitoba's side. In any event, Ottawa agreed to pay Ontario more than $23,000 as compensation on the basis of $1 per "excess" acre (Grand Council Treaty #3 TARR, 1975; McNab, 1983b).

In 1914, deputy ministers of the federal and provincial governments agreed to the extent and location of the reserves, and, as called for in the 1894 agreement, were both to pass legislation approving the agreement. However, Ontario proceeded unilaterally in 1915 and changed the wording of the 1894 agreement to suit its own purposes. Most importantly, Ontario's law stated that Treaty #3 reserves were not to include headland to headland water boundaries - the exact opposite to the 1894 wording. Ottawa objected in writing but was advised by Queen's Park that such issues could be "remedied in practice" (Treaty #3, 1975; McNab,.1983b).

To an outsider, the practical effect of negating headland water boundaries of the reserves would be to eliminate reserve land ownership and protection of the ricefields, most of which were the reason these reserve sites were chosen. However, Treaty #3 *Anishinaabeg* considered all of Treaty #3 's 55,000 square miles to be their traditional territory for ricing, fishing, hunting and all traditional activities, and so, the matter of whether headland boundaries encased ricing areas was not the issue. Indeed, Treaty #3 *Anishinaabeg* refused to accept the Ontario government's proposal that Treaty #3 reserves map out ricing areas close to their reserves and these would be protected. To Treaty #3 *Anishinaabeg*, this would be limiting and lessening their traditional ricing areas.

The headlands issue remains outstanding into the 1990s.

3. Nick Skeet is actually Nick Skead of Wauzhushk Onigum. His defiance was echoed in the 1970s by Joe Andy Sr. of Big Grassy who was given an award by the Chiefs of Grand Council Treaty #3 for his dogged determination to fish according to Treaty #3 rights, despite however many times the Ontario wardens confiscated his boat and gear and hauled him into court.

4. Bob Roy's granddaughter, Evelyn Copenace of Onegaming, relates that her grandmother Ogimaabinesiik was the writer and author of the letters. She is directly mentioned by Captain Edwards as one of a delegation of four from Whitefish Bay.

5.This is the same Linde who was such a friend of Powassin, the original Treaty #3 negotiator. Powassin left Linde the parchment document of the Treaty for safekeeping, the same document later purchased from Linde by Allan Paypom, and now known as the Paypom Treaty #3.

6. Immediately after the 1965 March, Fred Kelly was to lose his job with the CAS. He rose to many challenges in the 1970's to be Chief of Sabaskong, Grand Chief of Treaty #3, and Director General of Indian Affairs, Ontario Region. An effective consultant thereafter, Fred Kelly was honoured in 1990 by *Anishinaabeg* of Kenora for his leadership role in the 1965 March twenty five years before.

Chapter Eight

Provincial Incursions into Manito Gitigaan: 1960 Ontario Wild Rice Harvesting Act

"This is legislation, not for the Indians."

In the 1950s, Ontario continued its long standing practice of taking over and exercising jursidiction over natural resources in the Treaty #3 area. The Province had begun with timber (1870s), crown lands (1880), mining (1890s), fishing (1890s), then followed by trapping in the 1940s. *Manomin* was the last remaining resource that was so singularly identified with the spiritual foundation of *Anishinaabe* people and government that the *Anishinaabeg* never allowed any white person to harvest it (Holzkamm1984; Bert Yerxa 1990).

Pete Seymour at *Wauzhushk Onigum* First Nation near Kenora, a former Grand Chief of Grand Council Treaty #3 during the 1950s-60s, likened the province getting involved in the wild rice harvesting areas to the same way they got into a trapline system.

> "The traplines didn't come until the 1940s - 1946 I think. Before that there was traplines for whites but not for Indians. Indians could trap anywhere." (P. Seymour 1990)

Frank White of Whitefish Bay, a former Vice President of Grand Council Treaty #3 in the era of Pete Seymour, recalled:

> "Indians used to trap all over the place. Used to be 5-6 families in one trapping area. There were no sections. Then Sioux Narrows white people were trying to get licences on Indian grounds where we'd trapped all our lives..Snake Bay, Black River. Logging was another (reason for Indians' losing traplines). White people began to buy the licences from Indians, and (Ontario department of) Lands & Forests said 'if you don't trap, you lose your licence'. But you need to leave your area at least once season or the animals don't come back. Then Indians started asking for individual licences (to protect what they had)." (White 1990) [1]

Bert Yerxa is an Elder and descendent of *Mikisens*, a signator to Treaty #3. A trapper, and former founding Board member of the Treaty #3 wild rice co-op, Anishinahbe Man-O-Min Co-op, he recounted from his home at Couchiching the result of provincial traplines:

> "In 1947 I remember counting 80 Indian trappers at an Ontario Trappers Association meeting of the Rainy River District (including Rainy Lake and part of Lake of the Woods). In 1990, there's not many Indian trappers left." (Yerxa 1990)

Pete Seymour was employed by the Ontario Department of Lands & Forests from 1940s to 1970s. Alone among interviewees for this thesis, he spoke of conflict among *Anishinaabeg* in the bush.[2]

> "Indians were raiding each other's traps and they were actually fighting in the bush. So Indians asked for set areas that they could trap themselves. The same with wild rice harvestings areas. There were too many people trying to pick in the same bays. People complained and asked for set areas. Lands and Forests had meetings with the people. I know - I was there - I interpreted (Ojibway and English). The people said they wanted set areas. Lands & Forests went back and drew maps. But even I was surprised when they said they were legislated. Lands and Forests never talked about any laws." (Seymour 1990)

This scenario of a request by *Anishinaabeg* for set areas is definitely <u>not</u> a shared recollection by any others of that era.

Fred Greene Sr. was Chief of Shoal Lake #39 at that time. He is a commercial fisherman, trapper, singer and renown artist (Greenfeather), as well as a rice picker. Fred Greene Sr. reviewed an account of this 'consultation' process, based on Ontario Department of Lands and Forests notes and minutes (Schreiner 1978). Fred Greene was livid.

> "That's a lie. Why would we want Lands & Forests involved with the rice? Who knows better than we? Especially why would we want them to tell us when to start picking (ed: as the Department of Lands &Forests minutes intimated)? We're the ones who are out on the ricefields, checking the rice. We're the ones who touch the stalks, see the kernals ripen. Lands & Forests didn't know anything about rice. I never saw Lands & Forests out on the fields in all the years after the Act was passed. They'd always be in planes, flying over head .. like God. Maybe they were counting canoes.. They wouldn't see the rice..they don't know anything about rice." (Greene 1990)

Fred Greene remembered only one meeting, an annual spring trapping meeting between trappers and Lands & Forests personnel, when rice was discussed, among other issues. According to several informants interviewed for this research, there is a vast discepancy between the Lands and Forests reports and the remembrances of Treaty #3 *Anishinaabeg* who were actually present. According to Treaty #3 people, neither the Chiefs nor the pickers were

ever consulted about Wild Rice Harvesting Areas nor the development of any laws or regulations nor when or why legislation was to be introduced (F. Greene, F. White, G. Crow, B. Yerxa, R. Bruyere, W. Wilson, 1990). Chief Wilson of Manitou Rapids had pointedly asked one of the Rainy River Elders, who denied any consultation or foreknowledge of Lands & Forests plans. In answering my question about the rationale for such legislation, Fred Greene thought it may have been an idea from rice buyers and dealers like the Ratuski family of Keewatin, or perhaps that rice remained "the last renewable resource to be legislated" (Greene 1990).

The original purpose of this legislation is not clear. Lands and Forests likely saw the opportunity to legislate for this resource, for which both Manitoba and Minnesota already had legislation. On record, there is no background as to why P.A. Thompson of the Kenora District office of Lands & Forests wrote his report entitled "A Plan for the Orderly harvesting and Marketing of Wild Rice in the Kenora District" (March 10, 1959) (Shreiner 1978:28-35). The objectives were:

> "(a) to manage wild rice fields on a sustained yield basis;
> (b) to encourage native methods of harvest and culture;
> (c) to ensure Indian bands derive maximum profits (Schreiner 1978:28)

The Plan of Action included 4 steps:

> "(1) Inventory (Indian knowledge obtained at Spring Trapping meetings);
> (2) Allocation and Description of Wild Rice Harvest Areas (to uphold traditional rights, there is to be an allotment to each of the Bands in the district);
> (3) Legislation (regulations are necessary governing applications, licences, counter receipt forms, return forms);
> (4) District program (District office staff is responsible for issuance of licences, planning experimental methods to increase growth and production, and coordinating policy between producers, buyers, Indian Affairs Branch and the Department of Lands and Forests)". (Schreiner 1978:28-29)

According to this Thompson account, prior to the legislation,

> "ricing was controlled and carried out by native Indians. They still followed the traditional harvest method, keeping part of the crop for personal consumption and selling surplus to buyers in Ontario and Manitoba." (1978:29)

However, it was also noted that

> "there were some conflicts between Indian Bands over harvesting areas. Harvesting boundaries were defined by areas of wild rice traditionally used by each Band. It is not difficult to imagine how

misunderstandings over ricing locations could have arisen." (1978:29)

According to this report, in October 1959, Lands and Forests called a meeting with "all interested parties, including harvestors, buyers and decision makers" (Schreiner 1978:30). Discussion arose regarding dates to begin picking as some buyers "urged the Indian pickers to harvest before the grain was ripe" under "the misconception that greater profits were to be had by getting the rice early"(Schreiner 1978: 30). According to Ontario Department of Lands & Forests minutes of this meeting in Kenora, October 23, 1959, some *Anishinaabeg* suggested that Lands & Forests Conservation Officers work out with local pickers when to pick and enforce the regulations. The Assabaska band supposedly recommended that the Officers be reimbursed for their enforcement duties by a percentage of the rice sale (Schreiner 1978:30-31)

The purpose of the proposed wild rice legislation was also an issue during debate in the Ontario Legislature. The Wild Rice Harvesting Act was introduced into the Ontario Legislature by the Minister of Lands & Forests, Hon. Spooner, January 28, 1960. The purpose of the new Act was stated to "control and regulate the harvesting of wild rice on Crown lands" (PAO, RG49, Series I-7-H (original bills), Bx 509, Bill 40, 1960 Explanatory Note to the OWRHA, 1960; Dec.18, 1959). The Minister preferred to leave explanation until the second reading but when pressed by the Leader of the Opposition, Mr. Wintermeyer, he offered:

> ".. At the present time there is no control over such activity , and we think that it is desirable that such control should exist in certain parts of the province.In certain parts of the province the harvesting is what you might call a small industry and we are of the opinion that it should be done under some control from the Department of Lands & Forests." (PAO, Legislature of Ontario Debates, Official Report, 1st Session of the 26th Legislature, Thursday, January 28, 1960, p.35)

The second reading came two weeks later. The Minister offered some little detail:

> "This is new legislation which we feel is desirable in that it would provide the department - which is, after all, the department most closely concerned with the natural resources of this province, including the game and fisheries - with certain authority to deal with the harvesting of wild rice which, in some parts of the province, is developing into a rather important industry. I might say that the revenue from the harvesting of wild rice is worth $500,000 to one million dollars a year for some 600 to 800 Indian families . Our people are aware of certain needs in that regard, and we feel that this is a desirable piece of legislation."

Mr. A. Grossman (Conservative from Toronto):"Will we feed Red China?"

(PAO, Legislature of Ontario Debates, Official report, First Session of the 26th Legislature, Monday, February 15, 1960, p. 403)

The Liberal member of the Ontario legislature from Fort William (1959-63), Mr. John Chapple, questionned the Conservative Minister of Natural Resources:

> "..**this is legislation, not for the Indians, but it is legislation for someone who is going to go in there and take over certain areas of Crown land with a licence possibly**, and make it so that they may hire Indians to do the job. This does not necessarily improve the lot of the Indians.
>
> I think that the department of Lands and Forests should go ahead and develop these beds where wild rice grows to the greatest possible extent so that the Indians can use them. I think that the department has a real obligation here, and that the Indians should not be licenced so much. There should not be a licence issued; the Indians should be allotted these areas so that they can go in and harvest this wild rice and collect money for the sale of the wild rice so that their revenue can be greatly improved.
>
> Now, although we try to integrate the Indians into our way of life, they do not necessarily go into our way of life. because they are in that part of the country - northwestern Ontario - they are shy, they are in bands, they travel for miles, and they only have certain revenues at their disposal.
>
> Another revenue they may have at their disposal is the picking and selling of blueberries up and down the railway tracks. Well, are we going to licence the Indians as far as blueberries are concerned?
>
> I think they should be allowed to sell the blueberries and the wild rice and everything else on crown lands, and have the allotted areas not under a licence. **I say this because, once we licence a thing, then we control it.** Once we control it, then we are in a position where the advantage goes to the person who is actually handling it rather than the person who the job is done for. (emphasis added in Ontario Debates, Feb.15, 1960:404, PAO)

M.P.P. Chapple contended that the Ontario Government had its own agenda of expansion in mind, not the assistance of *Anishinaabeg* .

> "I think the department has a real service to offer here, but I do not think licencing is the answer.
>
> I do not think that there should be any licences because those areas that are licenced are no longer under the control of the government, and they should be under the control not for the government, not for the people who can come in and spend a year there and get allocation, but for the Indians themselves who should be looked after. This is one way in which the Department of Lands and Forests can do a good job." (Ontario Debates, Feb.15, 1960:404)

The Minister of Lands & Forests wished to "allay the fears" of the Hon. member from Fort William and stated that the purpose of the legislation would exactly do what he suggested. He stated that Lands and Forests "does as much, if not more, for these Indian people of Ontario than the Indian Affairs branch of the (federal) Department of Citizenship and Immigration which is the one department primarily concerned with the Indians"(p.404). The debate continued:

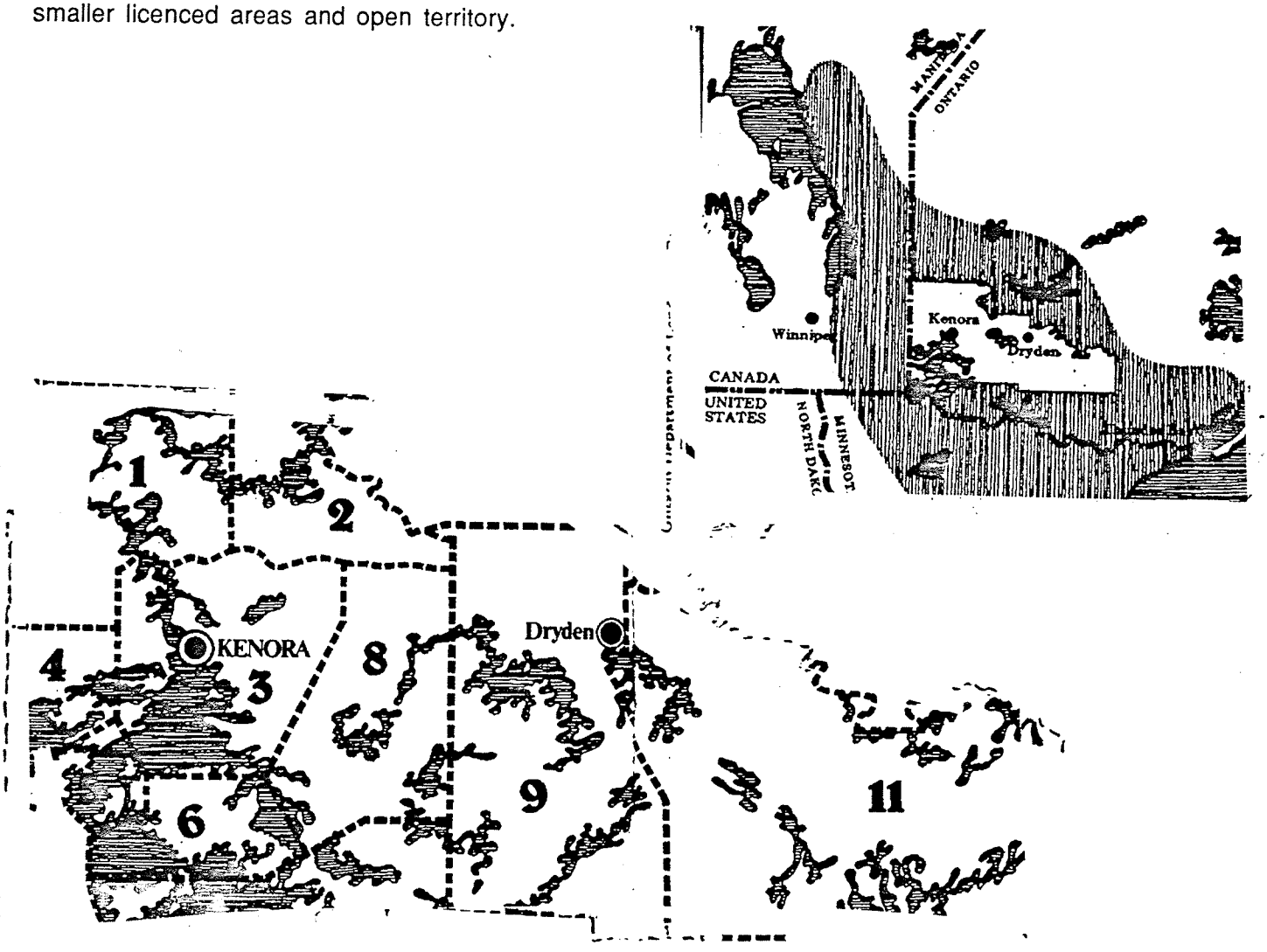
> Spooner: "**We have no intention, my hon. friends, of taking away anything from the Indian population.** Indeed, by licencing, and by other means of regulation, we hope to achieve a result that will be still more advantageous to the Indian population than the present set-up. (emphasis added)
> By being able to set aside, in the same way as we have managed the trapping areas of this province, by having areas set aside for wild rice harvesting, we will see that the waste, which now exists, will be reduced to a very minimum..."
>
> Chapple: "Mr. Speaker, **the Indian is not mentionned here. The Indian is not covered in this bill. It is not specifically laid out and there is no protection for the Indian here in this bill."** (emphasis added)
>
> Spooner: As far as I am concerned, Mr. Speaker, I make no differentiation or discrimination with regard to anybody. I do not care whether a person is an Indian or a white man."
>
> Motion agreed to: second reading of the bill.
> (Ontario Debates, Feb.15, 1960:.404)

A number of bills were passed during a late night sitting a month later. On March 15, 1960 the Legislature passed Bill #4, an Act to provide for the harvesting of wild rice. No debate was reported. The Act received royal assent April 12, 1960, on the same day that the Provincial parliament prorogued. (Appendix 8)

Mr. Chapple, MPP for Fort William, clearly foresaw the future of this bill. The Minister used what became a familiar argument in the 1970's: "equality" for everyone. Hon. Spooner stated he did not care nor differentiate between Indian and white. The intention of the bill was obvious to M.P.P. Chapple: to deprive the Indian of any control over the resources such as wild rice and blueberries, which they had cared for and gathered since long before the whitemen arrived.

The Ontario Wild Rice Harvesting Act, 1960 provided for the "control and regulation of the harvesting of wild rice on Crown lands". As explained in the Lands and Forests Annual

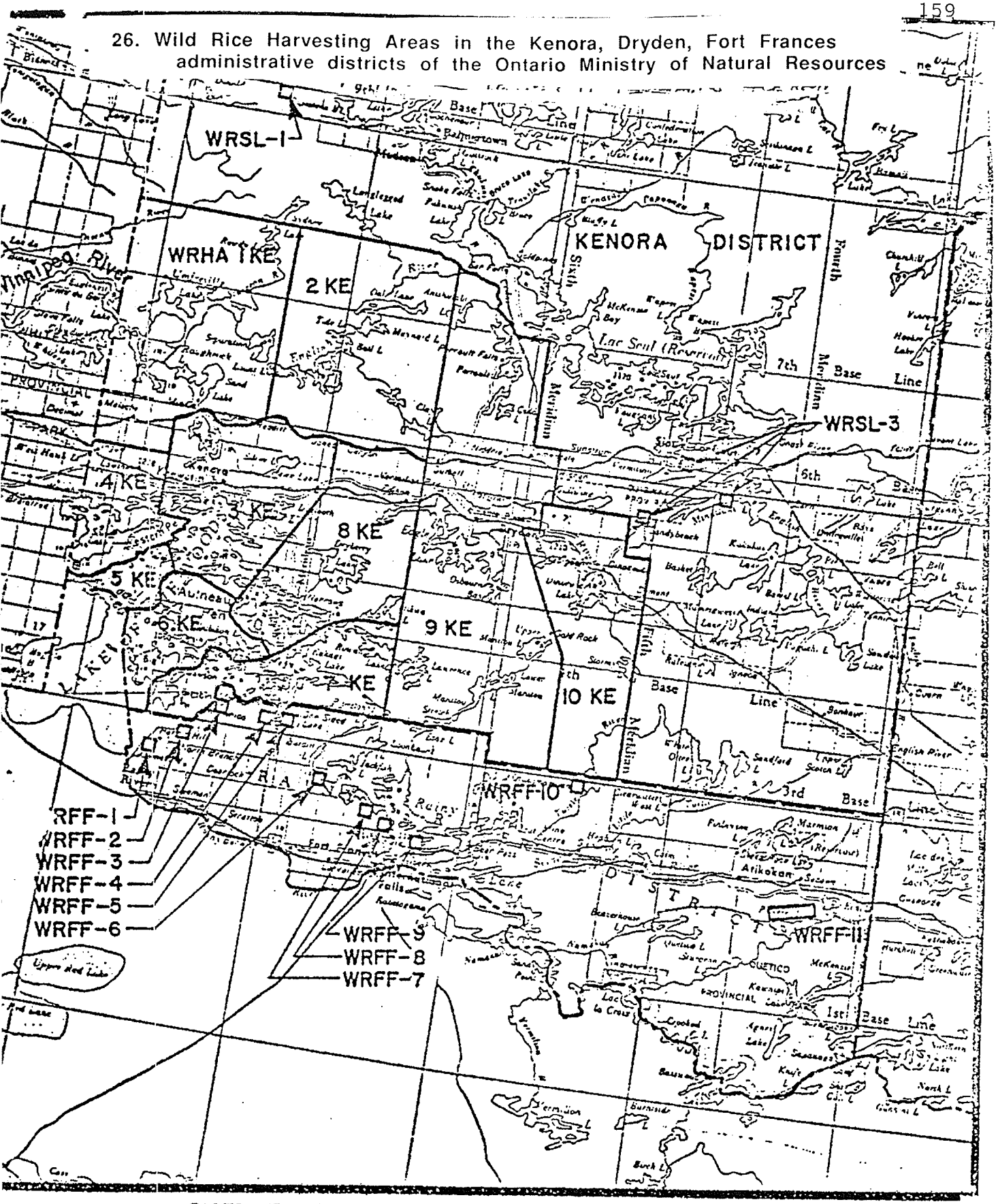
Report, 1960, "The Act requires a licence for the harvesting of wild rice on crown Lands and provides that a licence shall not be issued to a person who is not a resident of Ontario. Regulations providing for licences, licence fees, wild rice harvesting areas and royalties may be made under the Act" (Public Archives of Ontario, Government Documents, Department of Lands and Forests Annual Report, 1960:2). The regulations that followed required the colour of eyes of the licence holder to be listed on the licence - a curious request if all harvesters were to remain *Anishinaabe* . Large 'Wild Rice Harvesting Areas' were carved throughout the Kenora district while the Rainy River and Thunder Bay districts - also part of Treaty #3 - were sliced into smaller licenced areas and open territory.



Harrowsmith v.iii:7, #19,1979:36

25. Wild Rice Harvesting Area (WRHA) blocks, established under the Ontario Wild Rice Harvesting Act, 1960

26. Wild Rice Harvesting Areas in the Kenora, Dryden, Fort Frances administrative districts of the Ontario Ministry of Natural Resources



WILD RICE HARVEST AREAS

The Whiteshell area of Treaty #3 had become enclosed in the boundary of Manitoba, after the 1880 Ontario-Manitoba boundary issue was resolved by the Privy Council in Britain. This area of Treaty #3 also became regulated by Manitoba Department of Natural Resources in the 1950's, an obvious impetus to the Ontario legislation. The Manitoba regulations also required licences - for Manitoba residents only. Such regulations would seek an end to Treaty #3 pickers from Lake of the Woods, Shoal Lake and the English River from continuing their annual harvest in their own traditional, treaty lands.

What neither the Ontario government nor the Opposition recognized was that the *Anishinaabeg* had planted rice and fired the lands for blueberries in early horticultural activities documented in the earliest historical records. While the Conservative government of Leslie Frost went on record as helping Indians far more than the federal agency legally responsible for them, the purpose of Bill 4 was to control and regulate wild rice - and eventually to remove any semblence of centuries old control over the rice by *Anishinaabeg* . *Anishinaabe* people who would eventually learn of this legislation would see it as further evidence of the concept of "*ki washkwe wag* ", that is, the "white people are crazy to control everything" (Ron and Josephine Sandy 1979).

The language used in this debate is interesting for its revelation of attitudes. Chapple, who perhaps had more firsthand experience with *Anishinaabeg* from Northwestern Ontario, by his living in Geraldton and Fort William , saw Indians as gatherers of resources (Canadian Parliamentary Guide 1961). The Conservative Minister Spooner conceived of Indians as a labour pool who would benefit from improved revenue. Neither politician saw what the *Anishinaabeg* believed: the *Anishinaabeg* have a sacred trust relationship with this plant, a gift from the Creator. The *Anishinaabeg* had cared for the plant since time immemorial. They had nurtured it, prayed for good weather, harvested it through conservationist ways that ensured the annual replanting of the seed during harvesting. *Anishinaabeg* had intentionally extended areas of seeding and harvesting and had undertaken their own commercial sales, in excess of their own personal, community and ceremonial use. In turn, the plant had provided them with a nutritional food that, once processed, could be kept for years. Wild rice and fish enabled the

Anishinaabeg to form permanent settlements long before other Aboriginal nations who relied more firmly on hunting and the travelling that hunting entailed (Chapters 3-5; Holzkamm and Waisberg 1990; Vennum 1988).

Once again, the non-Aboriginal governments passed laws that were to have an increasingly dangerous impact on the lives of the Treaty #3 *Anishinaabeg* . And the settler-government had accomplished this without the knowledge or consent of the people of the Treaty #3 *Anishinaabe* Nation, directly affected. In 1888, St. Catherine's Milling Co. case altered the treaty agreement that the *Anishinaabeg* signed with the Queen, so that the province became the main beneficiary and ever thereafter interfered in the lives of the *Anishinaabeg* (chapter 7) . In 1960, with the passage of the Wild Rice Harvesting Act, the Ontario government occupied the field of this natural resource. According to the Constitution Act, 1867, section 92, the province had this jurisdiction. According to the Paypom Treaty #3, the *Anishinaabeg* were the sole trustees of wild rice within their territory.

Both the Conservative and Liberal members of the Ontario parliament missed that essential message. While the Liberal Opposition critic was trying to protect the place of Indians as the main harvesters of wild rice, the Conservative government was seeking to extend the control of white entrepreneurs in this field. And the *Anishinaabeg* were unaware that this new legislation had been proposed, drafted, debated, approved by the Ontario Legislature and given royal assent April 12, 1960 - some eighty-seven years after Treaty #3 was signed and given other royal assent.

Endnotes:

1. The reader is referred to Chapter 7 for an understanding of the context of the times of the 1930's to 1950's, when lands and Forests conducted a fearsome campaign against Indians, arresting them, confiscating equipment, imposing fines and jail sentences - merely for exercising their Treaty right to hunt, fish and trap. By the 1950's, *Anishinaabeg* were seeking protection from, and by, the imposing government whose regulations not even the Department of Indian Affairs could protect them against.

2. There are likely several reasons for any such conflict which may have occurred. Certainly, alcohol abuse became a very visible and destructive problem amonst *Anishinaabeg* during the 1950s, although , of course, alcohol had been used as a disruptive mechanism since the early fur trade days. Indians in Canada were not legally able to drink until 1960 when they became citizens and legally able to vote. However, most actual stories of conflict which I recorded from interviewees occurred in the 1950s and later. All documented cases were members of Whitedog (Wabeseemong) and Shoal Lake who were picking the Whiteshell area with Saakeeng First Nation (Fort Alexander, Manitoba). Thus, the intra-*Anishinaabe* conflict accepted as fact in the Ontario Department of Lands and Forests documentation may have actually reflected a new regulatory regime regarding wild rice imposed by the Province of Manitoba.

Chapter Nine

The Wild Rice Industry

From the fur trade to the "capitalization of a traditional pursuit".

"We could not have continued without wild rice provided by the Indians"
Alexander Henry, fur trader, 1775

Manomin has always offered the promise of security to the *Anishinaabeg*. Together with the sturgeon and other fish species that their people prized, *manomin* provided *Anishinaabeg* the opportunity of forming settlements long before other aboriginal peoples of the midnorth (Smith, J.G.E. and Moodie W.G. course lectures on "The Ojibwa" at the University of Manitoba1989). The fishing seasons of spring and fall brought large gatherings of people which served to strengthen *dodem* (clan) ties and alliances through marriage and ceremonies (Smith J.G.E. and Moodie W.G. lectures 1989). *Manomin* harvest time of late August into October meant continued large gatherings with families on their*manomin* fields for harvesting and processing the rice .

One of the *manomin* myths fabricated by the first outsiders visiting this area was that "they reap, without sowing it, a kind of rye which grows wild in their meadows.." (Jesuit Relations 44:275 in Grand Council Treaty #3 1975:1). In actual fact, as explained in Chapter three,"'the Ojibways *(Anishinaabeg)* carefully managed wild rice by allocating ricing areas and restricting access to beds " (Waisberg and Holzkamm 1990:4). The *Anishinaabe* people extended the territory of *manomin* by sewing the rice, through various means, such as rolling the wild rice seed in mudballs and dropping them in the the appropriate waters and sediments (T3 Elders 1979; Moodie 1990; Syms 1984; Waisberg and Holzkamm 1990:3-4).

Manomin was a major source of protein for the Boundary Waters *Anishinaabeg* and contributed greatly to their "annual round" of seasonal activities designed to vary their diet (Waisberg and Holzkamm 1990:3-4, 24-27;Vennum 1988:175-188). If one food source was not available that season, such as rabbits or caribou, then the people

would switch toward a heavier reliance of what was available, such as *manomin*.. Basing their analysis on historic documents of population figures and actual harvests data from 1775 to 1898, Waisberg and Holzkamm concluded that an average harvest consisted of 2 bushels of rice per person (1990:25) and this would have allow one person to subsist 64.12 days. Taken together with corn and potato harvest data, the agricultural activity of Lake of the Woods Anishinaabeg provided 192.88 days of subsistence food per year , enabling a great variety in diet and the protein source to carry out the more gruelling tasks of hunting and fishing (Waisberg and Holzkamm 1990:24-25).

Manomin historically grew in what has been described as a four year cycle - one excellent, one poor, two average. *Anishinaabeg* themselves refer to a seven year cycle - several good, one or two fair, one poor, and one failure (Stuart Jack 1978).

What was prized by *Anishinaabeg* and the newcomers who were feasted with this good tasting protein was that, once processed and kept dry, *manomin* would last in storage for any length of time (Aiken et al 1988; Vennum 1988; Stuart Jack 1978; Fred Green 1990). The finished, dehusked rice would be ready as a meal in itself or as a nutritious addition to the main course of fish or meat.

Fur traders extolled its virtue as a portable and good tasting food source (Grand Council Treaty #3 1976; Holzkamm 1985). Voyageurs often bemoaned their predictable diet of 'hack tack' meat or pemmican (dried meat and berries rolled into lengths or buns) and bannock. They looked forward to the variety that *manomin* offered in making soups, stews, or stuffing. And with its high vitamin B content, they were healthier for it (Aiken et al 1988; Vennum 1988; Grand Council Treaty #3 1976). In every way, the provision of wild rice was a bonus for the fur companies. (See also Chapter five).

Yet, alone among the resources of their traditional territory, *manomin* was the sole proprietary interest of the *Anishinaabeg*. While fur traders often fished and hunted throughout the area they travelled, they did not harvest or process rice, nor did they ask

permission to do so (Holzkamm 1985). It was recognized that *manomin* was *Anishinaabe.*

Such a 'hands-off' attitude of respect lasted until well into the twentieth century in the Treaty #3 territory, even though, a different picture was seen in nearby Wisconsin and Minnesota. In these northern states, bordering Treaty #3 territory, white people did usurp the ricefields from the *Anishinaabeg* to do their own harvesting and processing (Holzkamm 1985; Vennum 1988). What was different about Treaty #3?

Beginning about the 1930s in the southern part of Treaty #3 and the 1950s in the more northern reserves, some of the first non-Indian entrepreneurs - such as Cathcart from Fort Frances, Ratuski from Kenora - began to buy the traditionally processed rice from the *Anishinaabeg* at lakeside. Fresh off the field, this wild rice had then been roasted, thrashed and winnowed clean by the *Anishinaabeg* . Buyers sought to sell it to a larger retail market well beyond the borders of Treaty #3, their primary target was the big American cities and restaurants. (T. Bruyere 1990; H. Redsky 1990; A. Wilson in Holzkamm 1990; Stuart Jack 1979)

For years, this trade continued with buyers paying so many cents a pound directly to the heads of families who harvested and processed the cereal grain. Such a system of sale maintained the balance of trade from the days of the fur trade, with the *Anishinaabeg* holding the processed rice which would keep for a long time and the buyer wishing to negotiate a price for the product. In theory, this was a seller's market. However, these times were hard, and to a great extent, *Anishinaabeg* had entered the cash-labour economy since the turn of the century lumber camps (P. Seymour 1990).

The balance of trade changed drastically in the 1950s, when buyers began to purchase the rice green, right off the fields, without first being traditionally processed by the *Anishinaabeg* . The lakeside buyers would then arrange to have the green rice machine-processed and resell it on the retail or restaurant market. Or they would sell for a profit immediately and directly to a processing plant, usually American. More

choices opened up when Manitoba processors developed their processing capacity in the 1960s, and the Keewatin Wild Rice plant under the Ratuski family near Kenora opened their plant in the early 1970s (J. and R. Sandy 1979; H. Redsky 1990). Now, what had been, at least in theory, a seller's market became a buyer's market. Pickers and buyers were well aware that unprocessed rice has to be sold within a short while of being harvested or it will spoil and mould.

From this time of the 1950s, and perhaps somewhat earlier as birchbark canoes were being replaced with manufactured ones, the buyers began to provide canoes and some provisions to the pickers, to ensure loyalty to buyers, despite whatever price paid (N. Morrison 1992; Stuart Jack 1975; TP Kinew 1975).

> "We sold rice for other suppliers (ed: supplies?) . We never went for groceries. The buyers seemed to know what we needed. I don't remember the buyer's first name, but it was Mr. Cathcart from Fort Frances. He'd follow us around. Then there were other buyers. Once in a while, we would sneak off to another buyer because he would give a few cents more (a pound). We didn't want our buyer to know we had rice. It was because he would give an advance to us. This way, we would have our own money to do what we wanted to do - have fun, gamble. There were days of rest (ed: when rice chief told people to refrain from picking while the rice ripened) and so there would be gambling going on" (Annie Wilson in T. Holzkamm 1990:33).

After World War II, there was a devastating societal change with the *Anishinaabeg* Many of the people who had suffered years of oppression under the Indian Act and the torment of residential schools turned to alcohol to remove their pain. Racist discrimination meant that high schools were closed to most *Anishinaabeg* and jobs were shortterm and in the bush - if any were available (N. Morrison 1990; Stuart Jack 1979; TP Kinew, 1975). Trying to get a buck was important, and trying to make a living led many of the World War II veterans to "enfranchise", that is, become legally declassified as a status Indian under the Indian Act, in return for gaining the "rights" of Canadian citizenship: voting, drinking alcohol and holding property (S. Copenace 1979; Stuart Jack 1979; TP Kinew 1975).

Societal changes also affected the trade on the ricefields. Selling green rice meant instant cash for less work, without the processing to do. Traditional processing was left to families who wished to keep some for their own.

> "In those resting days (ed: when rice chief ordered everyone off the fields to allow more rice to ripen), I remember at One Sided Lake (ed: near Sabaskong reserve 1940s), the people would really go full swing into processing. At Whiteshell (ed: on Manitoba side of Treaty #3, mid 1950s), we'd make some of our own but all the people did was play poker. My kids were small so I couldn't rice too much but I'd go out with my husband later in the day just for something different to do. That's when I remember the first time people sold green rice. They wanted the money right then,
>
> That's also the first time I saw people come in, bag their rice and then leave it in the water. I wondered what was going on because at One Sided Lake, we'd try to leave it out and dry it right away. Then I saw the wet rice was heavier, and as long as the bag wasn't dripping, they'd get a higher price from the buyer. Our men sold the rice - not the women. The buyers were from Manitoba." (Nancy Morrison 1990).

There are many funny stories of tricking the buyers from the two decades of selling green from the mid 1950s to mid 1970s. This would lead to comments heard today, "Well, how much have you got in that bag - I mean, besides, the rocks, turtles and other stuff?!" (TP Kinew 1994). Those who did trick a buyer usually suffered the consequences of not being able to sell their rice again - or not without it being dumped first to see what was in there! (TP Kinew 1990). But, most pickers sold their rice at day's end to the buyers and trickery was laughed at in a goodhearted way because it was not the norm. It certainly added to the folklore of the ricefield for generations later.

By the mid 1970s, the wild rice trade was developing into what some called an industry. A federal ARDA worker in Manitoba called it more of a "fly by the seats of your pants" business to describe its nature of being shorttime, high risk, venture capital (Avery 1983). The businessman would invest (usually borrowed) money in buying the green rice from lakeside, paying to have it processed or selling it directly to the processor. If the rice were processed, it was then shipped to the identified markets - either retail sales, gourmet restaurant contacts made on their own, or to major processing companies such as Uncle Ben's. Major companies like Uncle Ben's would add

wild rice to their blends with white or brown rice for the mass rather than gourmet market.

The risk to the entrepreneur came mainly in two main sources: (i) the processing, when the return would be determined, and (ii) marketing the rice, arranging solid contracts and ensuring the supply

There is much shrinkage in the initial roasting stage of processing, when the moisture is removed before the husk is dehulled. A usual return is 2.2 to 2.5 pounds of green to make 1 pound of finished rice, but that may vary as widely as 3:1 (T. Bruyere 1990; H. Redsky 1990; Aiken et al 1988). After buying the rice at lakeside, the business entrepreneur must pay the buyer a few cents a pound, a few more cents per pound for transportation to the processor, a set fee per pound to the processor. Additional costs in storage, packaging, delivery, marketing added to the shrinkage from green to processed rice, make the investment more complex than first assumed. (Figure#27)

What attracts people to this industry seems to be the high risk nature and the potential to make a fast buck in the short 4-8 week season each fall. Those who have succeeded have learned the business, made the contacts, and settled their contracts beforehand. Those who have tried to "corner the market" or buck the established buyers, processors and players in the trade have more often than not lost .

The Treaty #3 rice harvester was certainly at the bottom of this industry by the early 1970s. Pickers were receiving only 25 to 30 cents per pound when finished rice was selling for $12 per pound or more. The Chiefs of Treaty #3 resolved to improve the position of *Anishinaabe* pickers by establishing the Anishinahbe Man-O-Min Co-op. Chapter ten outlines the initial success of this *Anishinaabe* owned and controlled co-op of the 1970s, which strove to become a competitive buyer, processor and marketer under one roof. Briefly, the Co-op succeeded in raising the price per pound to the picker to a dollar a pound "to fair market value" for a number of years (T. Bruyere 1990; W.

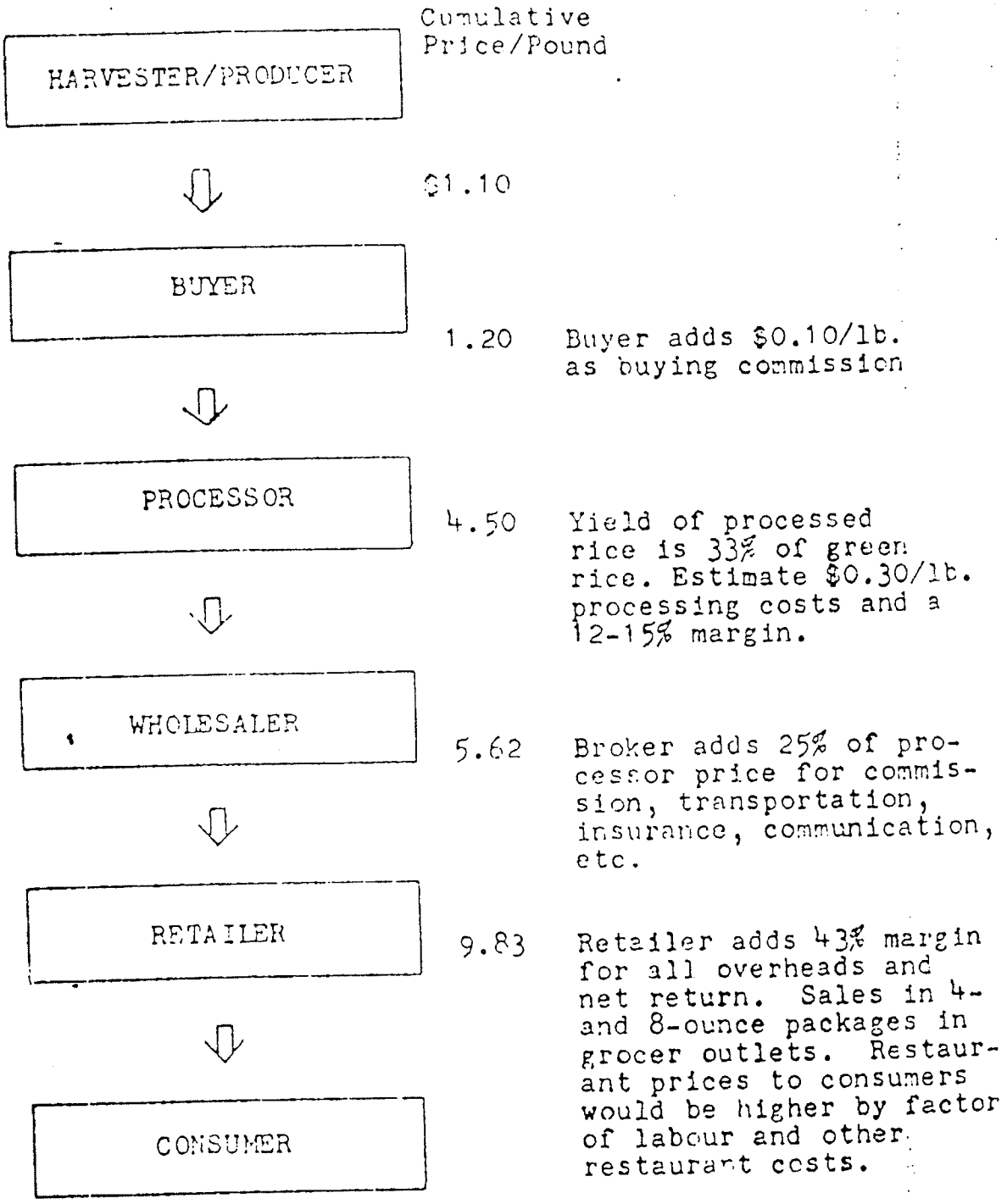


FIGURE 6.2 STEPS IN THE MARKETING OF WILD RICE THAT CONTRIBUTE TO THE MARKETING MARGIN IN THE UNITED STATES.

Source: Little, A.D. The feasibility of paddy production of wild rice in Manitoba. 1968, p. 57.

Wilson 1990; Anishinahbe Man-O-Min Co-operative 1976). The co-op also raised the profile of *manomin* as a Treaty right, and the *Anishinaabe* picker as a worthy worker and owner of a business enterprise. The Co-op's liaison with General Mills of Minnesota led to the "Quiet Water" brand of wild rice being sold under the Betty Crocker label in stores across the US and introduced into Canada. However, moves by the Department of Indian Affairs undermined the success of the co-op, and internal management problems in later years finally brought the co-op under. The Co-op remains a legacy that is remembered by many Treaty #3 *Anishinaabe* people in the decades following, and one venture that initiated many *Anishinaabeg* into many more years in the business side of the industry.

One of the major obstacles to the Co-op in the 1970s was the growing numbers of wild rice paddies in Minnesota. The State government funded the University of Minnesota to embark upon research and development. Combined with Uncle's Ben's assistance by a fulltime agronomist in the field, the university extension work ensured Minnesota a major place in the trade. By 1980, paddy rice supplied just over 60% of the world production (Unies 1981:80 Table 4:4). Minnesota supplied a majority of that market with 78% being paddy rice rather than lake grown. California started paddy or cultivated wild rice production in 1977 and by 1984 had supplanted Minnesota as the largest major supplier (Aiken et al 1988: 104).

What the ricebowl of Treaty #3 has to offer is natural growing lake rice, which has a different length, look and taste than paddy rice. There are at least three ways in which Canadian lake wild rice could make inroads into the world's markets: labelling, marketing and ensuring supply.

Labelling is a major point of contention because paddy rice producers want to sell their crop on the basis of it being "wild rice". Critics say that paddy rice is a total agricultural operation, with pesticides, herbicides, hydrid seeds and combine harvesting, and should be labelled as such. Minnesota has legislation called the Wild Rice

Labelling Act by which companies must state whether rice is paddy or lake grown and whether the rice is organic or assisted by fertilizers and chemicals. However, according to Winona La Duke, *Anishinaabe* coordinator of the Ikwe Marketing Collective of Mille Lacs, Minnesota, "the law has never been enforced. There is a brand called Indian Harvested Wild Rice, a trademark of Continental Wild Rice Company that is a blend of paddy and lake rice not harvested by Indians" and that label has never been questionned in a court of law (LaDuke n.d.)

None of the provinces nor Canada has insisted on separate labels identifying paddy from lake wild rice (T. Bruyere 1990; W. Wilson 1990; Joe Pitchinese 1990). Rather, Agriculture Canada (AgCan) has been promoting the need for grading wild rice (Peter Wyze 1990). AgCan's grading would consider texture, cleanliness, colour and size of grain (Wild Rice Seminar Minutes, Rainy River Reserve, March 27, 1980: 2; Peter Wyze 1990). Treaty #3 entrepreneurs did not agree with the so-called objective standards that AgCan and a newly formed Canadian Wild Rice Council were promoting in 1990 (W. Wilson 1990; J. Pitchinese 1990). To Treaty #3 entrepreneurs Wilson and Pitchinese, there are a lot of other important variables to consider:

> " I told AgCan to look at it from the consumer's point of view, such as taste, cost per serving. Consumers want to know 'what can I get out of it?' With Saskatchewan rice as grade A, they're looking at it like a simple grain - size, texture, colour. It won't work.
>
> Lake of the Woods rice has more per serving than Saskatchewan rice. I even proved it to them, using a #12 serving spoon. Lake of the Woods has 30-32 servings per pound while Saskatchewan rice has 28-29. With paddy rice you only get 21-24 servings per pound.
>
> The timing is important -before it reaches the starchy stage. The standard should be when do you get it out of the pot. Paddy rice has that swampy taste. But if that's what you get used to, you don't notice it .. especially if you mix it with other foods. It's what your taste buds get used to. That's what you're gonna buy."
>
> Willie Wilson, Chief Stoneman's Wild Rice, 1990

> "Our representative in Germany said our rice passed all tests as 'superior' and warned us against changing any grading or labelling. ..AgCan wants to ram grade standards, saying at first they're voluntary. According to Ag Can grades, Wabigoon's grade A rice would be grade C and yet it commands a grade A price in Europe. . Government likes to promote a sectoral generic rice - we have a speciality food. They're going to push us out eventually." Joe Pitchinese, Kagiwiosa Manomin, Inc. 1990

Lakehead University Researcher, Dr. Peter Lee [1], a consultant across North America in developing wild rice potential, agrees with Treaty #3 *Anishinaabe* entrepreneurs. Lee states that Saskatchewan rice should not set the standard (Lee 1990). Thus, grading remains another unresolved issue of the industry. Agriculture Canada believes a system of grading would "develop a measure of quality control for export market .. with voluntary labelling. If you don't meet the standard you don't use the label" (P. Wyze 1990). Treaty #3 *Anishinaabe* entrepreneurs are sure this particular proposed system would sink their sales.

In the promotion of wild rice as a commercial entreprise, either in marketing or expanding production, Ontario and Manitoba did not wish to be outdone in this industry. In 1984, Manitoba changed its policies to open up more leases and areas to non-Indian business. After intense lobbying by Ontario Conservative cabinet minister Leo Bernier, and his campaign chair Ben Ratuski, owner of Shoal Lake Wild Rice of Keewatin and the O Canada! wild rice label, Ontario charted the same course as Manitoba. Ontario directly invested in changes in provincial ricing policies, and in research and development on lake rice. (See also chapter ten and twelve). Ontario proposed to expand the harvest by 200% to 400% in the 1974 strategic land use plans for North Western Ontario (MNR 1974: 116,49-51)) and again in 1986 (see Chapter twelve). After some flirtation with paddy rice in the 1970s, both Ontario, Manitoba and provinces new to the industry like Saskatchewan ultimately accepted that "mechanical harvesting in good natural stands is presently more profitable than commercial production" (Underwood McLellan & Associates Ltd 1975: Summary (no numbered pages)). This led to great federal and provincial investments in Saskatchewan lakes in particular, and to long term provincial support of wild rice research at Lakehead University by Dr. Peter Lee.

Paddy production in Minnesota had a profound impact on the rice market.

> "A research program was started at the University of Minnesota which developed non-shattering varieties of wild rice which could be harvested by combines and (use) disease and insect control practices. These advances allowed paddy growers to achieve yields up to 10 times those on lakes. In California, the more moderate climate and lack of fungal diseases have resulted in even higher returns. Lake production, on the other hand, had no such available technology..An industry which was still producing rice in much the same manner as it had for centuries suddenly found itself face to face with twentieth century agriculture." (P.F.Lee 1986:2)

There were attempts by *Anishinaabeg* to enter paddy production, notably by the Fort Alexander Band (now called Sakgeeng First Nation of Treaty #1) in Manitoba in the 1970s (Lithman 1977) and by Willie and Alan Wilson of Manitou Rapids, Treaty #3 (Wilson 1990; Catherall 1990; Lee 1990). Paddy production is a farming operation, requiring capital and combines. The Fort Alex experiment seemed to founder on the management structure and lack of capital at appropriate times. This is documented in a classic study of how "capitalization of a traditional pursuit" of *Anishinaabeg* leads to the "development of underdevelopment" (Lithman 1973:54-55) The Manitou Rapids experiment foundered on the location of the paddies and a problem of acidic soil. Some Treaty #3 *Anishinaabeg* speculated the paddy rice failure was due more to transplanting a foreign approach to what is considered a sacred societal ritual. Certainly, it is difficult for *Anishinaabeg* Elders to accept that non-Anishinaabeg can hold expertise in the plant that the Great Spirit gave them (Fred Green 1990; Bert Yerxa 1990).

Paddy rice supplies 90% of the processed rice sold (Unies 1981; Aiken et al 1988:104; Lee 1986:2 see figure 2). California has an ideal climate for harvesting "two crops of wild rice per year or to alternate wild rice with white rice" (Aiken et al 1988:105). Indeed, paddy rice has a higher yield per acre than Canadian lake rice: 506 kg/ha in Minnesota; 1600 kg/ha in California; 215 kg/ha in Canada (Aiken et al 1988:104).

Why would there continue to be interest in lake rice? Many believe it simply tastes better (Wilson 1990; Pitchinese 1990; Jones 1991). "Lake rice has had two advantages over paddies: (1) it is cheaper to grow wild rice in lakes and (2) lake wild

rice is longer and targets the gourmet restaurant and consumer market" (Lee 1986:3). However, the competition from paddies is fierce: "There is concern that the price paid per pound for paddy rice will approach that paid for lake rice and since the yields are so low in lakes, it will no longer be economical to grow rice, and the lake industry will die..time is running out" (Lee 1986:4)

Clearly, Canadian lake rice is required to sell itself as distinct. To Dr. Lee, there is one "straightforward, if not simple" answer to the survival of lake rice - "increase production" (Lee 1986:4). Marketing the distinctive lake rice and ensuring the supply became major concerns of the next Treaty #3 initiative in the 1980s: the Ontario Indian Wild Rice Development Agency. Ensuring the supply had been a perennial concern within Treaty #3 territory since the flooding of the wild rice bowl by navigational and hydro dams (Chapter 11; Lovisek, Holzkamm and Holzkamm 1994).

Many Treaty #3 *Anishinaabeg* had developed more business expertise during the Co-op years (1973-1982). During this time, there was continued insistence from Treaty #3 Chiefs that Treaty rights to wild rice be recognized by Ontario and Manitoba (see Chapter twelve). Grand Council Treaty #3 and the Co-op made forceful presentations to the Ontario Royal Commission on the Northern Environment during their initial hearings in 1977-78. The result was that Commissioner Justice Patrick Hartt recommended, and persuaded then Premier Bill Davis to implement, a five year moratorium on any new licences to harvest wild rice. The Province promised to support the development of a native wild rice industry during this time (Chapter 12).

It was the federal government who responded, particularly in 1980 harvest, with great influxes of money to First Nations for rice development - buying, seeding, purchasing airboats and equipment for mechanical harvesting. Efforts to win provincial assistance during this five year moratorium brought little result, despite intense lobbying by Grand Council Treaty #3. In 1978, wild rice was tabled by this Chiefs' Assembly as a major issue for the newly created Tripatite Council of federal and

provincial Indian and Native Affairs ministers and Chiefs of Ontario leaders. Ontario did contribute to research & development work at Lakehead University in Thunder Bay (1980-85 and therafter), and to a joint federal-provincial funded study through the Tripartite Council of the effects of water levels throughout Treaty #3 (Unies 1981), but did not make any direct financial contribution to the "native industry". In the mid 1980s, after the original five years of the moratorium,the Rainy Lake Tribal Council (of 10 First Nations in the southern part of Treaty #3) petitioned Ontario for financial assistance to the native industry. Ontario gave no reply.

Within Treaty #3, leaders began to complain about the different approaches of the tribal areas. The Kenora Chiefs did not wish to deal with the Ontario government, because they stated that bilateral agreements with the province would undermine their Treaty rights. [2] Fort Frances area Chiefs to the south wished to move on several fronts, especially economic development initiatives, and enter into agreements with any government. They stated that any such activity would be undertaken "without prejudice to Treaty rights". In 1987, the Chiefs of Treaty #3 debated such actions at their annual assembly and signed a joint protocol allowing independent action by First Nations which would not derogate from the treaty and aboriginal rights of all.

In the early 1980s, several Treaty #3 Chiefs such as Willie Wilson of Manitou Rapids, Herb Redsky of Shoal Lake #40 and Phil Gardner of Eagle Lake lobbied for support for this Native industry from DIAND. They proposed a comprehensive Treaty #3 program of research and development, promotion and marketing, and development fund for actual production, buying, processing. At the same time, federal Indian Affairs Director of Operations in Ontario, John Connolly, wished to emulate the success of the Manitoba & Saskatchewan Indian Agricultural Programs (MIAP and SIAP) and recommended such a sectoral program be adopted in Ontario. The Chiefs were receptive to Connolly's suggestion. The only problem was that Connolly (and his colleagues Van

Iterson and Conduit) would only support a sectoral program for the whole region, not just Treaty #3 (W. Wilson 1990; A. Potson 1990). Despite vigorous objections from Treaty #3 Chiefs at the outset, Connolly had his way . This course of action was adopted even though 95% of wild rice in Ontario came from the Treaty #3 wild rice bowl (Ontario Ministry of Natural Resources February 20, 1989 memo: Ontario Wild Rice). One wonders at the advisability of an Ontario wide approach when the Minister of Indian Affairs in 1980 had stated that Treaty #3 *Anishinaabeg* had a documented Treaty right to wild rice, and Ontario states 95% of wild rice in the province is grown in that part of Northwestern Ontario.

When asked why DIA refused to consider a Treaty #3 wide sectoral approach, the 1990 DIA Director of Economic & Employment Services for Ontario Region, Jules Hebert replied:

> "Grand Council Treaty #3 had no policy. We're - and they're - still debating rights, harvesting methods (traditional hand harvesting vs mechanical pickers), wild rice as a commercial commodity. As far as I'm concerned, there's lots of room for flexibility with the harvesting methods - there's room to accomodate both." (Hebert 1990)

Grand Council Treaty #3's actual position at the time was to support socio-economic development of all First Nations, and as an organization, to strengthen and protect Treaty rights. The Grand Council itself saw no inconsistency here, nor a lack of mandate. (Chapter12).

The Treaty #3 Chiefs who spearheaded the sectoral approach proceeded to hire consultants to develop a paper, which was subsequently presented to and approved by DIAND. Native Board representatives were recruited from rice producing areas such as Chief Roy Kaminawash of Osnaburg (Treaty #9 north of the CNR line) and from potential areas such as Garden River near Sault Ste Marie and Dokis reserve near North Bay. Treaty #3 Chiefs retained the majority of the seats. The Ontario Indian Wild Rice Development Agency (OIWRDA) was formed in 1985, with a five year plan and budget approved.

> "DIA said go province wide and unify the producers to have a better chance at marketing. They favour a marketing board approach. Do market research and promote .. buy space at sport shows, food fairs."
> T. Bruyere 1990

> "The Department responded to requests for action in this field. From 1985 on (to 1990), DIA provided $200,000 per year. They also got $75,000 for a marketing study from NEDP (Native Economic Development Program of federal Department of Industry, Trade and Commerce)." Jules Hebert1990

The OIWRDA began by trying to expand the production base and utilized the services of Dr. Peter Lee of Lakehead University to develop new areas. OIWRDA coordinator Archie Potson of Seine River is not at all sure that this was a useful investment for Treaty #3 First Nations:

> "Under the expert advice of Peter Lee, we seeded many lakes with no results. One reserve even tricked him on purpose and took a soil sample from a bay where rice had been plentiful for years - Lee said it wasn't suitable! Good for a laugh!" (Potson 1990)

Wabigoon First Nation dubbed Prof. Lee "Mr. Chemicals" for his interest in testing increased capacity in lakes using fertilizers and/or pesticides, and for what they perceived of his disregard of traditional *Anishinaabe* knowledge (E. Pitchinese 1990). In 1986 Wabigoon First Nation in the Dryden area of Treaty #3 established their own wild rice company under the label "Kagiwiosa Manomin" . With the assistance of the Mennonite Central Committee, Wabigoon proceeded to obtain funding and built their own processing facility (Figure 28). Kagiwiosa Manomin is marketed on the basis of an organic food, traditionally harvested and processed by *Anishinaabe* people.

Needless to say, the OIWRDA relationship with Prof. Lee of Lakehead University was very controversial.

> "The (OIWRDA) Agency was not worth salvaging. Its thrust supported Peter Lee (of Lakehead University) to increase production. But that put the cart before the horse. Marketing is what needs to be developed first. Lakehead U now develops new strains of rice, new areas to grow - the government's to blame for that" (Tom Bruyere 1990)

Lee and Potson did assist Dokis, Garden River and some other non-Treaty #3 Reserves develop new crops of rice. At the same time Dr. Lee also worked with the Ontario

Ministry of Natural Resources and non-Indians on the northeast side of Treaty #3 territory to develop new ricing lakes. And, in 1989, Dr. Lee attended public meetings with MNR in towns such as Ignace, to promote new seeding of wild rice. These meetings led to petitions by northern rural municipalities to the Ontario government calling for an end to the 1978 moratorium on new wild rice licences. During this time, Lee's research at Lakehead University was underwritten by the Ontario government and, for three years 1986-89, 50% by the Department of Indian Affairs. This is the federal department who holds the main fiduciary responsibility of protecting Treaty rights.

Clearly, both federal and provincial governments saw the rights issue as an obstacle to development. Grand Council Treaty #3 and Treaty #3 wild rice business advocates agreed that both the federal and provincial refusal to recognize their rights hampered the development of a Native wild rice industry in Treaty #3. While OIWRDA coordinator Archie Potson blamed the "limited development" the Agency was able to undertake on "the limited funding to serve the whole province", he also cited Ontario's 1986 wild rice policy when "they were trying to define ownership of the resource" (see Chapter twelve). Ontario and Canada refused to consider the resolution of this issue by "recognizing and affirming" Treaty rights as called for the Constitution Act, 1982, s.35. Instead a self-fulfilling prophecy gained credibility: "Wild rice takes off where there is no conflict between business and culture" (Archie Potson 1990).

The result was a standoff. Canada and Ontario saw only Grand Council Treaty #3's obstinence that *manomin* was a right guaranteed by Treaty:

> "Five years ago, we (Ontario) were in first place (in rice production). Now we're in 4th (in Canada). There's a lack of people coming in. We need to identify markets ..there's too many competing interests. Within 4-5 years, we have 3-4 processors in Canada (ed: Shoal Lake Wild Rice/Ratuski of Keewatin, Ontario; Kagiwiosa Manomin at Wabigoon; The Pas, Manitoba; La Ronge, Saskatchewan)." (J.Hebert1990)

> "The economic potential of wild rice in the northwestern part of Ontario is significant, with up to 50 million pounds available for harvest in years when the weather is good. ..The period since 1978 (when the Ontario government placed a moratorium on any additional non-aboriginal wild rice harvesting licences in Northwestern Ontario) has seen the collapse of the

> successful non-native wild rice industry in the northwest, and one subsequent unsuccessful attempt by the aboriginal community to gain benefits from the potential of the annual crop. While the economic potential of the northwest's wild rice should obviously be pursued by the aboriginal community, its successful redevelopment will be difficult because of the capture of a significant portion of the post-1978 market by producers in California and Saskatchewan. The extensively distributed nature of the wild rice stands across the northwest will likewise provide another major challenege in the need for significant co-operation among a number of First Nations" (Riley 1992:13-14)

On the other hand, the Treaty #3 assembly of Chiefs and member First Nations saw only the Crown, as represented by Ottawa and Queen's Park, as obstructionist in refusing to live up to its own laws (Chapter 12):

> "I never thought before it (wild rice) was a problem. I must admit somebody else creates problems for us. They can take care of their own problems. If they could have left us alone, everything would have been the way our people want to live."
> Treaty #3 Grand Chief Machipiness (Robin Greene) in "Grain of Dissent", Fifth Estate, CBC TV, January 5, 1981

True to its mandate, however, the OIWRDA sought to develop the agency for all regions in the Province. Within Treaty #3, Coordinator Archie Potson said:

> "the Agency philosophy was to encourage people to look for different areas to develop and then that would be theirs. Keep the traditional areas for the hand pickers. If the Province would agree that Treaty #3 did have all the rice, then we would still have all the areas that we had already developed. There was never any resolution - only general discussion" (Potson 1990).

The clear assumption here was that new areas would be developed as economic enterprises, by individuals for profit, with the use of mechanical harvesting a given. OIWRDA Chair Herb Redsky of Shoal Lake said that many Chiefs and Councils did not agree with the OIWRDA approach (H. Redsky 1990). When a couple at Northwest Angle #33 tried to seed a particular bay in their reserve's area of Shoal Lake, the Chief vetoed it, saying it belonged to everyone (H. Redsky 1990). Pete Seymour found the same reaction at Rat Portage (north end of Lake of the Woods) when he suggested developing an area. He would do all the work and repay the band 10% of his rice sales each year. Chief and Council refused, saying that the area belonged to everyone (Pete Seymour 1990).

OIWRDA staff and Board members found that "there's no doubt that it's easier to develop rice as an industry where there's no tradition or it's 'long ago and all but forgotten'. Dokis developed really well with the Agency and Lee's help. They now have good rice, harvest it and have it processed in Wisconsin. They must be finding a market." (Potson 1990).

The OIWRDA had annual public meetings which served as educational fora for new information on wild rice, but did not have the manpower to do more. Archie Potson was assisted by Basil Green of Shoal Lake for one year, as a fieldworker in identifying new rice areas and promoting seeding. But the Agency did not have the communications necessary to keep people up to date and involved. Nor did the Board agree on a mandate.

> "DIA said that they could only get $60,000 for a Treaty #3 proposal but $200,000 if they were province wide. The large flux of money was the carrot. DIA said,'the rest of Ontario doesn't grow rice anyway'. But once it went Ontario wide, I got out right at the beginning - I said it wouldn't work. .. The financial position of the Agency was that they spent more time looking for money . They'd either spent it or need it to do something. They were always at the whim of funding agencies and then the funders would set conditions. We intended to go to Ontario because of the moratorium but it didn't work." (W. Wilson 1990).

Although both DIA representative Don Wellstead and Chief Wilson thought the Agency did well in presenting the product at international conferences and trade shows, the Agency seemed to lose focus. "They should have stuck to promotion. (At first, the Agency) took the point of view - expose rice to the people then compete for the market." (Wilson 1990). Others saw a definite conflict of interest:

> "The mistake OIWRDA made was in using private producers at their exhibits - Chief Stoneman and Kagiwiosa. (Treaty #3) people thought they (OIWRDA) were promoting them (ed: those companies) only, and they did make the sales. (OIWRDA) should have promoted Indian rice. Each one of those private interests was saying 'our rice is better' and it confused the consumer. OIWRDA forgot their mandate. They were a support organization but they began to compete with their own constituents. In 1987, Seine River, Lake of the Woods - where the Directors lived - OIWRDA bought (rice) there."
>
> Tom Bruyere 1990

In 1989, Indian Affairs had noted that,

> "OIWRDA is presumably phasing out. What type of organization will replace it? Will it be supported? Treaty rights are unresolved. Status of moratorium unknown. No consistency among producers regarding type of product they are producing. No grading standards. Producer groups being formed subregionally. OIWRDA sponsoring a marketing study. Interest in lake seeding by some bands and individuals. Meetings of federal and provincial government departments. The situation is now more confused in Ontario than it was 4-5 years ago. We can't state our strategy or workplan until we know the direction that the producers want to take (Handwritten note April-August 1989, INAC file #5800-2 v.4 land - Natural Resources - Wild Crops).

After five years, DIA was relieved that they could allow the sun to set on the agency (J. Hebert 1990). Changes to their departmental funding meant that all funds went to tribal councils and thence to First Nations. It would take a different mandate from the Chiefs to fund the OIWRDA or its successor.

The demise of the OIWRDA may well be attributed to "too much money [3] and an unclear mandate" but the complexity of their task was daunting. OIWRDA, and Grand Council Treaty #3, were faced, on the one hand, with Ontario's build-up of research and development to promote natural lake wild rice, and yet Ontario's continuing refusal to follow Premier Davis 1978 commitment to "assist the development of a Native wild rice industry".

At the federal level, OIWRDA and Grand Council Treaty #3 met the refusal of DIAND to follow through on all levels with their Minister's 1980 recognition of Treaty #3's right to *manomin* . The Grand Council sought to address these issues on a political level while OIWRDA tried a number of marketing routes to get some recognition for a Native presence in the industry (Chapter 12).

The federal bureaucracy established its own working group on wild rice in 1988: Indian Affairs Economic Development, AgCan Crop Specialist, External Affairs export liaison, and a representative from the Native Economic Development Program of

Industry, Science, Technology (Peter Wyze 1990). They developed a discussion paper that saw changes in the industry in a macro sense:

> "* In 1960, Canada produced over 60% of world production. By 1988, it was producing less than 20%. ..
>
> * In 1960, lake wild rice was grown primarily in Northwest Ontario, southeast Manitoba and Minnesota, using traditional technologies. By the late 1980s, lake wild rice had been introduced into new regions of Canada using modern technologies.
>
> * In 1980, demand exceeded supply. retail prices were relatively high. In 1987 and 1988, Canadian production exceeded demand, leading to a build up of inventories and low prices.
>
> * Canadian production, while variable from year to year, has almost doubled within a decade. However, the traditional native growers in Manitoba and Ontario are losing market share and the crop is no longer a means of economic improvement. ...
>
> In Summary, the industry is moving from a cottage industry in which annual production is peddled, into a modern agricultural industry requiring selling and marketing practices comparable to other agricultural commodities." ("National Wild Rice Association" Discussion Paper, John Conduit, Director, Resource Development Directorate, Ottawa INAc to Economic Development Directors of INAC in Ontario, Manitoba & Saskatchewan, January 4, 1990).

The Department of Indian Affair's proposal was to "suggest" Indian wild rice producers (identified as "our Indian clients", OIWRDA, MIAP and SIAP) consider both a "National Wild Rice Association" and "broadly-based 'marketing pools'(to) provide Indian participants with an opportunity to participate fully within the industry, to enhance economic well-being and overall profitability" (Conduit to INAC Regional Economic Development Directors, Jan.4, 1990).

The lure of a Canadian Wild Rice Association, as seen by INAC, was in the organization and systematization of this industry. (Ironically many entrepreneurs originally entered this industry to avoid the bureaucracy of other businesses.) Such an organization could "provide producers with current market and price information to enhance their lakeside bargaining power", "develop lakeside curing technologies", "assist individual sellers to develop new geographic markets and markets niches", and

"tailoring (rice) to the demands of the marketplace" (Conduit letter, Jan.4,1990:3-4). Marketing pools were seen as vehicles to access Agriculture Canada's loan guarantees.

This is exactly what Saskatchewan did from 1983 on. They formed a cooperative of all producers, accessing federal and provincial aid dollars, establishing a processing plant, and stockpiling their rice. While Treaty #3 pickers and producers were looking for federal and provincial assistance to develop a native industry, "provincial and federal government support to Saskatchewan and Manitoba allowed them to stockpile rice and destroyed the futures market," explained Tom Bruyere in 1990. The price to pickers fell drastically.

The federal bureaucractic initiative led to a May 1990 meeting of potential members of a National Wild Rice Association. Dr. Peter Lee of Lakehead University and non-Indian businessmen Dick Trivers (from Emo near Fort Frances), Ben Ratuski (O Canada wild rice, Keewatin, near Kenora) attended along with several Treaty #3 *Anishinaabe* businessmen: Joe Pitchinese, Willie Wilson, Tom Bruyere. It was the civil servants' hope that this meeting would develop into an industry association "not fragmented along regional, ethnic and cultural lines". They also promoted the idea of a marketing pool (Peter Wyze, 1990; "A National Wild Rice Association" Discussion Paper, January 4, 1990:5). The Candian Wild Rice Association continues to exist on an informal basis and the marketing pool did take effect in Saskatchewan and Manitoba through SIAP and MIAP. MIAP was seeking a major long term arrangement for sales to Quaker Oats.

While the federal civil servants promoted an association to share information, the Native business people of Treaty #3 saw it as another vehicle which would lobby against their rights - and the best interests of their businesses (see above regarding grading and standardization). A Board member of the Canadian Wild Rice Council was also President of the Manitoba Wild Rice Producers Association, who spearheaded the successful court challenge to Manitoba wild rice legislation which included affirmative

action proposals to assist their Native wild rice industry (Kroeker 1990). Pitchinese and others could foresee a more forceful lobby against the system of rice harvesting areas set aside in blocks for Treaty #3 *Anishinaabeg* in Kenora and Dryden areas.

Yet for many, "the use of the term 'industry' in connection with wild rice is not real" (L. Catherall 1990). And what OIWRDA lacked was the support to see the 'industry' and the Native presence for what it was:

> "OIWRDA tried to reflect Native needs but all the studies treated wild rice as an agricultural commodity and didn't try to talk about rice in understanding its mystique." L. Catherall 1980.

A strong feeling persists across Treaty #3 that "wild ricing should remain a traditional endeavour ..and the bands should not go into it as a "business" (Allan Snowball of Naicatchewenin First Nation at Manitou Rapids wild rice seminar, March 27, 1990). A former Indian Affairs district superintendent, then executive director of the Rainy Lake Tribal Council for 10 First Nations, witnessed the changing times of the late 1970s to 1980s:

> " I'm absolutely convinced that it's a mistake to turn wild rice into a GM corporation. Judging from what I've seen in more than a decade, I'm convinced that it should be a family oriented business rather than a commercial venture. Wild rice is as much an event as a business. The most success, money in the pocket, and joy I've seen is with the family in wild rice. It's such a personal thing ..almost a mystique .. and almost impossible to get large numbers of people to cooperate on it. To try and make it a band business is a mistake. What is needed are some key figures who can match family enterprises with some buyers who won't try to stick it to them". (Catherall 1990).

Kagiwiosa Manomin [4] is a prime example of how a successful native industry does work (Figure 28). In the mid 1980s, Joe Pitchinese and the people of Wabigoon First Nation welcomed the Mennonite Central Committee to work with them in developing their wild rice business. Together they developed poplar burning ovens which replicate the traditional parching process of their ancestors. In 1985, Kagiwiosa Manomin Inc. was "established as a means to regain Native control over the non-native domination of wild

rice processing" ("Riz Sauvage Manomin Wild Rice - Taste, in the Native Tradition", Kagiwiosa Manomin Ltd. pamphlet). Just like the Anishinahbe Man-O-Min Co-op (of which Joe's father, Paul Pitchinese, was a founding board member and President), the Wabigoon business organized as a worker cooperative.

> "Kagiwiosa Manomin is dedicated to preserving the Ojibways traditions in harvesting and processing manomin. At the same time, Kagiwiosa is committed to bringing you the highest quality, certified organic wild rice available at an affordable price" Figure 28).

Indeed, when a Canadian supermarket offered to purchase all the Wabigoon production, Joe Pitchinese refused this mass-marketing approach (Richardson 1993:190). By 1994, the success of their "niche" marketing to gourmet and organic food outlets in Germany, Japan, and selected Canadian locations has meant long term, seasonal employment to members of that reserve, and others from which they buy rice. They promote their rice as the "tastiest" because they process almost immediately to achieve a lighter colour, faster cooking, chewy product.

The OIWRDA admired what Kagiwiosa was doing in "trying to maintain a fair price for pickers (and) still be competitive within that natural, organic market". But Executive Director Archie Potson recognized the conundrum they faced in trying to develop a market for the whole Treaty #3 area: "Is it better to maintain a good price to the picker as a specialty product or lower the price and sell more?" Indeed, commentators have stated that Kagiwiosa Manomin "wouldn't have survived in the general market but in their own niche they command two times the going price". [5] Kagiwiosa would reply theirs is a different and superior product.

Kagiwisoa Manomin offers an inspiring success story. There are other individual stories of *Anishinaabeg* buyers who have made tidy profits in good harvest years by acting as the middleman for processors such as Ratuski. There have also been the money losing experiences of Anishinahbe Man-O-Min Co-op and Chief Stoneman's Wild Rice

The food Manitou gave us.

La nourriture donnée par le Grand Manitou.

CERTIFIED ORGANIC OCIA

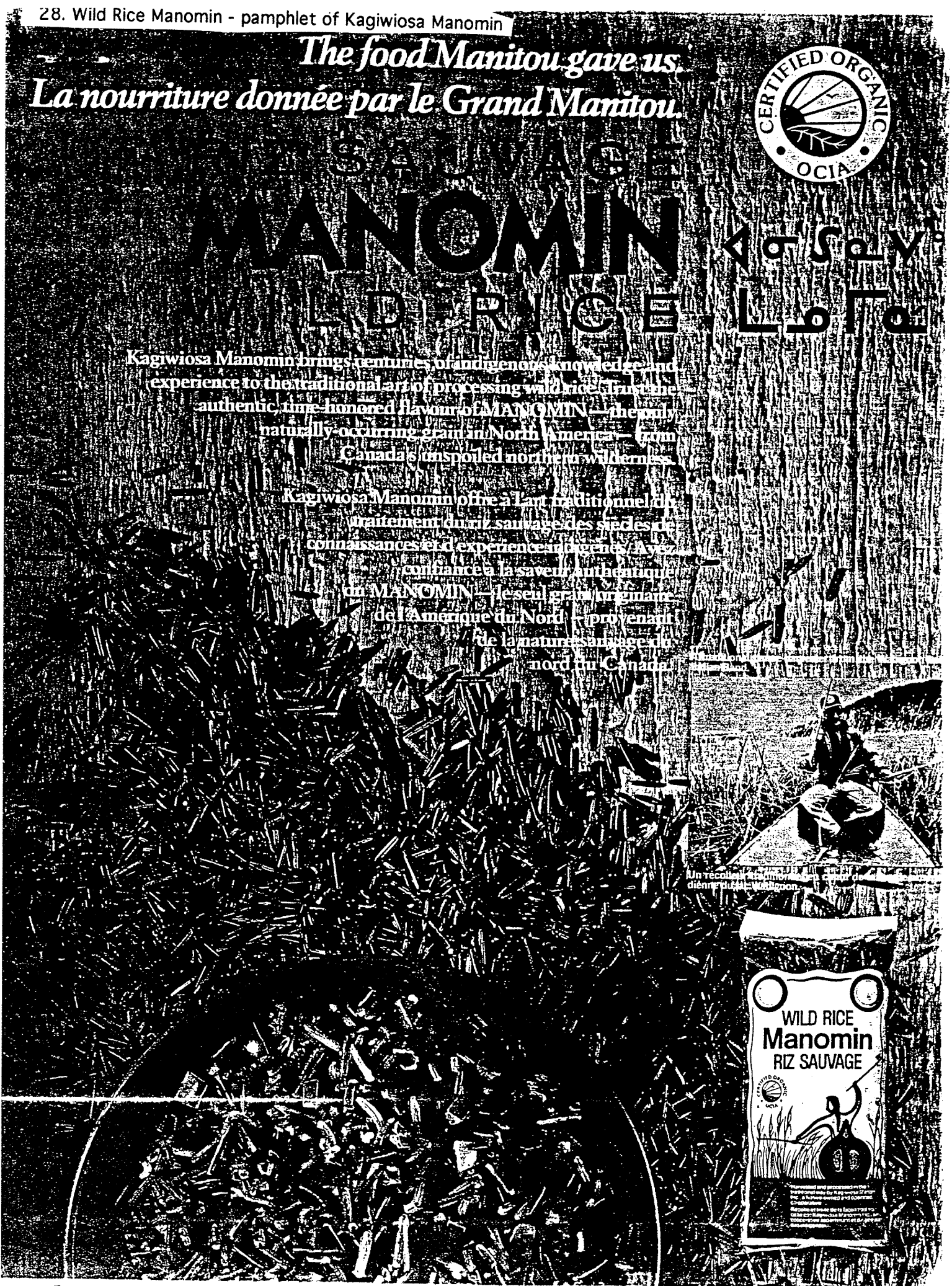
MANOMIN

WILD RICE

RIZ SAUVAGE

Kagiwiosa Manomin brings centuries of indigenous knowledge and experience to the traditional art of processing wild rice. Taste the authentic, time-honored flavour of MANOMIN — the only naturally-occurring grain in North America — from Canada's unspoiled northern wilderness.

Kagiwiosa Manomin offre à l'art traditionnel du traitement du riz sauvage des siècles de connaissances et d'expérience indigènes. Ayez confiance à la saveur authentique du MANOMIN — le seul grain originaire de l'Amérique du Nord — provenant de la nature sauvage du nord du Canada.



company of Manitou Rapids. Assessing such ventures next to the statistics of small business viability across Canada, Treaty #3 entrepreneurship in this field is still impressive. Government funding has a place in assisting, such as the provincial dollars for the Kagiwiosa Manomin processing plant. (Figure 29). However, government policies have had adversarial effects which often outweigh any financial support they have provided.

In the mid 1970s, the Province of Ontario let licences to newcomers, even within the protected block system, and supported the long term research and development within the Ministry of Natural Resources, and later at Lakehead University. Their express purpose was to expand the wild rice industry by enticing non-Natives into investing in new lakes. Treaty #3 Chiefs were quick to pick up that the Minister of Northern Affairs, Hon. Leo Bernier, only became interested in controlling water levels for optimum rice crops when the moratorium was reaching an end and new policies being developed to bring in non-Indians into ricing. The provincial government interest was clearly not in the development of a Native wild rice industry.

The immense influence of the Department of Indian Affairs can be seen in how their initiatives pushed trends into realities. Rather than viewing the resolution of the rights issue in favour of Treaty rights, as lobbied by Grand Council Treaty #3 and member First Nations, Indian Affairs saw their role as economic development and providing business advice to their "Indian clients" (J. Hebert 1990). There was no followup to the Minister's letter of 1980 in which the federal government took a conclusive stand on the side of Treaty rights. Two year later, the Constitution Act, 1982 recognized and affirmed "the existing aboriginal and treaty rights of the aboriginal peoples of Canada" (s. 35). Yet at no time did the Department of Indian Affairs take the highest law of the land as their mandate. Instead, the economic development section pursued its own agenda, oblivious to rights issues. "I don't know about the Treaty rights

Kagiwiosa Manomin processing plant opening at Wabigoon First Nation, 1988.
and Dryden Observer Sept.6, 1988 "new rice plant"

New rice plant

Kagiwiosa Manomin Inc., the major native controlled and perated wild rice processor in orth America opened the doors f its new processing plant on ept. 2. It is located at the Vabigoon Lake Ojibway Nation eserve.

The Ojibway people of orthwestern Ontario lost con-ol over the processing of wild ce over 25 years ago. In 1985, agiwiosa Manomin began oper-ions using a portable mechani-l processor provided by the lennonite Central Committee. ales to local stores were $5,000 r a volume of 1,000 lbs.

The years 1987-'88 were a reakthrough year for marketing contracts were negotiated in oronto, Montreal, Switzerland nd Germany. Sales increased to 3,000 pounds (their full produc-on) for a dollar value in excess '$250,000.

The new processing plant has capacity of 500,000 pounds of nished product. Markets are oing explored in the United tates, Italy, Denmark, the nited Kingdom, Spain and apan.

Kagiwiosa paid harvestors $1. r lb. last year and will pay the me this year. Non-native pro-ssors are only paying in the nge of 25 cents to 50 cents per ... It is very important to Kagiwiosa Manomin members to pay harvesters a fair price for their green rice, as it is one of t few forms of income besides we fare for many Natives. Ten cen of every dollar is placed in a wi rice development pool for furth improvements in cultivatio harvesting and farming pra tices.

This summer, eight India bands have applied for and r ceived Organic Certification fro the Organic Crop Improveme Association (O.C.T.A.). The bands are co-operating wit Kagiwiosa Manomin to provi organic green rice. This wi guarantee the continuance traditional harvesting rul which prohibit the use of ar synthetic chemicals or additiv in the production of wild ric The environmentally sensiti wild rice lakes will be protecte from degradation for future ge erations.

Kagiwiosa provides a mod for Native self-help and econom development which is mutuall beneficial to their communitie and non-Native society. Throug this kind of community econom development, Natives will b able to break out of the welfa culture which is costly for t payers and even moreso f Native people.

the Ojibway term for wild r Manitou gi ti gahn - means "the plant the great spirit gave us."

issue" said Peter Wyze, an Economic Development officer for Indian Affairs headquarters in Ottawa, in 1990. He likely spoke the truth.

The Department of Indian Affairs and the Government of Ontario took the position that rights had no place in business; indeed, they believed that Grand Council Treaty #3 calls for recognition of their rights for rice were actually dampening the industry in Ontario (Wyze 1990; Riley 1992; Crystal 1990; Hancock 1990). At another level, the federal government was afraid to force the issue:

> "The Treaty rights issue focusses on the right to grow and there's an assumption that the resolution of this issue will pick up the development of the crop. Wild rice growing is increasing in other provinces, not Ontario,. There's a problem selling the crop now because there's too much." Peter Wyze 1990

Under increasing criticism from Bands and Indian organizations in the 1960s and 1970s about their poor track record in promoting economic development, the Department had invested in hiring business graduates. These new business-oriented civil servants acted to demonstrate their professionalism in providing expert advice to their 'clients'. No consideration was given that wild rice in Treaty #3 was considered by *Anishinaabeg* to be the Great Spirit's garden. This was one territory where Treaty #3 *Anishinaabeg* had centuries of experience in the business. The business grads proceeded to define the macro-trends in the industry and set about assisting that realization, concentrating on the 'cash crop' rather than on the significance of *manomin* to the people who first extended its territory.

Was it that the Treaty #3 *Anishinaabeg* wished to turn back the clock, as some suggested? Or was it rather that they had learned from direct and bitter experience that "once the whiteman and the province move in, there's nothing left" (W. Wilson 1990: P. Gardner 1977; C. Wagamese 1990).

What Treaty #3 *Anishinaabeg* were grappling with was whether the entrepreneurial ethic was antithetical to the stewardship ethic. Could they co-exist? As

Fifth Estate host Eric Malling put it in 1981, "Can wild rice be a cash crop and a sacred part of Indian culture?" (CBC-TV, January 5, 1981).

Many *Anishinaabeg* accept change as a fact of life and recognize their ability to practice their traditions and do business while making a fair profit. Kagiwiosa is a prime example. The complexity of this small wild rice industry is hidden from public attention. What remains clear is that *Anishinaabeg* have lost increasingly more control over this natural resource. And, this is so,

> "not because of any peculiarity in 'Indian cultures' nor differences in innovative or entrepreneurial spirit between Indians and Euro-Americans. Rather, it is because EuroAmericans have acted on behalf of and with the backing of vast institutions, from the Hudson's Bay Co. in the early days to major food companies today .. in accordance with the metripole-hinterland concept" (Lithman 1973:5).

By 1990, the Ontario Indian Wild Rice Development Agency faltered, to a very great extent because they were not able to concentrate on the Treaty #3 territory and deal with the fundamental issue of cultural adaptation and innovation regarding the commerce of North American Free Trade and European and Asian trading zones . The story of the Anishinahbe Man-O-Min Co-op in the 1970s was that era's attempt to wed economic enterprise with cultural traditions. In both situations, the federal and provincial governments played pivotal roles in undermining the *Anishinaabe* proposals to develop a "native industry" which combined their cultural traditions with sound business sense.

Endnotes:

1. Dr. Lee continues to be an important player in the wild rice industry because of his research stemming from the 1970s and his dedication to building a lake rice industry in northern Ontario. He first became interested in wild rice when working for Ontario Ministry of Natural Resources as a student. "They needed some work done on rice and it looked interesting to me. I never thought it would be so political, I looked at it as just a crop." (P. Lee 1990) Peter Lee went on to complete his PhD about wild rice, and has followed this with two decades of research on "the crop".

2. Interestingly, it was a Kenora First Nation, Wazhushk Onigum, who eventually entered into discussion with Ontario and signed an agreement with Ontario to have charitable gaming on their reserve (C. Wagamese 1990). It should also be noted that Wazhushk Onigum expressed their own sovereignty in the gaming issue by establishing their own charitable foundation, and issuing their own permit and authorization to operate, along with Ontario's license (September 1994).

3. "Too much money" indicated this observer, who requested anonymity. Funds to OIWRDA were "wasted" in meetings, travel and food fair exhibits which paid no benefit to the average picker. However, OIWRDA found underfunding to be a problem throughout their mandate. Their original proposal was for multiyear funding to include everything from loans to Native buyers, processing plants, etc. to research & development. The method of funding OIWRDA, and the lack of input from Ontario, meant that Potson had to seek funds continually.

4. "In 1985, Kagiwiosa Manomin began operations using a portable mechanical processor provided by the Mennonite Central Committee,. Sales to local stores were $5000 for a volume of 1,000 lbs. The years 1987-88 were a breakthrough year for marketing as contracts were negotiated in Toronto, Montreal, Switzerland and Germany. Sales increased to 43,000 lbs. (their full production) for a dollar vale in excess of $250,000. The new processing plant (opened September 2, 1988) has a capapcity of 500,000 lbs of finished product.

Kagiwiosa paid its harvesters $1 per lb. last year and will pay the same this year. Non-native processors are only paying 25 cents to 50 cents per lb. It is very important to Kagiwiosa Manomin members to pay harvesters a fair price for their green rice, as it is one of the few forms of income besides welfare for mny Natives. Ten cents of every dollar is placed in a wild rice development pool for further improvements in cultivation, harvesting and farming practices.

This summer, eight Indian bands have applied for and received Organic Certification from the Organic Crop Improvement Association (O.C.T.A.). These bands are cooperating with Kagiwiosa Manomin to provide organic green rice. This will guarantee the continuance of traditional harvesting rules which prohibit the use of synthetic chemicals or additives in the production of wild rice. The environmentally sensitive wild ric elakes will be protected from degradation for future generations." ("New rice plant", Dryden Local Express, September 6, 1988))

5. Anonymous source from Winnipeg, Manitoba.

Chapter Ten

The Anishinahbe Man-O-Min Co-operative, 1973-1978: Treaty Rights and Commerce hand in hand

Anishinaabe policy-making was about to enter a new era in the 1970's. The innovative scheme came when leaders once again linked economic development with their Treaty and aboriginal rights to natural resources, just as the *Anishinaabe* negotiators had done in 1873.

During the 1950s, a role reversal began, almost innocently, when the *Anishinaabe* people began selling their rice green, at lakeside, right after picking. For centuries, the people had processed the rice in their traditional way of parching, thrashing and winnowing. They would then sell the finished rice to non-Natives. This was the way business had been conducted since the earliest years of the fur trade.

By the 1950's, non-Natives preferred to use their own parching and thrashing machines and control more of the whole process, leaving the *Anishinaabeg* to be the harvesters only. No longer were the *Anishinaabaeg* the ones who directed the trade and negotiated their price for the rice. Instead, the lakeside buyers set the price which was kept intentionally low at lakeside. The pickers received 20 cents a pound at lakeside while the rice sold for several dollars at retail stores (B. Yerxa, H. Redsky, R. Bruyere 1990).

Any analysis of prices per pound must consider the 40% recovery rate between green rice landed at lakeside and processed rice. In other words, it takes about 2 1/2 lbs of green rice to make 1 lb of finished rice (Avery, original manuscript to Harrowsmith 1978; Wilson, Oct.1990; Aiken et al 1988: 87). Even at that, the profit margin for the buyer, processor, wholesaler and retailer was markedly high compared to the original harvester.

What began as a rice trade with *Anishinaabeg* as the sowers, gatherers, processors and traders had become a situation where the *Anishinaabeg* were solely resource gatherers or labourers in a market economy. In a classic study, Lithman documented this "capitalization of a traditional pursuit" in the case of wild rice at Saugeen First Nation in Manitoba from the 1950s to the early 1970s. There, *Anishinaabe* management of wild rice was gradually eroded by a coalition of government and business forces (Lithman 1973).

Chief George Crow of Whitefish Bay credits the work of the Amik Corporation in the late 1960s with awakening *Anishinaabe* attention to the whole industry of wild rice. The Amik Corporation was started as a development agency and training vehicle by churches to increase the economic base of the reserves around Kenora.

Josephine and Ron Sandy of Northwest Angle #33, Robin and Mabel Greene of Shoal Lake #39, Doug and Madeline Skead of Rat Portage were among the first family logging ventures that were spearheaded by Amik. The Corporation would negotiate contracts with the Boise Cascade pulp mill in Kenora and the cutting permits from the province. The *Anishinaabe* contractors would provide the cutters and supervisors to complete the contract. Amik would assist with bookkeeping, a role that George Crow provided for several years. During that time, he saw *Anishinaabe* people take their expertise in woods operations, gained through years of seasonal labour, and turn it into effective business operations directed locally.

George Crow also noticed a change in outlook. Whereas many *Anishinaabeg* used to take for granted the preparatory and gathering work associated with each ricing season, they now recognized the organizational activities that business required (Crow 1990).

Josephine Sandy saw it slightly differently. Josephine Sandy remembered that Amik was established "to bring church people in contact with Indians on a higher level - not just as poor people to help in soup kitchens". As a former Board member of Amik Corp, she agreed that it had helped some *Anishinaabeg* to see wild rice as a year round operation, although not in the case of her family. "I always had grandiose schemes!" (Josephine Sandy 1992).

Mrs. Sandy did the books for the Northwest Angle logging operation while her husband, Ron Sandy, recruited and supervised the men in the bush. They had always been independent business people, utilizing the resources available in commercial fishing, rice harvesting, trapping and logging whenever jobs were available. Amik Corporation merely provided a legitimized venue for developing logging operations under local *Anishinaabe* control. In the 1950s and 1960s in the Kenora area, only a non-Native agency had the required credibility to negotiate contracts and permits.

There had always been *Anishinaabe* business people on Lake of the Woods. Josphine's grandfather, Tom Kinew, ran a store and barge service around the Aulneau peninsula for many

years until the 1930s. It was not the case that trading or business was anathema to *Anishinaabeg.* Indeed, trade was an established presence long before the coureurs de bois visited the Boundary Waters of what became known as Treaty #3 (Dickason 1992; Jenks 1990). Problems developed when increased settlement in the region brought a disruption and racial segregation of relations between *Anishinaabeg* and non-Indians. Indian Act regulations restricted *Anishinaabe* businessmen in their dealings. A permit system restricted the sales of produce or timber (Holzkamm & Waisberg 1989). Other policy provisions limited their ability to raise capital (Woodward 1989), and their ability to travel, for example, requiring a 'pass' approved by the local Indian Agent for an Indian to leave the reserve (Carter 1990:146-156).

The Indian Act that established the system of Indian agents has been described as a "total institution" and a "comprehensive mechanism of social control" that governed all aspects of Indian daily life:

> "The Indian Act is a Lands Act. It is a Municipal Act, an Education Act and a Societies Act. It is primarily social legislation, but it has a very broad scope: there are provisions about liquor, agriculture and mining as well as Indian lands, band membership and so forth. It has elements that are embodied in perhaps two dozen different acts of any of the provinces and overrides some federal legislation in some respects.. It has the force of the Criminal Code and the impact of a constitution on those people and communities that come within its purview." (Dr. Munro, former Assistant Deputy Minister, DIAND, in Ponting & Gibbins, 1980:8-9).

"The Indian agent had total control over people's lives," recounted Pete Seymour, former Chairman of Grand Council Treaty #3 in 1950s-1960s (Seymour 1990). He remembered how his uncle, *Miskwakapince* (Jim Elliott), the hereditary Grand Chief of Lake of the Woods and Chief of Assabaska, railed against the Indian agent. During the 1930's and 1940's, Captain Edwards ruled as Indian agent with his tight fisted, "keep them under the thumb" approach to *Anishinaabeg* (Seymour 1990). Undertaking any *Anishinaabe* initiative in business or politics during this era of Indian Affairs control was nearly impossible.

Thus, there was a need to change outside attitudes toward *Anishinaabe* entrepreneurs. Then there was an internal struggle for *Anishinaabe* to enter business. Amik Corporation began this process of reintegrating *Anishinaabeg* into the economy of Northwestern Ontario. For the

past several decades, *Anishinaabeg* had been relegated to the role of wage labourers. Amik Corporation was an early bridge back to the role of entrepreneur.

For countless centuries, the *Anishinaabeg* had monitored the precipitation each winter, watched the weather changes and the spring run-off, and predicted the rice harvest based on the water levels, weather and other signs they considered important. They had expected the rice to continue to follow the predictable seven year cycle of one to two excellant crops, two good ones, two fair and one poor, in differing orders (Doug Skead 1979). During this time, *Anishinaabeg* prompted the growth of the rice by sowing in increasingly wider areas (Syms 1980; Moodie 1989). They paid attention to conservation and developed the canoe and flail method that ensured seed was returned each harvest for next year's crop (van de Vorst 1988). The *Anishinaabeg* had originated other ideas such as "bundling" the rice to protect it from winds and predators (Densmore 1928, 1929; Hilger 1939; van de Vorst 1988; Aiken et al 1988). And, they had instigated and increased trade with the newcomers from the onset of the fur trade until the twentieth century (Waisberg 1976,1979; Lee 1975).

In the late 1960s, as George Crow and Josephine Sandy related, people connected with Amik began to view the rice in a business sense, as something to be concerned about year round, something to prepare for earlier than just in time for the season. With the possible exception of Paul Pitchinese of Wabigoon, there were no Treaty #3 *Anishinaabe* business endeavours started in ricing at this time. People's energies were focussed on woods operations, trapping and commercial fishing.

As discussed in Chapter six, Treaty #3 leaders found that northern interests and aspirations were not getting the attention needed within a southern based Union of Ontario organization. Southern reserve Chiefs had better communications, easier access and more experience than Treaty #3 Chiefs in meeting with politicians and bureaucrats. Treaty #3 reserves were without phones, without hydro, and many without road access. They were definitely not in communication with, nor being served by, the provincial organization.

In the fall of 1971, the Grand Council became incorporated as an organization of Chiefs of the bands within that 55,000 square mile territory. This was done under Ontario law, considered at the time to be the fastest and cheapest way to proceed. Their charter retained the

original purpose to preserve and strengthen Treaty and Aboriginal rights and promote the social and economic development of Treaty #3 reserves (Chapter 7). With this legal move, the Grand Council became a body that could receive and dispense funds, and was now in a position to seek and control some of the development dollars that were due to this region.

Grand Council Treaty #3 immediately set about to make their organization an effective presence to represent their people in Northwestern Ontario, Queen's Park and Ottawa. Peter Kelly began negotiating for and obtaining program funding - core funding from Secretary of State, Treaty and Aboriginal Rights research funding from the Department of Indian Affairs, Communications funding from the Secretary of State, project funding in education, health, youth work, and the plum - a contract with DIAND for community development services in their 23 communities. Only the Manitoba Indian Brotherhood and the Federation of Saskatchewan Indians had succeeded in securing such a resourceful program .

During this time, the leadership in Treaty #3 was growing restless for improved Presidential leadership, and the stage was set for the next election. In early 1972, Peter Kelly was elected President. That night of his election, Peter Kelly sat in his office with staff whom he had hired and who had worked with him for several months while he was coordinator. They looked forward to his term as President. Community Development Coordinator John Dennehy, Communications worker Eloise Soderfelt, and Executive Assistant Kathi Avery, listened while Peter outlined his priorities for the future. His priorities became a vision:

> "What if we (the Treaty #3 *Anishinaabeg*) controlled all aspects of ricing - from the field to processing to marketing .. right to the table? Wouldn't we be able to raise the price to the pickers .. and get those fucking leeches off our backs ?" (He was referring to the lakeside buyers, processors, and companies who set prices).

Peter began to diagram on a flip chart how it could work. The idea could not fail as it was based on the fundamental recognition and protection of the people's Treaty and Aboriginal right to *Anishinaabe Manomin* (Ojibway wild rice) through an economic agency controlled by the people. Dennehy, who had been brought into Treaty #3 as a hands-on economic development type of person, recognized the beautiful simplicity and morality of this vision. From the very beginning, rights and business were to be interrelated in a mutually supportive network to ensure economic development for Treaty #3 people and communities. Dennehy had a Winnipeg

friend, Ron Kabaluk, assist with drafting options for development and various business structures for Treaty #3 to consider. A short paper of three options was presented to the Chiefs:

Number one : Do nothing - and continue the low prices to pickers and the lack of protection of our rights to rice.

Number 2: a moderate proposal that wouldn't have changed much.

Number3 : create a co-op owned and operated by all the pickers in Treaty #3 that would pool their rice harvest and sell it to a buyer (contracted before the harvest season) for the highest price.

Dennehy remembered this Chiefs' meeting as a turning point in the organization of Grand Council Treaty #3.

> "You could tell everyone thought this was a great idea. They felt it was their idea - and they were ready for it. For the first time since I worked there - not one Chief showed up drunk for the meeting. They talked in Ojibway, they asked me questions, they talked, they asked, .. and they decided to go for it. Peter and I were on the next plane to Toronto, ready to go for this year's harvest." (Dennehy, 1990)

The Regional office of the Department of Indian Affairs in Toronto was not ready for a proposal of such impact. As Dennehy remembered,

> "We had them. We had the proposal, the costing, the structure. Hell, they didn't think of it and couldn't do it anyway. We got the $500,000 we needed to get started." (Dennehy, 1990)

First Grand Council Treaty #3 had to jump through the regular Departmental hurdles, which required a detailed business plan.

> "At Treaty #3, we knew we had the whole approach figured out - control all aspects from the harvesting through collection, processing, storage, packaging, marketing. All we needed to do was make the connections. We had to define the cartel. I sat down with paper in hand and worked out to the penny where all the rice was going with all the companies in competition. Arrowhead, United, Davies, Black Gold, Uncle Ben's ..and Shoal Lake Wild Rice in Kenora. Ratuski (Shoal Lake) was part of it, although more independent. Gibbs(a processor in Minnesota) was willing to deal with us. Once we figured it out, we knew what we had to do" (Dennehy, 1990).

Dennehy worked with business consultant Dave Young of Winnipeg to prepare the plan.

> "I talked to him for hours, outlining all our plans, all the details - he wrote it all down in such an impressive way that Indian Affairs had to fund us. Just adding his name, business name, and letterhead to our proposal paved the way with government. Geez, I worked days and days to get all the information - he writes it down and makes thousands of bucks in a few hours!" (Dennehy,1990)

The "Analysis of the Opportunities for Greater Wild Rice Income in the Treaty #3 Area" was prepared by Dave Young's Resource Management Consultants (R.M.C.) for Grand Council Treaty #3 in April 1972. The report detailed the background to wild rice, including Treaty #3 rights, production methods, processing , marketing as well as possible courses of action for the Chiefs to follow "to increase their harvest and take over the buying process" (Letter of transmittal G.D. Kelly, R.M.C. Associates to Peter Kelly, Grand Council Treaty #3 President, April 1972).

The Report "essentially examined what the Indians can do on their own with minimum involvement of outside groups" (R.M.C., 1972:18). R.M.C. Associates identified several problems "facing the Indian people in improving the income flow from the wild rice crops in the Treaty #3 area:

> 1. Trying to control the lake levels to ensure that the crops have an optimum opportunity to grow.
>
> 2. Organizing the picking procedures to ensure that all areas are picked and that maximum yields are obtained.
>
> 3. Controlling the competition among the harvesters and buyers to prevent the poaching and trespassing that occurs.
>
> 4. Providing a uniform pricing system so that all pickers are paid a uniform price for their grain.
>
> In short, the main problem is that there needs to be greater control over the picking of wild rice." (RMC, 1972:11).

The Report noted that "many Indians" were asking for more legislation, yet "economic control" could help them improve the situation "on their own". This statement about "many Indians asking for more legislation" seems to be an importation of the attitude and approach of *Anishinaabeg* in Manitoba rather than Treaty #3. R.M.C. Associates worked with both groups at the same time. The idea of more provincial legislation in Ontario was <u>not</u> raised at the Treaty #3 Chiefs meeting.

The R.M.C. report is addressed to and undertaken for the Grand Council Treaty #3. Toward the objective of obtaining federal funding, it is obviously written for consumption by the Department of Indian Affairs. The Report seems to lend credibility to its proposals by stating them as if they were the consultant's own - even though the concepts and approaches they came

from Treaty #3 leadership: Chiefs, community development staff, and the Grand Council's own Management Committee on Wild Rice [1] .

The Chiefs saw the R.M.C. paper as a necessary means to the end of federal funding of their proposed enterprise. They did not haggle over the details of the paper but approved it in principle in order to expedite the process of doing what they proposed.

The R.M.C. report mentions two optional structures for control: the co-op structure or a the corporation structure. The Report argued for the corporate structure to return funds to the band entity, while raising prices minimally to the pickers. The Chiefs themselves chose the co-op structure so that the business entity would be owned by the pickers and be more closely allied to and responsible to the people as a whole.

In retrospect, this choice can be said to be in keeping with the re-assertion of aboriginal forms of government, enabling each person to have a voice rather than oligarchical rule. It was not a case of adopting the co-op structure for its sharing of the profits. Most anthropologists and community development specialists at the time tried to fit co-ops into traditional aboriginal mores of sharing the hunt. Rather, the Chiefs showed preference to the idea of the co-op structure allowing each person an equal say, which is the essence of *Anishinaabe* decision-making and government.

Treaty #3 President Peter Kelly and Community Development Manager John Dennehy devoted most of their time and resources to ensuring the Co-op got organized and funded for the 1972 harvest, a year expected to be a good to bumper crop throughout the area. They met with Chiefs and rice pickers thoughout Treaty #3. They travelled and met with *Anishinaabe* people in Manitoba and Minnesota to consider their experience and place in the industry. They met with companies such as Ben Ratuski's Shoal Lake Wild Rice company in Keewatin, next to Kenora; Wayne Stack and Northland Wild Rice company in Winnipeg; and General Mills at Minneapolis, Minnesota. They did their homework and had to consider all the players in the industry: where did Gibbs Brothers fit in? What about Ratuski? Holden from Manitoba? "After hours and hours and many contacts, I knew we had it figured out," recalled the Community Development manager (Dennehy, 1990).

At that time, Uncle Ben's of Texas bought most of the rice, which was available in the US and Canada and not destined for the gourmet market. Gibbs at Grand Rapids, Minnesota was their main processor. Uncle Ben's had a full time agronomist in Minnesota, Wayne Lemke, working with the wild rice paddy farmers and the outreach researchers from the University of Minnesota. Ratuski sought to supply his own contacts in the gourmet and retail market in Canada and the US. Continental/United Wild Rice of Minnesota acted for several farmers as a co-op selling to any market, but ensuring that Uncle Ben's paid a fair price through competition (Personal observation, 1972-73; Dennehy1990).

General Mills was interested in getting a toehold in the business. They also had a very immediate interest in getting an American wide boycott lifted against their products. The company was being boycotted for their poor relations and hiring practices with ethnic minorities, especially Blacks (P. Kelly 1972).

Through a contact with Gerry Sheehy of Nett Lake Reservation in Minnesota, a Treaty #3 delegation of Peter Kelly, Phil Gardner, Ray Bruyere and John Dennehy travelled to the "Valley of the Jolly Green Giant" in Minneapolis to talk about wild rice. They made their presentation, indicating their interest in a long term relationship to move all the rice their twenty-three reserve communities could provide.

Dennehy related:

> "I'll never forget that day. General Mills wanted more production. They asked, "How much would we have?" I was bluffing when I told (Mr.) Donovan about 225,000 lbs. finished. He says,'Well, that'll keep us going for an hour and a half - what are we going to do the rest of the year?' I knew then we had made it !!" (Dennehy, 1990)

Both Peter Kelly and John Dennehy spoke with Manitoba leaders, Dave Couchene, high profile President of the Manitoba Indian Brotherhood, and his brother, Gene Courchene, head of the *Manominike* Co-op, to interest them in a joint venture with General Mills and raise the production. There was no interest ("no takers") at the time, partly due, in Dennehy's estimation, to the fact that both organizations used the same consulting team, R.M.C. Associates. Dennehy believes it was in Dave Young and his partner, Hildebrand's, best interests to keep the two groups apart, and thewrefore, dependent upon their advice.

> "After a meeting with some of the Manitoba Co-op, (Treaty #3 community development worker and soon to be Co-op manager) Steve Jourdain told me to forget them as they were 'apples, red on the outside and white on the inside'. Sure seemed like it when I found out later, the (Manitoba) Co-op fixed the opening days on the Whiteshell lakes when the hand pickers could start. Then they went in five days earlier and cleaned out the crop with 18 mechanical harvesters. Their Co-op shafted their own people." (Dennehy,1990)

The Treaty #3 Co-op structure was approved by the Chiefs. The Chiefs then approved of a name devised by Basil Greene of Shoal Lake - ANISHINAHBE MAN-O-MIN CO-OP . The name translated as 'Ojibway wild rice Co-op'. And, it stood for more: Man for Manitoba/ O for Ontario/ and Min for Minnesota - the three geographic areas where Ojibways had abundant wild rice and where future business ventures with rice were foreseen to be potentially great. Letters patent were granted August 9, 1972 - just in time for the harvest in mid August (*Anishinahbeg Man-O-Min Co-Operative Position Paper*, 1976: 4).

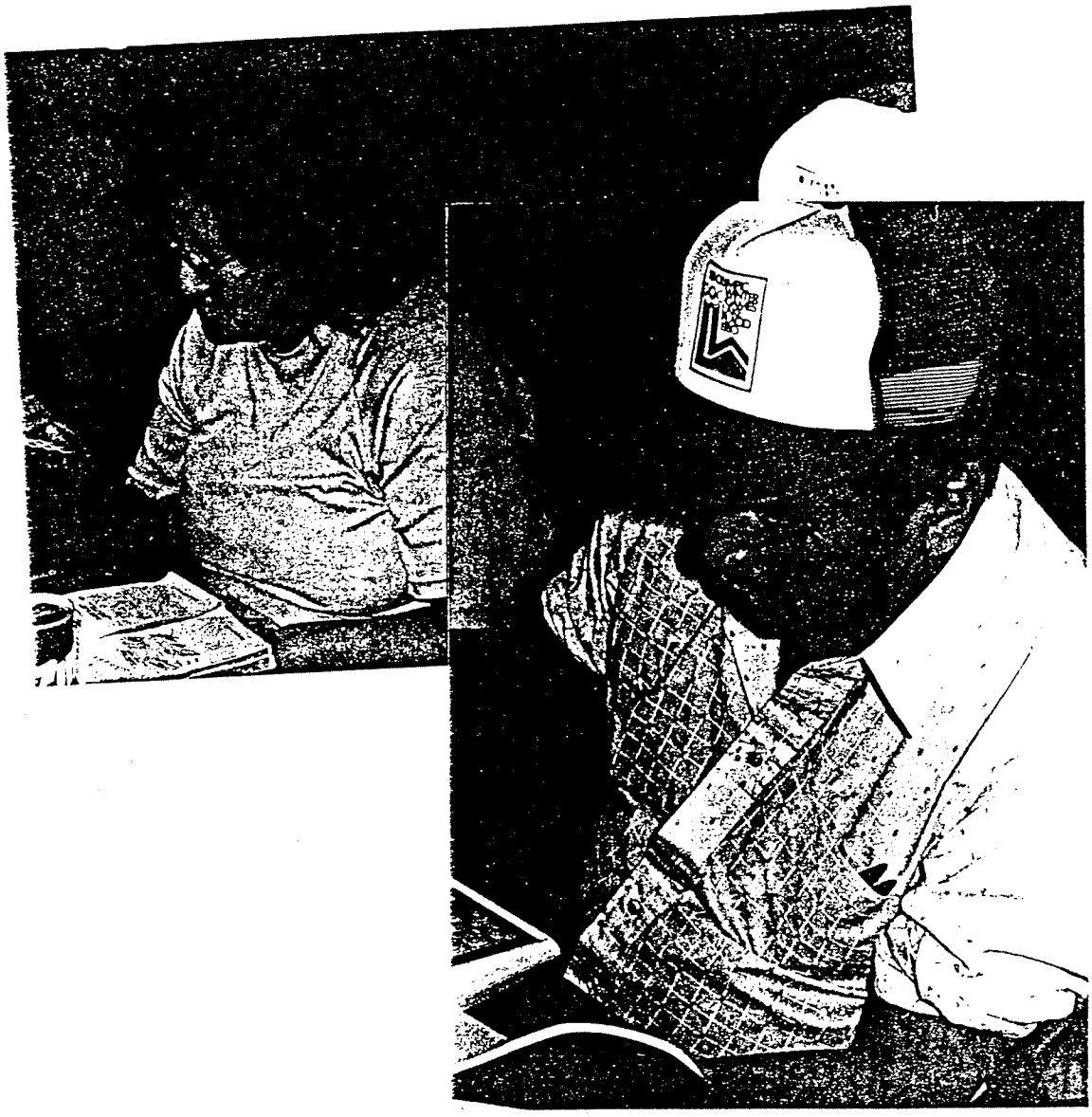
DIAND provided an original outlay of $500,000 for purchasing the rice. Treaty #3 allocated its CD manager and workers to spend fulltime on the organization of the first season from July on. Steve Jourdain of Lac La Croix became the manager; Basil Greene of Shoal Lake #39, the assistant manager; and fieldworkers, Percy Tuesday of Big Grassy, Jack Angeconeb of Lac Seul, George Pelly of Grassy Narrows, Steve Skead of Rat Portage, Harvey Churchill of Lac des Mille Lacs, Chuck MacPhearson of Couchiching were the legs of the organization. A system of buyers working for 2-3 cents per pound commission was established and the season began .

Joe Shebagegit of the Ojibways of Onigaming First Nation(formerly Sabaskong Band), an original Anishinahbe Man-O-Min Co-op Board member, recalled the excitement of the day:

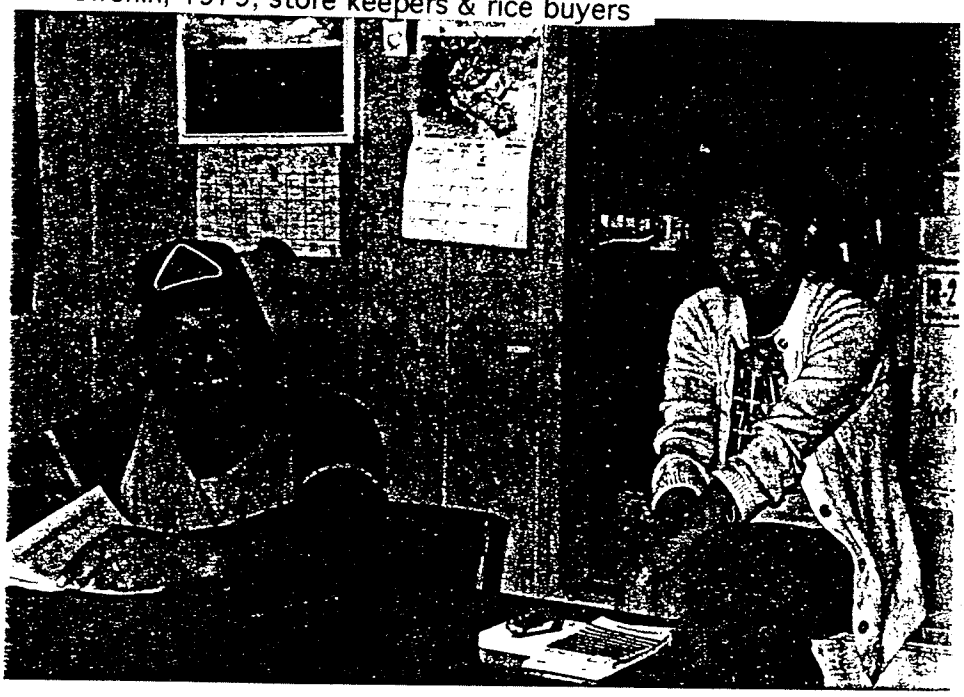
> "For the first time, Indians had something to say about the price of rice...We started at 55 cents per pound and raised it to 90 cents three weeks later when the best grade of rice was being picked. Other buyers would usually start at 30 cents and not go beyond 45 cents per pound for the whole season (Avery & Hawlick, 1979:43)."

This first year, the Co-op had no canoes to lend the pickers and had to depend upon the good relationships the local Anishinahbe Man-O-Min Co-op buyer may have had in the community. The Anishinahbe Man-O-Min Co-op buyer was usually a member of that community and could offer a good price at lakeside, with the promise of a dividend later in the year after all the rice was sold (Figure 30,31).

0.Sabaskong First Nation buyer (formerly Anishinahbe Man-O-Min Co-op buyer) Edward Kelly receives help from wife Dorothy Kelly in doing the books, 1979



31. Garnet and Frances Councillor at Naicatchewenin, 1979, store keepers & rice buyers



Garnet Councillor & daughter storing purchased green rice at Northwest Bay, Rainy Lake

"Easily more than half a million pounds" were bought and transported down to Gerry Sheehy's rice processing plant at Nett Lake reservation in Minnesota (Ray Bruyere 1990). Treaty #3 *Anishinaabeg* Fred Kelly Jr. of Sabaskong and others were hired as processors. They had to turn the rice in the outside yards during curing, operate the parchers and thrashing machines, and learn on the job how to maintain quality control.

> "The (US paddy rice) cartel was doing everything possible to harass us and hold up production, force us out of business. They were so afraid the Co-op might take off and destroy them. They spread rumours there was glass in our rice. They sent the (US)Food and Drug inspectors over - and even phoney ones. The (Man-O-Min Co-op) guys phoned me from Nett Lake to say another inspector arrived in an unmarked car. I asked them to check his credentials. He told them he forgot his I.D. and they threw him out." J. Dennehy 1990

The Chiefs had had a big debate over whether to go with Gerry Sheehy of Nett Lake reservation in Minnesota for processing, but they needed a US link for the General Mills liaison and decided to proceed. The misgivings of some Chiefs who may have known the violence in that community and in the industry soon proved real. John Dennehy remembered

> "calling Chuck MacPhearson at Couchiching (located right on the Fort Frances, Ontario-International Falls, Minnesota border, about 1 hour from Nett Lake) at 4 am one night. I was yelling at him to get dogs, shotguns, guys, trucks, whatever was needed and get the hell over to Nett Lake to protect our rice. We had it all laid out to cure, then turn it during the day and process it gradually. The threat came that 'they' were gonna burn our rice that very night. 'They' did burn down the warehouse right across the street from ours. But Chuck took off right away with a bunch of guys and stayed there. It worked. We saved our rice." J. Dennehy 1990

The rice was then shipped to General Mills in Minneapolis for loading into small retail packages, with the familiar Betty Crocker wooden spoon logo emblazoned on the front and specially formulated recipes inside. General Mills had test marketed packaging and brand names and came up with "Quiet Water" brand name for the Treaty #3 wild rice. General Mills also commissioned an *Anishinaabe* artist from the US to design an exquisite mural of the stages of harvesting and traditionally processing rice . This was reprinted with a history and recipes for enclosure in the Quiet Water box (Appendix 9). It seemed like a fail-proof operation - devised, negotiated and undertaken by Treaty #3 *Anishinabeg* .

The second year funding from the Department of Indian Affairs economic development program came in the form of a repayable loan with interest (B. Yerxa, 1990). The President of

Grand Council Treaty #3, Peter Kelly, and the President of Man-O-Min Co-op, Bert Yerxa, led a delegation to Ottawa to make a formal presentation of $50,000 to begin to repay the Departmental loan. Dennehy and Elder Bert Yerxa remembered the Minister kept them waiting an hour while his underlings tried to figure out what this delegation wanted. When the assistants were assured there would be be no kidnapping or other disruption, the Minister arrived. Hon. Judd Buchanan is shown in this photo as pleasantly surprised to receive the cheque (Figure 32). "They were all in shock", recalled Dennehy. "You see the upside down box", laughed then President Bert Yerxa. "We didn't have much time to set up the picture before the Minister had to leave. They didn't know what to make of us. We fooled them." (B. Yerxa1990).

The second year, too, the Co-op knew that they would have to supply canoes to the pickers or they would lose sales to other buyers who were providing canoes. The Co-op rented a warehouse in Keewatin and Co-op fieldworkers and buyers began making fibreglass canoes -twenty-four hours a day to get ready in time for the season. Some reserves sent their own workers but several found the fumes too naseating and the heat too oppressive.

> "Lots of people from the reserves made their own (fibreglass canoes) for the first time so they weren't all the best. But I remember one episode. Steve Jourdain picked up the phone and got a blast through the receiver. He held it out and said, 'OK, we'll see what we can do about your money.' Seems this guy from Whitefish Bay and his wife were picking all day and heading for shore when their Co-op canoe split right in half. Their rice sunk! We must have laughed for an hour! But I'm amazed to see some of those original old red and purple canoes still being used today. "
>
> J.Dennehy 1990

Underinvestment was a major obstacle for the Co-op. In 1974, Treaty #3 Chiefs and representatives of the Co-op met with an Ontario Cabinet committee in Thunder Bay to request assistance for the Co-op and their plans for developing manomin as an economic base for their reserve communities. Participants at this meeting recalled that the Ontario Cabinet was concerned that the Co-op had gone to an American company for assistance instead of a Canadian one (P. Kelly, 1974; Avery & Hawlick, 1979: 43). The Co-op explained their wish to work with a Canadian firm but no one being available to help. The leaders found Industry Minister Alan Grossman to be "interested" but Natural Resources Minister Leo Bernier (whose portfolio included wild rice) to be skeptical (Avery & Pawlick, 1979:43-44).

32. Anishinahbe Man-O-Min Co-op repays Indian Affairs in Ottawa, 1974
L-R Fred Kelly, Hon. Judd Buchanan, Minister of Indian Affairs, GCT3 President Peter Kelly, Kenora-Rainy River M.P. John Reid, Steve Skead, President of Co-op, Arnold Bruyere, Co-op Manager, Bert Yerxa, Co-op Board member

> "The Indian leaders did not know that, at the same time they were vainly urging the Cabinet to assist the development of a native industry, the Ontario Department of Agriculture and Food was providing substantial aid to Bernier's friend, Benjamin Ratuski, in developing Shoal Lake Wild Rice Ltd. That aid included help in developing processing methods and in marketing. The Ontario Development Corporation, in 1973, had also given Ratuski a $32,000 interest-free loan. No such help was forthcoming for the Indians." (Avery & Pawlik, 1979:44)

> "Participants at this meeting (in Thunder Bay) didn't volunteer that information, and it was never announced publically.. It was the provincial Department of Agriculture & Food whose Ontario Food Council helped develop the instant wild rice process that Ratuski's firm uses to market its "Oh Canada" brand of wild rice. Ratuski's firm is the only one currently using the process. The same Food Council also helped him find market contracts and tested recipes for cooking wild rice that Ratuski uses in the brochure in his "Oh Canada" retail package.
> .. As for the Man-O-Min Federal loan, it was not interest-free, as was the provincial loan to Shoal Lake. The terms of repayment were originally eight per cent and were later raised to 11 per cent. Indian charges of favouratism (toward his campaign manager, Ben Ratuski), said Bernier in a telephone interview, show that Indians are only 'trying to lay blame on the government's doorstep for their own lack of aggressiveness'. (Pawlik 1979: 50,48)

Although there were problems, the accomplishments of the Anishinahbeg Man O Min Co-op were several. A 1976 joint report by Anishinahbeg Man-O-Min Co-operative and the Grand Council Treaty #3 stated that the Co-op "was established and has achieved the following ends:

> a. To obtain for the picker a fair price for his work, in relation to the final market price of finished long grain wild rice. This did not exist prior to the establishment of the co-operative.
>
> b. To protect the Indians' traditional and historic right to harvest wild rice crops as a good food source and for sale. With the decline in trapping and the pollution of fish in the Treaty #3 area, wild rice is the only remaining significant income source for the Indians of Treaty #3.
>
> c. To establish an Indian owned and operated business which would provide administrative, organizational, financial and marketing experience to the Indians.
>
> d. Generally to prevent the exploitive practices of white Canadians and American buyers at the landing such as:
>
> 1. purchase rice with whiskey.
> 2. advancing credit (i.e. food) during winter to gain debt of Indian picker and exploit him at harvest time.
> 3. agreement between buyers dividing up areas, eliminating competition and paying lowest price per pound at landing, to Indian pickers.

e. Prior to 1972 the average price of green rice at the landing was less than 20 cents per pound - totally unfair price. ("Even with higher retail sales in pre-co-operative days, this benefit never accrued or filtered down to the picker at the landing" Anishinahbe Man-O-Min Cooperative Position Paper,1976:10)

f. Involve Indians in the buying of wild rice at the landing thus creating further employment, with resultant income and business training and experience.

g. To provide an opportunity for older Indians and their families to receive a good financial return for their efforts in picking wild rice sufficient to maintain themselves and their families in the traditional family life style." (Anishinahbag Man-O-Min Co-operative Position Paper, 1976:3-4).

The Co-op gained in field organization, buying and marketing expertise through the next several years. However, by 1976, the Department of Indian Affairs was seeking immediate repayment of loans made to the Co-op.

> "Before 1973 when Arnold Bruyere started as manager and I became accountant, there had been no regular payments back to DIAND. They had been made only on a seasonal basis. We started paying off on a regular basis, $1200 per month." (Crow, 1990)

The Co-op had already repaid $450,000 over the past four years. "Peter Kelly, then President of Treaty #3, handed me the cheque for $400,000 (from bulk sales) himself", an Economic Development head of Indian Affairs stated (Greg Hancock1990). The Co-op had $120,000 guaranteed in the fifth year from contracted sales to United Wild Rice, and had both the infrastructure and staffing ready to reach its potential (Anishinahbe Man-O-Min Co-op Position Paper 1976:9; Crow 1990). "Indian Affairs wanted the money right away to pay off the arrears," stated George Crow.

A joint committee of the Co-op President Steve Skead, Manager Arnold Bruyere, lawyer Michael Dennehy, and Treaty #3 Grand Chief Fred Kelly Sr. got together with two local Indian Affairs employees to produce a position paper (Bibeau 1990). This document advanced by the Co-op to Indian Affairs argued that this was no time to pull the plug. With interest forgiven, they pointed out, as it often is with both Canadian and foreign enterprises, the Co-op would be in a better position to continue and to repay the outstanding amount of $320,000 (Position Paper,1976:8). Indian Affairs at headquarters in Ottawa had decided on a new direction for economic development and froze the Co-op's $200,000 in the Canadian bank accounts.

As George Crow relates,

> "We had sufficient income to make regular payments and we were. The problem was that the interest rates would fluctuate and the capital loan would still be there. It was a good thing that we had accumulated some (Co-op) funds (from US sales) in Minneapolis banks. This kept us going for a while. That allowed us to keep shipping out our orders we had made in the U.S. We filed reports from the States."
>
> "We had two warehouses in Minneapolis and one in Winnipeg. We had stored up rice in the good years so that we could meet our orders in the years when the crop was bad. We had sufficient rice processed to feed our markets and increase volume sales. Even a minimum yield of 200,000 lbs. finished (ie, processed) rice from our lakes would have been enough to keep up sales. Some years we got 800,000 lbs finished; an average year was 500,000 lbs. "(Crow 1990).

After the Department of Indian Affairs move to reclaim funds, though, the Man-O-Min Co-op President Steve Skead and legal counsel Mike Dennehy of Winnipeg must have

> "realized that in order to get anything from DIA, they had to offer something: partial control (of the Co-op) was it. I had worked out with the Co-op and Treaty #3 a joint position paper that was almost co-management. I recall a meeting in Kenora with our joint group of local DIA, Treaty #3 President Fred Kelly, Man-O-Min Co-op President Steve Skead and manager Arnold Bruyere, and lawyer Mike Dennehy with Indian Affairs Regional Director General Howard Rodine, Ontario Economic Development Director, Bill Van Iterson, and a guy named Meredith from Ottawa. Rodine said something along the lines of 'We should work together - we've all made mistakes', but Meredith kept saying, "No more money. I want my money back." If the Co-op kept going after that, it must have been through Region's money, not Ottawa's. I dunno - I was transferred (Bibeau 1990)".

The immediate effect of the Department of Indian Affairs pulling their funding was devastating. George Crow remembered:

> "In 1976, the government flooded the market. They gave our rice away 'to recoup their losses' , they said. That's when the price to the picker went down 15 cents per lb. (Crow 1990)".

Even though the Co-op fell short of Indian Affairs' idea of financial success, there is no doubt that Treaty #3 *Anishinaabe* attitudes and experiences were changed by the Co-op. The Co-op improved both the financial status and self image of *Anishinaabe* pickers and buyers by taking control of the harvest from lakeside to market. From the beginning, there were such high expectations from *Anishinaabeg* that could not then have been met.

> "The original idea was to have a processing plant in each area (of Treaty #3) - Kenora, Fort Frances, Dryden. That's the way Paul Pitchinese (of Wabigoon, first President of the Anishinahbe Man-O-Min Co-op) wanted it." (Dennehy,1990)[2]

The Co-op didn't reach that goal.

"Every *Anishinaabe* connected with the Co-op believes that Man-O-Min could have worked" (Crow 1990). Why didn't it?

By various accounts, alcohol was a factor in losing some money, equipment and rice (Dennehy, Yerxa, Bruyere, Windigo 1990). At crucial times, particularly in 1972,1973 and 1977, either Board members or staff would be missing from meetings or work. But, to focus on alcohol related problems would be to overlook the outstanding work by managers, Board members, buyers, and processors from reserves across Treaty #3 who did their jobs well and sober. In the 1970s, alcohol abuse was a prevalent problem in Treaty #3 communities and had to be confronted. This Co-op business was an *Anishinaabe* -originated venture that was operated under *Anishinaabe* control. The Man-O-Min Co-op and its successes were seen by the *Anishinaabeg* as a sign of hope and proof that they could succeed in their own traditional livelihood and yet compete in the whiteman's business world.

> " From a socio-economic development point of view, you gotta see the Man-O-Min Co-op as an incredible development. I mean where else in Canada was there a violent deaths report ?(Note: "While People Sleep", Concerned Citizens' Committee of Kenora, published by Grand Council Treaty #3, 1973. This report documented a violent death rate higher than Detroit city, among *Anishinaabeg* around Kenora.). Where else were there problems of mercury pollution, fishery closings, arrests, wild rice conflict, Bended Elbow ?(a racist booklet by Eleanor Jacobson, a Kenora nursing assistant, written in the aftermath of the 1974 occupation of local Kenora park by the Ojibway Warrior Society). I mean - geezh! In 1971, .. there were only 6 phones in all of the 23 reserves." (Dennehy, 1990).

Most *Anishinaabeg* believe that the Department of Indian Affairs never wanted an aboriginal business venture to succeed. Particularly at the local Kenora office level, John Dennehy strongly believes that Indian Affairs was the intentional author of the Co-op's demise.

> "They wanted to prove that Indians couldn't manage their own affairs or they'd be out of a job. That first year (1972), Indian Affairs local personnel caused a lot of interference. That stupid, ignorant Dick .. P. We almost sued him. He cost us about $20,000 in just one phone call. We were in Grand Rapids, Minnesota dealing with a buyer. We had him at

> $2.65 per lb. for an order of 200,000 lbs. finished rice. We broke for a while. The buyer came back and told us,' I'll give you $2.35 a lb. and nothing more. I just talked to (Dick) P. at Indian Affairs and he says they own the rice.' We blew a fuse - you figure it out - 30 cents a lb. difference on 200,000 lbs." (Dennehy 1990)

George Crow is just as blunt:

> "Indian Affairs wanted the Co-op to fail. Of course. That's always been the situation. I think the word came from the top - the highest bureaucrats. That's where all the decisions are made, regardless of who's the political head" (Crow 1990).

At the time DIAND froze the Canadian accounts in 1976, Crow related that

> "we were operating out of Minneapolis, doing strictly American sales, with retail packages under our "Quiet Water" label and bulk sales under our own name. The Co-op assumed all costs while General Mills provided the channels and sales experts. We chased the sales and followed up our own orders. We were beginning to open Canadian markets like B.C. , like Safeway in Vancouver. California was our biggest market - and growing. We were getting into international markets - Kuwait, Hong Kong and Japan. There was no export development assistance then as there is now. External Affairs threw all kinds of paperwork at us. They wouldn't allow a Kuwaiti envoy to take a 100 lb. bag of sample rice back home with him and wouldn't let it go by mail. We were still wading through the paperwork when DIA froze the accounts. Man-O-Min would have been the very first wild rice company in Asian markets." (Crow 1990)

In an industry where ruthless competition is part of the expected 'fun' of the business game, the Man-O-Min Board of Directors were often

> "not prepared to deal with business pressures. They weren't strong enough. They didn't realize once you made an agreement, you still had to plan for the future. (In that first year) they'd worry more about their per diem (honoraria for meetings) than about the future" (Dennehy 1990).

Even an *Anishinaabe* businessman, Willie Wilson, who remained an independent buyer for other rice interests when Man-O-Min Co-op started, believed

> "the Co-op was a fantastic idea (but) no one looked at it like a business. There were too many actors. They should have paid less and looked for dividends. They wanted to control everything - and at the wrong time. 1972 was a bumper crop." (Wilson 1990)

And, at lakeside, other buyers would jack up the price to try to put the Anishinahbe Man-O-Min Co-op buyer out of business. People on the reserves wanted to make the best money they could in the shortest time. The rice harvest had always been an important source of income for families at the end of the summer when children were returning to school. The rice they sold meant new clothes for the kids, bills paid at the grocery store. In 1973, three brand new cars

were purchased at Sabaskong reserve by the rice pickers who brought in the bumper crop. Josephine Sandy recounted how she and husband, Ron, a rice buyer put six thousand dollars cash down on a trailer they were buying in Winnipeg after the 1972 harvest (Josephine Sandy 1992). While the Co-op managed to raise the price at lakeside, some pickers sold to other buyers if the price were higher. Some opted for the higher price immediately rather than wait for the Co-op dividend later. The Co-op could count on some loyalty but could not corner the rice entirely.

For people who had never operated a business at all, let alone on such a large scale, the Co-op was quite a feat, reaching into all of the then 23 reserve communities of Grand Council Treaty #3, and many more ricing areas spread over the 55,000 square mile territory of Treaty #3. It was to be expected that there would be some disorganization. As Willie Wilson reported, other buyers could take advantage - and did.

> "The Co-op really scared the price up. It was better for me as a buyer to stay independent and sell at a commission. The Co-op was unorganized and I could come up from behind and determine what to pay. I remember one time (in 1972, the first year), the Co-op was supposed to pick up the rice at Wabigoon for three days and hadn't been able to get there. The Co-op had promised $1.50 per lb. but I came and offered $1.10. I got the rice. By the time the Co-op got there, I had 18,000 lbs from Wabigoon and 2500 from Eagle (Lake reserve 30 miles away from Wabigoon) loaded on my four ton truck. I remember because I got a ticket for overload on my way to Grand Rapids (Minnesota)!" (Wilson 1990).

In business, profit, some call it greed, is a major motivating factor. One commissioned Co-op buyer was reported to have converted funds that were designated for buying rice for the Co-op into buying rice machines that picked the crop. He then resold that harvest to the Co-op (Dennehy 1990). It is believed by some that others simply spent the money instead of buying rice (B. Yerxa, R. Bruyere, J. Windigo 1990). No one has estimated the loss of funds in this way. However, a very substantial amount of wild rice made it from lakeside to processing and market, under the management of the Anishinahbe Man-O-Min Co-op during its years of operation (Crow, Dennehy, Bruyere, Yerxa, Windigo1990).

According to some Indian Affairs officials, in the first two seasons (1972, 1973), the Co-op had advanced money to pickers "without any attention paid to people's capability to pay - even in some cases with no clear understanding that they were to repay" (Bibeau 1990) However, that practice merely copied what was the usual practice of the rice industry . Buyers

made an investment of advancing food, canoes, cash in order to gain the loyalty (or indebtedness) of the picker, come harvest season. Indian Affairs ignored that fact of life of the ricing business and believed that "too much money per pound over the market rate" was being paid out (Bibeau 1990).

In analyzing the folding of the Co-op, Indian Affairs came to see their role after 1973 as a "salvage operation" (Bibeau 1990). On the other hand, the *Anishinaabeg* believed they were on the brink of major expansion into Canada and international markets as well as maintaining their U.S. sales.

Some Indian Affairs personnel questionned the whole thrust of the Anishinahbe Man-O-Min Co-op. By putting the rice into Betty Crocker labels, they were putting a gourmet product, "the caviar of grains" into a low grade, retail market (Hancock 1990). Yet, in hindsight, wild rice has become more and more accepted by general consumers and rice production is increasing with the demand. Indeed, in the 1990's, some see production to be superseding demand (Wilson, Pitchinese, T. Bruyere1990).

A fatal flaw, in Hancock's estimation, was that the Co-op stockpiled rice and tried to corner the market but the fledgling company was not powerful enough. He explained that it was the classic example of a company getting too big, too fast: the Department of Indian Affairs drove the *Anishinaabeg* to such an expansive program (Hancock 1990).

Yet, in the estimation of staff and Board members, the Co-op was stockpiling to meet continuing and increasing orders (Crow 1990). Assistance was needed in cutting the red tape of exports and border crossings, not in adding bureaucratic hoops to jump through.

In the end, the Department of Indian Affairs had no confidence in the management and direction of the Co-op. Their view was particularly so in an industry they felt they knew better than the *Anishinaabeg* who had been working in the field for several years, and whose ancestors were the first traders in the business. The Department could point to enough evidence of problems to bolster their arguments for takeover of the Co-op. For the *Anishinaabeg* , the scenario was all too familiar.

Once Indian Affairs began taking over the management of the Co-op, and offering their marketing plans, the concept was not the same. "Man-O-Min only carried on only in harvest

season (ie, just August, September) after that." (Crow 1990) The Department was once again in the driver's seat and the *Anishinaabeg* felt it. Indian Affairs took over the last warehouse of rice in Winnipeg, flooded the market, and consequently, dropped the price to the pickers. The *Anishinaabeg* lost their economic vehicle for the protection of their rights to rice (Hancock, Yerxa, Crow,1990; Avery & Hawlick, 1979).

Endnotes:

(1) The 1972 RMC Report mentions major problems in passing - such as the distrust of Treaty #3 *Anishinaabeg* of the Ontario Department of Natural Resources and their statistics on "potential crop" and "harvest yield" (RMC, 1972: 5). Yet this distrust grew into a monumental problem of public relations in the mid 1970s and continues into the 1990s, mitigating against the implementation of co-management arrangements that would benefit all, including the wild crops and wildlife.

2. Paul Pitchinese' family did achieve his dream in his own region. In 1985, Kagiwiosa Manomin Inc. was established and continues to grow into 1994. See Chapter 9.

Chapter Eleven

Flooding the Rice Basket:

Manomin on Lake of the Woods

> "There is a teaching in our traditions that relates how *Nanaboozhoo* vowed to avenge the death of brother Wolf. *Nanaboozhoo* found out that Wolf had been drowned by the underwater serpents and *mizhipizhiw*, the underwater panther. He set upon a plan and met an old toad woman who was hurrying through the forest toward the waters. She was a vain old woman and began bragging about how powerful she was. She related how she knew so much medicine that she was the one who was called to cure the underwater panther of some sickness. *Nanaboozhoo* killed the old toad woman and disguised himself in her clothes and shape and made his way to the underwater lair of *Mizhipizhiw* . He told the serpents to fetch something and then he killed the *Mizhipizhiw* and made his escape. The serpents returned to find their beloved *Mizhipizhiw* dead and all pandamonium broke lose. The water churned and churned into whirlpools. The only way *Nanaboozhoo* could escape is by remembering how he used to play with the otters, twisting, bending up and down till he escaped. The serpents called after him, threatening, "You will always have trouble with water - either too high or too low!" Of course, *Nanaboozhoo* was the first *Anishinaabe*."
>
> Tobasonakwut Kinew 1993

To the *Anishinaabeg* of Treaty #3, a supreme law of respect for *Kisha Manito* , the Great and Loving Spirit, and for all of creation governed the people in how to care for the land, waters and resources. And, there was only one treaty which governed relations between *Anishinaabeg* and other governments in that territory. That was Treaty #3.

To the newcomers, however, law and regulations were created to assist business and the commercial exploitation of resources whenever the need required it. In 1925, there was a new treaty signed, between Canada and the United States, to govern relations and decision-making in the boundary waters area. The Lake of the Woods Protocol through the International Joint Commission was a treaty made without notification or involvement of the *Anishinaabeg* . This was done despite the wording of Treaty #3 that "you shall be free as by the past for hunting and the rice harvest" (Paypom Treaty #3, 1873). The Great Spirit's Garden and the livelihood of the *Anishinaabeg* were affected deliteriously for generations afterward.

The creation of the Lake of the Woods Control Board in the early part of the twentieth century, and its terms of reference which ignored wild rice and the rights of the *Anishinaabeg* , threatened to be the main determinant in undermining the *manomin* crop and *Anishinaabe* heritage into the twenty-first century.

> "The wild rice crop has failed in the Lake of the Woods and Shoal Lake rice grounds. In the Lake of the Woods the failure is attributable to high water in the early part of the summer; there was great hopes of an abundant crop, but the water rose faster than the rice could grow, and drowned it. We have had very little rain during the summer, the floods were caused by the damming up of the channel of the Winnipeg River at the foot of Lake of the Woods.."
>
> Report of Assabaskashing Bay Indian Agent.
> 1888 Sessional Papers, regarding 1887 crop

> "The lake level is rising faster than the rice can grow. This is the most critical time between the floating leaf and aerial leaf stage and requires lower water levels being maintained or the crop will drown.. the Lake of the Woods Control Board will be held responsible..."
>
> Onegaming Councillor Peter Kelly/Kinew to
> Lake of the Woods Control Board, June1989

A major determinant of the success and health of a wild rice crop is the depth of water. It is vital that the depth of water be about 2 to 4 feet and that level be maintained during the crucial growing stages. This occurs between germination when the plant begins to grow up through the water to the floating leaf stage (April-May), and then from floating (June) to the aerial stage (July) when the stem elongates and the leafs are higher on the stalk, in the air rather than the water. This was common knowledge among the *Anishinaabeg*, garnered from centuries of planting and taking care of*Manito Gitigaan* , the Great Spirit's Garden (Chapter 3; Figures 3,4).

The *Anishinaabeg* believed that they had negotiated and signed a Treaty in 1873 which guaranteed their traditional way of life would continue (Chapter 6; Appendix 5: Paypom Treaty). They certainly did not expect that there would be interference with their way of life. The *Anishinaabeg* thought that assistance would be made available for economic ventures including further development of agriculture they had already begun generations before. Indeed, early explorers and nineteenth century surveyors were surprised to see gardens *Anishinaabeg* had planted on islands and other locations

throughout the boundary lakes and riverways of the 55,000 square miles now known as Treaty #3 (Holzkamm & Waisberg 1990).

It took only a little more than a decade to learn what industrial development from the *wemitgoshi* perspective would do. In 1879, a small dam called a "headrace" was erected at the north end of Lake of the Woods, so that hydraulic power could be used by a saw and planing mill. In 1881, a cut was made between Portage Bay and Lake of the Woods to provide power for the Lake of the Woods Milling Co.; it was further deepened in 1885. By 1887, the Canadian government granted $7,000 to John Mather, owner and manager of the Keewatin Lumber Co., to construct a new dam at the western outlet of Lake of the Woods. There was a need for this dam to "maintain waters at a constant level, and thus permit the shallow draft steamers which have been built for navigation of the Lake to ply their trade" and "afford uninterrupted connection between the settlements around the lake and the C.P. railway", as well as "to maintain a constant head of water for the mills, both saw and grist" (Dr. A. P. Coleman, "Second Report on the Gold Fields of Western Ontario", Annual Report of the Bureau of Mines, 1895:171).

The "Rollerway" dam (so named by its use of logs to be rolled away according to the need for holding back water) raised the Lake of the Woods level by three feet (Final Report of the International Joint Commission on the Lake of the Woods reference, 1917:16-17). The *Anishinaabe* economy was affected immediately:

> "The wild rice crop has failed in the Lake of the Woods and Shoal Lake rice grounds. In the Lake of the Woods the failure is attributable to high water in the early part of the summer; there was great hopes of an abundant crop, but the water rose faster than the rice could grow, and drowned it out. We have had very little rain during the summer, the floods were caused by the damming up of the channel of the Winnipeg River at the foot of the Lake of the Woods.."
>
> "The hay crop of last fall was a failure in most places; in the Lake of the Woods the cause was high water covering the low hay fields and drought in the higher lands. In consequence of the failure of the hay crop, the Indians had some trouble in saving their cattle and some animals perished in the spring."

> (George McPherson, Assabaskasing Agency, to Superintendent General of Indian Affairs, September 21, 1887. Annual report of the Department of Indian Affairs, Canada, Sessional Papers #15, A. 1888, p.56.)

Mather oversaw the construction of the rollerway dam, which five years later led to the major construction of the Norman Dam, one mile below the Rollerway. (The Norman Dam continues to operate into the twenty-first century.) A federal grant of funds was made in response to a petition from the people of Rat Portage (note: the town, not the First Nation reserve), Keewatin and Lake of the Woods" for a dam to improve navigation and provide water power to mills" in the area.

During 1893-1898, the Lake level was lowered 1.5 feet, from the higher level since 1888 rollerway was built, but this continued to be 1.5 feet higher than normal levels. During 1899-1913, the Lake fluctuated between .9 to 6.3 feet above natural conditions (Canadian Lake of the Woods Control Board, Department of the Environment, Ottawa, "Mean Monthly Levels" Graph.).

The federal government listened well to the petitions of the new settlers, but merely filed away the reports of its own government officials and the protests of the *Anishinaabeg* . In 1890, Chief Thomas Lindsay of Rat Portage made a speech to the Indian agent at Kenora:

> "We reserved this land (known as Sultana Island) long before the Treaty and we had gardens on it long long (sic) before the Treaty of 1873. And it is only an Island when the water is high in the Lake. Since the Dam was built across the Mouth of the River it is higher and has killed all our Wild Rice and nearly all our Hay fields are now covered with water - our Rice is a great loss to us." (Chief Thomas Lindsay, Rat Portage, recorded by Agent Robert Pither, to Superintendent General of Indian Affairs, July 25, 1893. Canada, Sessional Papers (#14) A. 1894:46)

In 1892, Treaty #3 Grand Chief Powassin sent a petition, to Ottawa, with the signatures by ten other Chiefs and headmen of the Lake of the Woods, protesting the flooding and requesting the Treaty be honoured.

> "Ever since the dam has been put up in the river, the water keeps high, destroying the wild rice crop, which is the principal cause of our starving in winter time. Apart from that, the hay grounds are also flooded as well as some of our best gardens. ...

> On account of the above mentioned reasons and for fear of starvation our young ones are getting restless. What can we do to restrain them?
>
> "Having kept faith with the Department it is only but fair that one should expect that they would keep it towards us. We have kept our part of the treaty, is it not hard that the government should keep theirs?" (NAC, RG10,v.3880,f.92840, July 15th, 1892, Assabaskashing, letter from Grand Chief Powassing and 10 Chiefs to the Superintendent of Indian Affairs, Ottawa).

The Treaty #3 *Anishinaabeg* raised the issue of flooding continually during their summer gatherings with the Indian agent of the Rat Portage/Assabaskashing agency. Despite *Anishinaabe* protests at such meetings, and letters and petitions by the *Anishinaabeg* to the Department of Indian Affairs, there was no formal protest filed by the Department to officials regarding the construction of the rollerway dam.

In 1909, a treaty signed by Great Britain and the United States established the International Joint Commission (I.J.C.) to prevent disputes regarding the use of boundary waters. The I.J.C. immediately created a Commission on the Lake of the Woods, calling for a report "pertaining to the regulation of the levels of the Lake of the Woods and the advantageous use of its waters, shores, and harbors, and the use of the water flowing into and from the lake, and the effect of such regulation on all public and private interests involved"(Final Report, I.J.C., 1917:11).

Public hearings were held by the International Joint Commission's Special Commission in 1912 around Lake of the Woods, at International Falls, Warroad, Minnesota and Kenora, Ontario, yet the Department of Indian Affairs neither presented any evidence nor did they inform the *Anishinaabeg* of the Commission or the hearings.

Despite continuing complaints from *Anishinaabeg* about the flooding, Indian Affairs did not table any information until the International Joint Commission (I.J.C.) specifically requested information. The Fort Frances Indian agent was requested to gather information, while incurring only necessary small expenditures. The agent, J.P. Wright, had recently strong-armed seven reserves on Rainy River to amalgamate and surrender fertile land along the River for newcomers' farms (Rainy River claim, tabled

with Indian Commission of Ontario, 1979, author's own notes). Wright stated to his superiors that he could not "get any definite idea from the Indians and it would take a long time and big expenses to get any reasonable information". Wright then asked the surveyor who was re-tracing reserves to give a report. (Presumably, this Indian Agent did not speak with the *Anishinaabeg* within his district, nor read the correspondence.) He did forward the request to the Kenora Indian agent R.S. McKenzie.

Surveyor J.D. Gillon conducted surveys on Lake of the Woods during 1912-1913 and noted in his fieldbooks the effects of flooding on every reserve. For example, the Big Island fieldbook contains the following reference:

> " ... the plan shows that a large part of this Reserve is now under water Seamo Seebe being now practically a bay of Lake of the Woods .. The entire south part of Reserve 31G is now under water, or rather is composed of a floating bog. According to the Indians there is now water all the way across Big Island from Seamo Seebe, on Reserve 31F to the southerly part of 31G." (NAC RG10 v.7585, f.6129-1, pt.1)

In contradiction to such documentation, the Fort Frances agent reported to Ottawa in 1914 that the higher water level would benefit two-thirds of the reserves, "as when the water is high they can gather any quantity of wild rice" (R.S. McKenzie, Agent, to D.C. Scott, Deputy Superintendent General, Department of Indian Affairs, April 29, 1914. National Archives of Canada, RG10, v.7585,f.6129-1, pt.1)! The Indian agent effectively ignored the need for lower and constant water levels to allow the *manomin* to grow at all. Mckenzie also reported that "the other one-third (of the reserves) (is) differently situated, and the high water would not effect them very much, and further, the high water would do but very little damage to any of the reserves" (ibid) . His flooding observations are in direct contradiction to any authority on wild rice (Jenks 1900:1027, 1036).

And, despite years of *Anishinaabe* and other Indian Agent reports to the contrary, the Department forwarded this 1914 Indian agent's report without change. The Department completely disregarded almost twenty years of documentation by

Anishinaabeg and other Indian agents and surveyors regarding the major, deleterious effects of flooding on the reserves and their traditional livelihood.

In a final request to Indian Affairs for any complaints on file, the I.J.C. received a letter from the Deputy Superintendent General J.D.McLean that the only complaints were from Rainy Lake reserves regarding the Minnesota and Ontario Power Company dam at Fort Frances/International Falls, and the Department was taking that up with the company (JD McLean to LJ Burpee, March 31, 1915; JB Challis to DC Scott, August 27, 1915. NAC, RG10, v.7585, f.6129-1, pt.1). [1] (Figure 33: Map of 19th century dams).

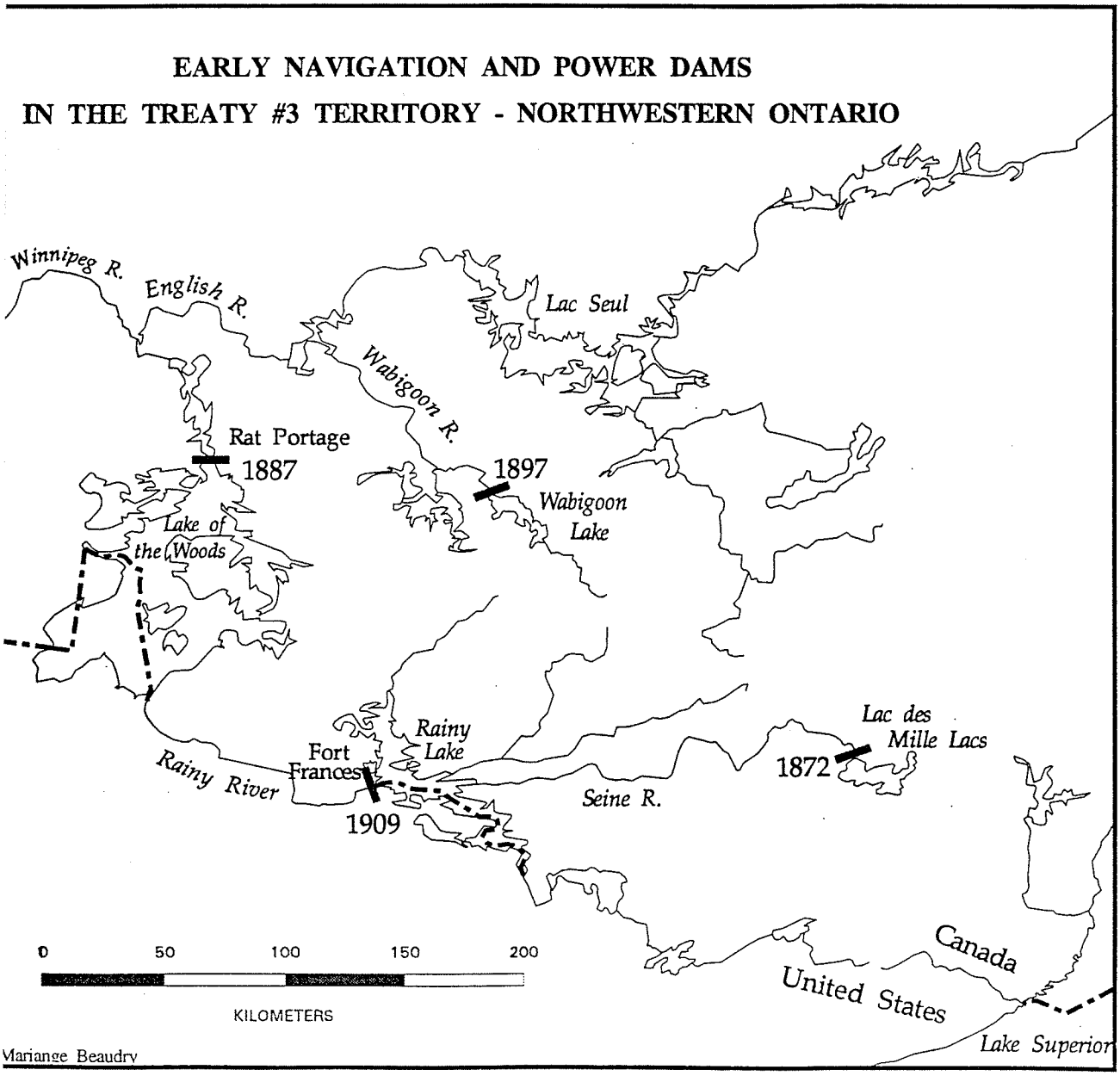
In April of 1915, the Kenora Indian Agent was asked to attend hearings in Kenora to be held in September 1915, "to watch the proceedings" but did not wish him "to take any steps which may prove to be desirable in the interests of the Indians or their lands" (DC Scott to RS McKenzie, 25 August 1915. NAC, RG10, v.7585, f.6129-1, pt.1).

In 1917, the Final Report of the International Joint Commission on the Lake of the Woods Reference was released. It recommended that the ordinary maximum level of the Lake should be 1061.25 a.sl. (above sea level), and that an international board should ensure maintenance of an operating band. [2]

In the next few years, the Department of Indian Affairs did nothing to protect the interests of Treaty #3 *Anishinaabe* people, their lands or livelihood from past or future flooding of Lake of the Woods. A Lake of the Woods Control Board was created by federal legislation in 1921, and subsequently approved by Ontario.

In 1925, a Convention and Protocol between Canada and the United States regarding Lake of the Woods agreed to regulate these waters "with the objects of securing to the inhabitants or the United States and Canada the most advantageous use of the waters thereof and of the waters flowing into and from the two countries for domestic and sanitary purposes, for navigation purposes, for fishing purposes, and for power,

Map prepared by Mariange Beaudry of MAPIT for *Joan Lovisek, Tim Holzkamm and Leo Waisberg,* for a paper entitled " 'DEPRIVED OF PART OF THEIR LIVING:' COLONIALISM AND NINETEENTH CENTURY FLOODING OF OJIBWA LANDS," presented at the 26th Algonquian Conference in Winnipeg, October 1994.



irrigation and reclamation purposes" (Convention & Protocol Lake of the Woods, 1925:Article II). There was no mention of the original inhabitants of the area, their Treaty rights, or wild rice.

According to the Protocol, the Canadian government would be responsible for flowage between 1056 and 1061.25 feet above sea level (a.s.l.); below and above these levels, an International lake of the Woods Board would be in control. A flowage easement would be permitted up to 1064 feet above sea level. Each country would be free of responsibility for claims within the other's borders, but would cover claims within their own territories. Canada would pay the U.S.A. $275,000 plus one half of any excess paid out in claims (NAC, RG 10, v.7585, f.6129-1, pt.1) .

The presently operating Norman Dam was constructed one mile downstream from the rollerway. This is the main outlet and control passage that the Lake of the Woods Control Board still use today to control outflow from Lake of the Woods.

By the end of 1923, the Treaty #3 *Anishinaabeg* again petitioned Ottawa for an independent investigation of many complaints. Upon receiving no reply in the following eight months, the *Anishinaabeg* took the unheard of step of soliciting the assistance of a Kenora lawyer, James Robinson (PAO 1434-B77). Robinson wrote several letters to the local Kenora Daily Miner & News outlining the problems in getting a response from Indian Affairs. After repeated attempts for a reply from the Department, Mr. Robinson was advised:

> "In matters of this kind, which come purely within the scope of the internal administration it is not customary for the Department to conduct negotiations with the Indians through an intermediary."
> (PAO 1434-B-77)

When the 1927 Indian Act was passed, the Department made sure that Mr. Robinson was made aware that, in this new era, his advocating on behalf of the *Anishinaabeg* would be against the law (Letter from Acting Assistant Deputy & Secretary, DIA, to James Robinson, August 4th,1927, NAC RG10, v.7585, f.6129-1, pt.1). The 1927 revisions to the Indian Act contained a new clause:

> "s.141. Every person who, without the consent of the Superintendent General expressed in writing, receives, obtains or solicits requests from any Indian any payment or contribution or promise of any payment or contribution for the purpose of raising a fund or providing money for the prosecution of any claims which the tribe or band of Indians to which such Indian belongs, or of which he is a member, has or is represented to have for the recovery of any claim or money for the benefit of said tribe or band, shall be guilty of an offence to a penalty not exceeding two hundred dollars and not less than fifty dollars or to imprisonment of any term not exceeding two months." (R.S.C.,1927,c.32,s.6.).

(This clause was not repealed until the 1951 revisions to the Indian Act.) Without legal or financial resources, the Treaty #3 *Anishinaabeg* were again left to deal alone with the Department.

According to Departmental records, in 1927, the Department was still considering some type of compensation (in the range of $28,000) for lake levels between 1059-1064 feet a.s.l . People's improvements were valued at no more than $500.00, as in the Department's estimation, "That they (the improvements) are quite unimportant may be taken for granted"(Memo, T.H. Dunn to J.T. Johnston, 8 February 1927). These "unimportant" improvements included cattle stables and sheds as well as cabins, ice houses and docks. Ceremonial structures and sacred sites affected would not even have been mentioned.

A major conference of Chiefs and Councillors of the Kenora and Savanne agencies was held on Lake of the Woods in July 1928 with an Indian Affairs official from Ottawa, F.H. Paget. The *Anishinaabeg* protested the :

> "damage done to all the reserves by the unnatural raising and lowering of the water whereby timber was destroyed, hay land flooded, rice beds drowned out and in some cases, Indian graves were covered with water and being washed away. ... At Buffalo Bay reserve 100 feet of shore line has been washed away, also part of the burying ground. This also has happened at North-West Angle Reserve and at Windy Point Reserve belonging to the Assabaska Band. Fur-bearing animals such as Muskrats were drowned out or frozen due to the lowering and raising of the water. There were practically no rats now and the Indians had to purchase hay where previously they had been able to cut it.
>
> As The Indians depend on the wild rice largely for their winter food the destruction of the rice beds is a serious loss for them.

> While they realized the dam was necessary they considered they should be compensated for the loss they sustain by raising of the natural lake levels, especially as it was understood that the Department of the Interior through the International Control Water Board and the Lake of the Woods Control Board had compensated settlers on the American side for damage caused by the unnaturally high and low waters on the Lake of the Woods through the installation of the Dam. ...
>
> The Indians have a real grievance and were informed that it would be laid before the department for its consideration." (F.A. Paget to D.C. Scott, 11 Sept. 1928 NAC RG10, v.7585, f.6129-1, pt.1).

In 1929, H.J. Bury, Lands and Timber Branch of Indian Affairs, requested and was allowed to undertake a survey and valuation of the damaged reserve lands and interests on Lake of the Woods. To be included were forty Indian reserves with 250 miles of shoreline. In October, Bury submitted his extensive report with valuations stating losses of land acreage, losses of ricebeds acreage, losses of graves and a valuation amount to total $22,325.00. Based on his own measurements and statements from *Anishinaabe* leaders, Bury concluded that lake of the Woods had risen no less than 14 feet since the Treaty #3 was signed in 1873 :

> "The Indians of the Lake of the Woods are in a sadly impoverished condition. Their hunting and trapping rights, under Treaty, have been curtailed - their fishing rights have been handed over to white men - their lands have been flooded - their rice fields have been swept out of existence - and their livelihood has been impaired.
>
> In the name of justice and British fair play, I cannot too strongly emphasize the hope that their claims for generous consideration will receive prompt and favourable treatment." (H.J. Bury to the Deputy Minister, October 2, 1929, NAC RG10, v.7585, f. 6129-1, pt.1)

His well-documented plea fell on deaf ears. Indeed, Indian Affairs in Ottawa continued to advise its Kenora agent, Frank Edwards, that "it is not considered desirable that the Indians should in any way be encouraged to attribute any decrease in the muskrats and fish to the control of the lake levels" (A.F.Mackenzie to F. Edwards, 18 December 1930, NAC, RG1-, v.7585, f.6129-1, pt.1).

At about the same time, however, Canada and Manitoba agreed by successive orders in council in 1930 and 1931 to replace Buffalo Point Band lands flooded on the Lake of the Woods (P.C. 1746, August 5, 1930 NAC RG10, v.7777, f.27129-7).

These lands were to replace lands flooded on Lake of the Woods. This is the only compensation ever made to First Nations on the Canadian side. The Chippewas of Red Lake, Minnesota, were compensated in 1934 on the basis of $1.25 per acre for a total of $16,000. The Canadian government paid half this amount (NAC RG10 v.7777, f.27129-7). Through the 'moccasin telegraph', the Treaty #3 *Anishinaabeg* became aware of the settlement to their relatives on the U.S. side of the boundary waters, and again pressed for justice.

When Indian Affairs Superintendent D.C. Scott retired in 1932, Bury again pursued the issue of compensation for several years. The Dominion Water & Power Branch of the Federal Government objected to Bury's inclusion of rice beds and fur losses while Bury objected to the IJC's low valuation of effects on *Anishinaabeg* . He advocated to "compensate the Indians" and "lessen the cost of direct relief"(HJ Bury to Director, 18 October 1937, NAC, RG10, v.10294, f.487/8-4). Even though the new Director, H.W. McGill, agreed, a Justice Department review stated that "any compensation should be made on compassionate grounds not on assured legal rights"(JT Johnston to TL Cory, November 5, 1937, NAC, RG10, v.7585, f.6129-1, pt.1). A year later, though, the legal division of Mines & Resources came to a different conclusion: that "the Indians have an enforceable claim under Treaty #3 and subsequent Indian Acts"(January 21, 1938, TL Cory, Solicitor, Legal Division, Department of Mines & Resources, memorandum to TR Daly).

In 1938, the Treaty #3 organization of Chiefs and headmen met often. Their spokesman, Whitefish Bay Chief *Baybomahsigey* , Rob Roy, conveyed their protest about high water levels to Indian Affairs. "Before the Lake of the Woods was overflooded there used to be a lot of wild rice and plenty of Muskrats, but ever since the Keewatin Dam was built the rice has been flooded and also graves have floated from one place to another" (Statement appended in Frank Edwards, Indian Agent to HJ Bury, 28 September 1938).

The Indian Agent passed on their protest to Ottawa with his own advice that the Department had been misinformed by its own agent in 1914 (October 2, 1938, Frank Edwards to Secretary, Indian Affairs Branch). Chief *Baybomahsigey* , and organizer *Ko-ko-ko-o*, Jack McGinnis of Manitou Rapids, and others formed an Organization of Amalgamated Indians of Northwest Angle Treaty #3 delegation who visited the House of Commons. There Chief *Baybomahsigey* was informed that money had been set aside as flooding compensation. The delegation must have accepted the government at their word. Upon their return home, however, they found no compensation forthcoming. A few months later, *Baybomahsigey* wrote to Ottawa:

> "During my visit at the House of Commons Ottawa on the 28th day of October 1938 A.D. the purpose of bringing the matter of our complaints to the Indian Department, the following grievances on the clause no.7 as follows by overflooding our wild rice beds and many other complants against water flooding on the Lake of the Woods Region.
>
> The satisfaction I got from my visit, - "I was told There is money already set a side for that purpose. So we want that money to be laid in our hands.
>
> May I hear from you an early date." (January 1, 1940, Chief Rob Roy of Whitefish Bay to H.J. Bury, Ottawa). [3]

For several more years, Treaty #3 *Anishinaabeg* pressed the issue through letters and meetings with the Indian Agent, but they were never compensated. In 1944, there was an actual recommendation for settlement in the amount of $12,266, on the basis of $1.25 per acre for 9813 acres (W.M. Cory, Solicitor, Department of Mines & Resources to Deputy Minister, Dec.12, 1944, Confidential source). This was not approved, because of fear of claims from white owners of land on the Lake, and concern about the "attitudes" of the provincial governments of Ontario and Manitoba (December 12, 1944, W.M. Cory, Solicitor, Department of Mines and Resources to Wardle, Deputy Minister, Confidential source).

This issue of compensation is still ongoing in the 1990s. The political organization for the First Nations, Grand Council Treaty #3, Treaties & Aboriginal Rights Research (TARR) division has prepared the documentation for a major claim on flooding damages to Lake of the Woods First Nations, and the Treaty #3 First Nations on Lake of the Woods are reviewing their legal opinion and deciding how to proceed. (Flooding claims by Rainy Lake, to the south, and Lac Seul, Grassy Narrows and Wabeseemong, to the north, are in various stages of being documented and submitted to government and Ontario Hydro. The political leaders of Grand Council Treaty #3 have continued to address the issues of decision-making and control of the water levels and its impact on Treaty #3 First Nations.

The Canadian Lake of the Woods Board empowered by the 1925 Protocol of Canada and the United States to control levels within the ban of 1056-1061.25 feet a.s.l. was originally composed of four delegates: one from the federal government, two from Ontario and one from Manitoba. One of the Ontario delegates has always been Ontario Hydro; the one Manitoba delegate has always been Manitoba Hydro. It did not matter that the 1925 Protocol specifically mentioned several purposes for regulating the lake: a hierarchy of priorities in the uses of the lake was thereby officially established by the dual Hydro utilities membership of the Board. (Outside of the operating ban of water levels, the International Lake of the Woods Control Board would be in charge; this Board was composed of two delegates: a federal Canadian government official and a member of the US Army Corps of Engineers.) In the early years, the Dominion Water and Power Branch was the Canadian delegate; in reorganization under Trudeau, Environment Canada became the authorized Department and the Lake of the Woods Control Board established an office of one staff, an engineer.

Until the late 1970s, the Lake of the Woods Control Board was operated as an "old boys' network" of engineers appointed by their respective governments or corporations; members used to be appointed and remain 20-30 years. They would meet, informally

over drinks, on an 'as needed' basis throughout the year, to review data on the Lake and approve water outflows (T. Falk 1992). During the late 1970s, the "Young Turks", as staff engineer Roy Watt used to refer to the newer delegates and alternates, worked to professionalize the Board.

> "For many years, the Board viewed its mandate as being responsible for living within the legislation and just considered direct input from Hydro companies - only Hydro was asked to come to meetings. The process (of decision-making) was kind of mysterious to the public even if they knew the Board existed. When complaints came regarding flooding or drought, the public usually adressed them to their M.P.s or M.P.P.s because they didn't know about the Board." (T. Falk 1992)

At the behest of these "Young Turks", bylaws and policies were developed where none had existed before; the closed circle of engineers began to consider the whole mandate rather than just Hydro concerns. For example, open houses began to be held in Kenora and Winnipeg (to address cottage owners on Lake of the Woods and Winnipeg River). However, it was not until the political Treaty organization made a formal presentation of protest and request in 1976 to the Board, that the Board members really began to consider that they needed to involve interests other than Hydro (T. Falk 1992).

Treaty #3 Vice Chief Sam Copenace Sr., *Ka Qwe Ta Betung* , of Northwest Angle #37 presented the brief to the Lake of the Woods Control Board on behalf of Grand Council Treaty #3. Chief Copenace argued that the water levels most conducive to an optimum wild rice crop on Lake of the Woods would also be to the "most advantageous use" of all users of Lake of the Woods, more so than the present operating criteria of the Lake of the Woods Control Board. "While this sort of water policy, implemented by the Control Board, has aided hydroelectric power interests, it has managed to injure almost everyone else", including navigation and fishing, two of the specific uses mentioned in the 1925 Protocol (Grand Council Treaty #3, 1976:2). Treaty #3 argued against the "unjust situation" that saw Northwestern Ontario users pay "double the price for power": "We pay the standard rate for electricity, and in addition we have to give a good part of the

income that derives from our use of the water around us" (Grand Council Treaty #3 1976:2).

Grand Council Treaty #3 documented what the loss of wild rice due to high water levels had meant to the people in poor diet and poor health, especially in situations of "the failure of other protein sources due to mercury contamination".[4] In terms of income, Treaty #3 stated that "members of the Ojibway wild rice co-operative gathered about 450,000 lbs. for sale in 1973, versus almost nothing in the following years when the waters were high.. a loss of a potential $1,000,000 per year .. a loss in income, not even considering the value of rice gathered strictly as country food" (for domestic consumption) (Grand Council Treaty #3 1976:4-5).

Treaty #3 reviewed recent regulation on Lake of the Woods and its impact on wild rice as well as evidence presented in the 1917 International Joint Commission Hearings. Calling historic regulation on Lake of the Woods "an environmental disaster", the Grand Council Treaty #3 proposed that the Lake of the Woods Control Board to "maintain a water level as close to 1058 a.s.l. as possible during the April-September growing season" and not to exceed an upper level of 1059 a.s.l. "Severe annual fluctuations must be curtailed. Moreover these conditions must be achieved without excessive high water below the outlets of Lake of the Woods on the Winnipeg River."(Grand Council Treaty #3 1976:9).

Noting that in their previous correspondence with the Lake of the Woods Control Board, the Control Board engineer had stated that, "in high inflow years, optimum wild rice production cannot be simultaneously achieved both upstream and downstream", Treaty #3 noted that "such production was not achieved either upstream or downstream of the outlet" and blamed policies of the Board which consistently favoured Hydro interests (Grand Council Treaty #3, 1976: 8). Chief Copenace did state that "optimum production (of wild rice) in the future would of course vary each year, depending on different climatic conditions, as well as any possible 'trade-off' with other local

interests". He believed that the levels requested by Treaty #3 would benefit more users than Hydro alone, as had been the historic case (Grand Council Treaty #3 1976: 5).

Just as Grand Council Treaty #3 had anticipated, the Control Board prepared a response that dwelled on the technical. They responded as follows:

> "The Board concludes that the demand for a compressed range of storage made by Council to improve wild rice production is not in accord with the objective of the Convention and Protocol. Hydraulic limitations to outflows at the outlets of the Lake of the Woods together with wide fluctuations in inflows would make it impossible in many years to meet the demand of Council for a mean level between 1058 and 1059 on the lake during April through September.."
>
> "Physical Factors other than mean six-month water levels would appear to affect optimum wild rice production. ..There is evidence that weather conditions could be as important as water levels in wild rice production." (Response to Presentation by Grand Council Treaty #3 on April 22, 1976 to the Lake of the Woods Control Board, October 13, 1976, p.i)

Unbeknownst to Grand Council Treaty #3, the Board was very concerned about the Grand Council's remarks. They sought to discredit the Grand Council's reliance on research by Peter Lee, a doctoral candidate in biology from the University of Manitoba. Lee had undertaken work for the Ontario Ministry of Natural Resources in wild rice at the Kenora office. According to Dr. Lee, the Lake of the Woods Control Board engineer, Mr. Roy Watt, called to see if they could come over to discuss his research.

> "In those days, I shared cramped office space with my supervisor, Dr. John Stewart. I had checked my stats with the biostatistician and he had advised me my analysis was correct. The Board showed up with a delegation of 10 people, jammed into our office. They confronted me about my data, analysis and conclusions (about water levels being the critical determining factor of rice growth). After listening to them for a long time, Stewart finally told them, 'Look we said you could come over for a chat. If we had known what to expect we could have prepared with our own biostatistician who could blow yours out of the water.' They soon left."
>
> P.F.Lee 1990

The Control Board left to prepare their response to Treaty #3 in which they took exception to Lee's data and his conclusion that water levels are a main determinant of wild rice growth. Since that time, the Control Board has stayed with its stand that water level is only one factor in determining rice growth and that weather, insects and disease are major determinants as well.

In 1979, Grand Council Treaty #3 hired former Ontario NDP Opposition leader, Stephen Lewis, to assist in lobbying for recognition of their Treaty rights to wild rice. (See also Chapter twelve). The Chiefs and Executive of the Grand Council decided that control of water levels was crucial to the consistency of a good wild rice crop. They set a two pronged approach. They would enlist the resources of the federal and provincial governments in undertaking a major study to discover how Lake of the Woods could be regulated for maximization of the wild rice potential, and seek a voting seat on the Lake of the Woods Control Board. [5]

Stephen Lewis and Treaty #3 representatives, Grand Chief Robin Greene and Wild Rice representative Chief Peter Kelly/Kinew of Sabaskong, lobbied the federal and provincial Ministers on the Tripartite Council established by Canada, Ontario and the Chiefs of Ontario in 1979 to resolve Indian grievances. They also met with Justice Patrick Hartt, then chair of the Indian Commission of Ontario, established also in 1979 to facilitate discussions among Canada, Ontario and the Chiefs of Ontario members toward resolving disputes.

After some weeks of this lobbying effort, the Tripartite Council agreed to set aside $250,000 for such a study to be undertaken under the auspices of the Indian Commission of Ontario. A tender was let and the successful candidate was Unies Ltd of Winnipeg, whose principals included Dave Young, a consultant to the Anishinabe Man-O-Min Co-op in the early 1970s. Engineer Gordon Spafford played the lead role in this report submitted to the Indian Commission of Ontario in Toronto, December 1981.

Under a management committee composed of representatives of the Indian Commission of Ontario, the federal Department of Indian Affairs, the Ontario Ministry of Natural Resources and Grand Council Treaty #3, the Unies Study was authorized in September 1980 to investigate water levels in the study area of Lake of the Woods, Rainy Lake, Namakan Lake, Lac La Croix, English and Winnipeg Rivers. The main focus of the study was to determine the relationship between wild rice and water levels, the water

regime most conducive to its growth, and compare "preferred wild rice regulation (of water) to the impact on power production and other uses" (Unies 1981:7). (See Appendix for Terms of reference)

After a year's fieldwork and computer modelling, the Unies study found "a strong correlation between the volume of the wild rice crop and water levels throughout the growing season". It noted that the crop reliability could be substantially improved" with changes to the present operating criteria of the Lake of the Woods Control Board (Unies 1981:10). "That is, a decrease in frequency of crop failures would occur and low crop year volumes would improve". Importantly, "modifications to reservoir operating criteria preferred for rice production result in changes in water levels and streamflows too small to have an appreciable impact on resources other than wild rice and electrical energy" (Unies 1981:12). The study noted that, while there would be a slight loss in electrical energy produced, if one considers the economic multipliers, the economic benefits from reliable wild rice crops to the region would be greater than any loss of the value of the energy (Unies 1981:11).

It seemed clear that Grand Council Treaty #3 was now vindicated in its submissions to the Lake of the Woods Control Board. The Report seriously called into question the preference of the Control Board to use the Lake of the Woods as a reservoir for power by filling up the Lake in the fall and releasing water in the spring. Grand Council Treaty #3 had hosted Lake of the Woods Control Board members in August 1980 around Sabaskong Bay to view water levels and their effect on wild rice. In 1981, with interim findings of the Unies Report in hand, Grand Council Treaty #3 arranged for Board members to visit bays closer to Kenora. Sonny McGinnis of Manitou Rapids and Treaty #3 elder statesman and former Treaty #3 President, Peter Seymour of Wauzhushk Onigum, acted as guides. They ensured that the Board members observed the floating leaf stage of mid to late June (just prior to the aerial stage) and discussed the effect of water levels on critical growing periods on the Lake.

However, the Unies Report also provided an internal problem for Grand Council Treaty #3: the increased productions on Lake of the Woods and the English and Winnipeg Rivers would be arranged only in accompaniment with slight decreases in annual crops on Rainy Lake. How was this conflict to be mediated within Treaty #3? Another problem ensued when the Grand Council disagreed with the amount billed by the Unies consulting firm. Without financial or skilled resources either to critique or to capitalize on the Report, Grand Council Treaty #3 did not press the issue immediately after its release to the Indian Commission of Ontario and tripartite forum.

The Lake of the Woods Control Board received a copy of the Unies Report through the Ontario representative of the tripartite process, but no formal consideration was given to the Unies Report at any level. The Report was reviewed by government bureaucrats, but was still not considered a public document in 1983 (Grand Council Treaty #3 Presentation on Water Levels to the Lake of the Woods Control Board, February 9, 1983). Grand Council Treaty #3 made unofficial comments about the Unies Report in their February 1983 presentation to the Control Board. The Grand Council was concerned about the problem presented of increased harvests in some areas but a reduction in others. Treaty #3 noted, that overall, with new regulation guidelines focussed on optimum wild rice yields, "harvests would be more reliable" and "bumper crops would not be affected" (Grand Council Treaty #3 1983:4). The Grand Council applauded the Study's finding that minor modifications in regulation for rice production would "be too small to have an appreciable impact on resources other than wild rice and electrical energy" . They challenged the Control Board to "work toward accomodation and compromise rather than dwelling on conflicts" which may not, in fact, exist (Grand Council Treaty #3 1983:.4).

Control Board officials found the Unies Report well done on the whole but lacking a fundamental understanding of the constraints on regulating the water levels. One noticeable "problem may be that weather forecasting, especially predictability of precipitation and its subsequent impact on water levels, is not as accurate as Unies assumes" (T. Falk 1992).

The Report stands a decade later, with a wealth of information, including maps, available for use. The member First Nations in the 1990s are developing the skilled human resources and the financial ability through projects such as land claim and self government negotiations to finally avail themselves of this information . For example, in October 1992, the Chief of Grassy Narrows wrote to Grand Council Treaty #3 requesting information undertaken by Unies in a Band survey of Grassy Narrows (as was done for all First Nations of Treaty #3). This data would assist their documentation of the impact of flooding on their wild rice industry for their upcoming talks with Ontario Hydro.

To address the issue of voting status on the Lake of the Woods Control Board, Stephen Lewis began overtures to the Chair of the International Joint Commission, and then arranged for the Treaty #3 delegation of Grand Chief Robin Greene and Chief Peter Kelly/Kinew to accompany him to meet the federal Ministers of the Environment and the Ontario Ministers of Natural Resources and Native Affairs, as well as the Chair of Ontario Hydro. The political leaders were urged to consider the necessity of regulating Lake of the Woods levels for the economy of Northwestern Ontario (a potentially million dollar crop). Treaty #3 leaders also reminded the government of their year old promise, that is, a commitment to assist the development of the Indian wild rice industry.

Ontario Supreme Court Justice Patrick Hartt had the year before convinced Premier Bill Davis to declare a five year moratorium on any new licenses to wild rice so that a Native industry could be developed (Chapter twelve). Ontario had committed its "efforts to assist Indian licensees to develop appropriate technology and increase utilization of the available crop with the primary objective of establishing an economic base for the involved Indian communities" (Grand Council Treaty #3 to Lake of the Woods Control Board 1980:5) Grand Council Treaty #3 asked Ontario cabinet ministers how they could ever establish an economic base if they continually lost their harvest due to drowning? (1980:5) Chief Fred Copenace of Big Grassy had always questioned the logic of the Ontario government:

> "On the one hand, the Ministry of Natural resources says there's a twenty million dollar crop of wild rice on Lake of the Woods, Then they allow the Board to raise the water levels and drown the rice!"
> (Avery & Pawlik, 1979:44)

In these days before the entrenchment of Treaty and Aboriginal rights in the Constitution Act, 1982, recognition of Treaty rights was raised by the Treaty #3 leaders, but did not find a ready audience with Ontario cabinet ministers. Lewis argued for the practical political initiatives, such as Associate state on the Control Board - with a voice, but no vote. (Lewis himself had held lenthy discussions with the chair of the IJC and was privy to what might be acceptable to the higher-ups.)

Once again, in May 1980, Grand Council Treaty #3 met with the Lake of the Woods Control Board. This time, the meeting was called by the political masters of the Board members, and the Board members were advised to be attentive. Grand Chief Greene reminded the Board that Treaty #3 was in the midst of a moratorium on new licences and pressure was on Treaty #3 to develop a viable Native industry. Specifically, Treaty #3 wanted to know "if nature will be allowed to take its course to produce an abundant supply of wild rice", or was the Board going to raise the water levels? (Grand Council Treaty #3 Presentation to the Lake of the Woods Control Board, May 7, 1980:2). Treaty #3 requested that a Treaty #3 "Wild Rice Associate Advisor" be appointed to the Lake of the Woods and Rainy Lake Control Boards, "to participate with a voice, but without vote, in the deliberations of the Board", "to improve communication and the Board's awareness of the effects of its policies on Wild Rice" (May 7,1980:6). Grand Chief Greene stated that

> "the survival of wild rice is a life and death issue for us. We can only survive as an independent, self-reliant people if our traditional resources are allowed to grow and to be replenished. From our Elders we learn of the intimate relationship between the growth and harvesting of Wild Rice and our Indian culture. Wild Rice is an essential part of our identity as Indian people living in this land of lakes with the generous gifts of the Great Spirit. The protection of Wild Rice should be guaranteed to us by Canadian society out of respect for our aboriginal and treaty rights. Furthermore, we know that we can only escape from the present debilitating dependence upon welfare if governmental and public authorities act to support the development of a Wild Rice industry controlled by Indian people which can contribute a

> value of many millions of dollars to the rest of society. ... If the Control Board cannot or will not assist us then we will be forced to take other measures quickly. (May 7,1980:7-8)

At that meeting, the Board tabled their pre-typed response. They refused to admit "special interest groups at this time" and instead offered public meetings to ensure "an appropriate balance of views" ("Public Input to decisions Regarding Water Levels and Flows (Lake of the Woods and Lac Seul)", Lake of the Woods Control Board statement, May 7, 1980, Kenora). When queried later in the meeting, the Ontario representative from the Ontario Ministry of Natural Resources, Mr. M. Odell, stressed that he personally would like to see a representative from Treaty #3 during Board deliberations, as his Minister had recommended in a letter tabled at that meeting. However, he did question why Grand Council Treaty #3 should have access to all Board policy discussions, documents, position papers, etc. as Treaty #3 had stated in that meeting .

A while later, the Board changed its mind. The Board members had conferred with the ministers who had been lobbied by Grand Council Treaty #3, the same ministers who appointed them as Board members. The members of the Lake of the Woods Control Board reviewed the matter and offered observer status- not just to Grand Council Treaty #3, but to to all "interest groups". The Control Board itself saw this as an "incredibly far reaching move" that had to overcome Board members' fears about public participation and disruption of meetings (T. Falk, 1992).

Grand Council Treaty #3 political leaders were initially pleased that their lobbying had brought results, but quickly realized their achievement came with a cost. Lewis could speak of gradual victories, but Grand Council Treaty #3 had considered voting status on the Control Board as recognition of their Treaty status. The Grand Council's proposal for "Associate status" was made as a political move at Lewis' recommendation, but was actually considered as a compromise. The Board's invitation to "observer status" was an insult.

The Board also invited "other interest groups" from the area to participate as observers, thereby ignoring Grand Council Treaty #3's stand that such groups were already represented by the Board members; Treaty #3's legal rights were not represented. The Observers' list grew to include: Kenora District Camp Owners' Association, Lake of the Woods & District Property Owners Association; City of Winnipeg; Sioux Lookout & Hudson Tourist Outfitters Association, Boise Cascade Ltd. Grand Council Treaty #3 acknowledged others' interests, but had fought for recognition of their own rights.

The Lake of the Woods Control Board saw the Grand Council's 1980 brief as "the straw that broke the camel's back" (Falk 1992). Several Board members believed that public participation would make Board decisions better. The Grand Council, however, saw the offer of observer status as a dilution of their rights. In essence, to the Board, the 1925 Protocol was the only treaty they considered; to the Grand Council, Treaty #3 governed all relations in their territory.

Grand Council Treaty #3 never accepted their "observer status" with relish but they originally intended to make their presence known. At the outset, Treaty #3 Wild Rice representative Chief Peter Kelly and Kenora Area Tribal Chief Sam Copenace were appointed as alternates to attend the Board meetings . Grand Council Treaty #3 invited the Board members to spend a day on the Lake of the Woods with their representatives in Sabaskong Bay 1980 and Matheson Bay in 1981. In 1980, summer students, Roderick Skead of Rat Portage, Diane Kelly of Sabaskong and Sonny McGinnis of Manitou Rapids, were hired by Treaty #3 to collect weekly information from all member reserves about water levels and rice growth and forward these to the Lake of the Woods Control Board in Ottawa. This information was planned to add Treaty #3 input into the Control Board's decision-making. In later years, Sonny McGinnis of Manitou Rapids, went on to work in several capacities for Grand Council Treaty #3. As Treaty #3 wild rice representative, Mr. McGinnis was given an orientation to the Board by Ontario Hydro engineers, and

became accepted by Board members as a credible observer who knew the engineering language and understood the constraints on decision-making, while continuing to make arguments on behalf of Treaty #3 (McGinnis 1990; Walden 1990; Falk 1992).

In February 1983, a formal meeting between Grand Council Treaty #3 and the Lake of the Woods Control Board was convened at the Grand Council's request. Grand Chief John P. Kelly of the Ojibways of Onegaming stated their appreciation to the Board for attending the field trips they had arranged and becoming more aware of the effect of water levels. Kelly then went on to review the five years of rice crop during this moratorium, which was soon to end:

> 1978 - complete crop failure due to flood conditions
> 1979 - crop failure due to high water levels
> 1980 - good crop
> 1981 - poor crop due to rapidly rising water during floating leaf stage - seemed like good crop previous to late June
> 1982 - poor crop due to high water levels
> Grand Council Treaty #3, 1983:2

Kelly concluded that there had been "only one good crop during the five years that many outsiders see as a crucial period for Indian people to develop the rice business" (Grand Council Treaty #3,1983:2)

The Grand Council emphasized, once again, their perennial message that governments must "understand not to raise water levels during the growing stage of wild rice" (1983:4). Grand Council Treaty #3 had previously argued that the wild rice needs could be met if the Control Board considered other users than Hydro (1976), and, that a specific "Wild Rice Associate advisor" to the Board was needed to consider the water levels required by wild rice (1980). In 1983, Grand Council Treaty #3 took another tack. Grand Council Treaty #3 argued that the specific purpose of "irrigation" mentioned in the 1919 mandate of the Board would clearly cover the "natural crop on Lake of the Woods", wild rice (1983:4).

Chief Sam Copenace of Northwest Angle #37 tabled the weekly calendar he had kept of rice growth in 1981, "which showed the crucial 'floating leaf' being flooded within the last two weeks of June" (1983:4). Grand Council Treaty #3 expressed anger that the Board may then

listen to political pressure to regulate water levels for rice: the Ontario Minister of Northern Affairs was publicly recommending it, "now that the moratorium is coming to an end" (1983:5).

> "Does this mean that the Board is under public pressure to heed non-Indian economic desires more than to work with people who have Treaty and Aboriginal rights guaranteed by the constitution in this country?" ...
>
> We must state in the strongest possible terms that the plant called wild rice, that we call *manomin* , is a sacred trust given to our people. Our Elders speak of '*Manitou Gi Tigahn*' -*Manomin* is a gift from the Great Spirit to our people and we must protest it. Unless you understand this basic concept, then you cannot understand why it is that we will never give up this cause.
>
> ... we will continue to insist that wild rice is covered under the present mandate of the Board and must be considered as a major factor in determining water regulation decisions. Grand Council Treaty #3 will continue our efforts to ensure that our voice is heard. (1983:5).

Presumably, this "voice" was to mean formal meetings between the Control Board and the Grand Council, as Treaty #3 participation in regular meetings did not continue after 1983 (McGinnis 1990).

At one of the last Board meetings when Treaty #3 took an active part, in March 1983, Grand Chief *Machipiness* (Robin Greene) of Shoal Lake #39 and Kenora Area Tribal Chief *Ka Qwue Tay Betung* (Sam Copenace Sr.) of Northwest Angle #37 viewed with Lake of the Woods Board members two films on wild rice in the Treaty #3 area: "Grain of Dissent" from CBC's The Fifth Estate ; and another from CBC's Points West. The Treaty #3 delegates led discussion about the films, pointing out "the failure of the films to cover all the significant points concerning the importance of wild rice" (March 21, 1983 letter from R.F. Walden, Executive Engineer of the Lake of the Woods Control Board to Mr. Sam Copenace, representative to the Lake of the Woods Control Board, Grand Council Treaty #3, Kenora). The Board appreciated "the insight gained from the films into the development and politics of wild rice" and were quick to note that the films failed to cover the two most prominent contentions of the Board and the Grand Council, that is, "the importance of climatic conditions and water levels on rice growth and development

(March 21, 1983 Walden to Copenace). Robin Greene noted that the cultural and spiritual significance of *manomin* to the *Anishinaabeg* had not been fully considered on film yet.

When Grand Council Treaty #3 began to attend Board meetings irregularly, the Lake of the Woods Control Board became "disappointed" and expressed some exasperation that no regular delegates from Treaty #3 participated (Rick Walden 1990). A former voting member expressed his understanding that the Grand Council felt their active participation had not translated into better rice crops (Falk 1992). By the late 1980s, the Board was holding conference calls with a GCT3 Regional Chief (then Kenora Area Tribal Chief) George Kakeway of Wauzhusk Onigum (Rat Portage) to gain input regarding wild rice (June 12, 1992, draft minutes, Lake of the Woods Control Board regulation meeting, p. 4). In 1992, Chief Kakeway told the Board, once again, "that due to high lake level, there would not be any wild rice this year" (June 12, 1992 minutes). Chief Kakeway had attended Lake of the Woods Control Board meetings periodically during the late 1980s but felt he should withdraw until an official appointment was made by the Grand Council (Report to the Grand Council Treaty #3 Economic Development & Resource Management Committee, Jan.15, 1993).

The lack of participation from Grand Council Treaty #3 was actually due to two reasons. One, certainly, was lack of resources. The Grand Council derived its operating budget from a number of federal and provincial grants to carry out proposed programs (such as Health consultation or Social Services Review), or to participate in consultation and negotiation processes (such as the Indian Commission of Ontario meetings on rights and resources). Except for one or two years in 1978-1980, there was no specific funding for a person to work fulltime on wild rice issues. After 1982, all efforts in this regard were concentrated at the tripartite Indian Commission of Ontario level (see Chapter 12).

Most importantly from the Grand Council's viewpoint, this effective withdrawal from the Lake of the Woods Control Board forum coincided with Grand Council Treaty #3, and its member First Nations, taking a more adamant stand regarding effective self government and implementing Treaty rights.

In the 1970s and into the 1980s, the First Nations were evolving a more affirmative stand for self government. During the Trudeau push for patriation of the Constitution, Treaty and status Indians across Canada led delegations to Great Britain and other parts of world including Germany, Australia, and the United States, and held assemblies and rallies in Canada such as the Constitutional Express train from BC to Ottawa in 1980. Treaty #3 Grand Chief *Machipiness* (Robin Greene) participated in the Fall 1979 visit to the Queen and the subsequent lobby of British M.P.s and Lords. At the December 1980 Assembly of Chiefs in Ottawa, Treaty #3 leadership, through Fred Kelly Sr. of Sabaskong, actively participated in the drafting of the "Declaration of the First Nations" which declared that

> "We the Original peoples of this Land know the Creator put us here; The Creator gave us laws that govern all our relationships to live in harmony with nature and mankind..."
>
> A Declaration of the First Nations, December, 1980

The media and the public were unsure whether this was a philosophical document or a political tract. They were soon to find that this was an expression of will and the introduction of the new political language of Treaty and status Indians across the country.

In the 1980's, the Treaty #3 Band Councils had begun referring to themselves as "First Nations". The Grand Council Treaty #3 was considered by the Chiefs as the organization of their territory, dedicated to safeguarding Treaty rights, now "recognized and affirmed" in section 35 of the Constitution Act, 1982. Since reorganization in 1970, Grand Council Treaty #3 had taken the stand that Treaty #3 *Anishinaabeg* had legal Treaty and aboriginal rights and could not be considered an "interest group" or mere political organization. The speeches of *Anishinaabe* leaders continually stressed their sovereignty, their right to self determination and the nationhood of the Treaty #3

Anishinaabeg . Treaty #3 leaders spoke of the new recognition for Treaty #3 intergovernmental relationships: government to government relations with Ontario; and Nation to Nation relations with Canada (G. Kakeway, Grand Council Treaty #3 assembly, December 1989).

Thus, political developments within aboriginal political scene across Canada and the indigenous populations around the round meant that, in the 1980's, "observer status" to a Board which made decisions with crucial repercussions for the culture and economy of their people was not acceptable to the Grand Council. This view was particularly so when the Board had offered the invitation to the Grand Council in concert with invitations to actual "Interest groups" in Northwestern Ontario. Interest groups such as the Lake of the Woods Campowner's Association had as their sole function to lobby for their best interests; they did not have legal and historic rights constitutionally recognized.

By 1993, members of the Lake of the Woods Control Board were beginning to understand that Treaty #3 had certain rights in that area and had never been compensated for any easements assumed by the federal government. Instead of addressing the central issue of which treaty held sway, Treaty #3 or the Lake of the Woods Protocol, or even the issue of when and how to compensate the First Nations of Treaty #3, members of the Board and the governments and agencies they represented continued to act as if they had full legal control, but wished to deal with the Indians honourably!

For example, Ontario Hydro, a member of the Lake of the Woods Control Board, began a process to resolve long outstanding grievances First Nations had with that utility. Hydro offered some vague assistance in considering the feasibility and design of water control structures in small lakes and ponds nearby to Lake of the Woods. Hydro had first taken this stand during the lobbying effort by the Grand Council with Stephen Lewis in 1979-80 (Personal observation; T. Falk, 1992). Ontario Hydro, for one, seemed to prefer to coax the *Anishinaabeg* into relinquishing Lake of the Woods *manomin* , in favour

of newly seeded inland lakes. In effect, Hydro was promoting *Anishinaabeg* giving up what had been dubbed "the biggest ricebowl in North America".

In the 1990s, Grand Council Treaty #3 remains adamant that there is one treaty which governs overall relations within the 55,000 square miles of their traditional territory of the Boundary waters. In the eyes of *Anishinaabeg*, Treaty #3 takes precedence over all else, including other international treaties such as the establishment in 1909 of the International Joint Commission and in 1919 of the Lake of the Woods Control Board. While talks begin again between Ontario Hydro and Grand Council Treaty #3, this battle of competing rights and interests continues toward the next century. In the meantime, during the period 1983 to 1992, there has not been one good crop of wild rice, only one or two fair crops. What this has meant to the people is that only the people with machines have been able to harvest the rice for profit and families have been left without this economic boost at an important time of year. And, the lack of any significant crop in more than fifteen years - from 1977 to 1994-has meant that the present growing generation of young *Anishinaabeg* have been effectively removed from one of the most sacred traditions of their culture. The ceremonies, the cultural and social activities, the togetherness of extended family ties while camped out on the lake, the care giving of the plant, the language of the season - all this has been effectively devastated . Almost a generation of Treaty #3 *Anishinaabeg* is growing without participating in one of the most meaningful events of identity, solidarity and nationhood that is offered in the Boundary Waters. It is to be expected that Grand Council Treaty #3 will be addressing the issue of cultural genocide and ethnocide in any future discussions with governments, crown corporations and industrial concerns.

Endnotes:

1. The Rainy Lake First Nations Flooding claim is the subject of research by Grand Council Treaty #3, TARR, as has been the case for Lake of the Woods and Lac Seul. For the purposes of this thesis, Lake of the Woods is used as the prime example. The devastation caused by 19th century dams throughout Treaty #3 territory has been well documented in Lovisek, Holzkamm & Waisberg, " 'Deprived of Part of Their Living': Colonialism and Nineteenth Century Flooding of Ojibwa Lands", presented at the 26th Algonquian Conference in Winnipeg, October 1994. The map prepared for their presentation is presented in this thesis, Figure 33.

2. Dr. R. Newbury, hydrologist, stated that Clifford Sifton wanted a much larger area flooded around Lake of the Woods, for hydro needs, but fierce lobbying by forestry interests led to the introduction of an "operating band" of optimum water levels being adopted (University of Manitoba "People and the Land", Northern Manitoba Conference, May 1990 Workshop on Hydro flooding).

3. *Baybomahsigey* 's wife, *Ogemaabinesiik* , Mrs. Rob Roy, was the actual person to compose and write all the letters and petitions for the United Treaty #3 Council, according to their granddaughter, Evelyn Copenace of Onegaming (December 1992).

4. Whitedog & Grassy Narrows First Nations, members of Grand Council Treaty #3, were continuing their struggle to reach a compensation agreement with the governments of Ontario and Canada, Ontario Hydro and Reed Paper Company. (Reed Co. was later bought out by Great Lakes Paper Co.) Mercury contamination was one of the impacts of government and industrial development policies on their communities. It was also considered a threat to Manitou Rapids First Nation, downstream from the Minnesota Pulp and Paper Co. at the twin border towns of International Falls, Minnesota and Fort Frances, Ontario. That pollution may have continued into Lake of the Woods.

5. The author worked for Grand Council Treaty #3 as Assistant Director, Treaty & Aboriginal Rights Research during this period, 1979-1981. Grand Chief Robin Greene of Shoal Lake #39 and Chief Peter Kelly of Sabaskong, the Chiefs' representative on wild rice, were the main spokespeople for Grand Council Treaty #3 on this issue during this period.

Chapter Twelve

"Irreconcilable Differences": Taking on the Provinces 1970s to 1985

In the summer of 1974, the Ojibway Warrior Society of Treaty #3 young people from teens to late twenties, held a youth conference at Anicinabe Park, situated between Wauzhushk Onigum First Nation and the Town of Kenora. At the end of the conference, the Warriors stayed to occupy and reclaim *Anishinaabe* land. [1] The Park was immediately cut off and surrounded by Town and Ontario Provincial Police, and a seige of several weeks followed (Better Read Collective 1974; Harper 1979).

This standoff with arms on both sides was an omen of another 'hot summer': the summer of 1990 at Kanesatake (Oka). Anicinabe Park brought into public focus - once more - the deplorable conditions of Kenora area reserves and reserve life. The violent death rate of the Kenora area and surrounding ten reserves was higher than 'murder city' (Detroit) of the United States (Grand Council Treaty #3 1973). This was a statistic that told the actual life history of the leaders of the Ojibway Warrior Society - each had lost one or both parents, brothers, sisters, and other close relatives, through violence. The young people were calling for action - now.

As the Chiefs, Elders and their organization, Grand Council Treaty #3, tried to mediate an end to the armed standoff, the townspeople of Kenora rallied numerous times in frustration and rage at the drums, the chanting, the strangeness of the *Anishinaabeg* in <u>their</u> park. Tempers flared. Negotiations plodded. Finally, in late August, the Warriors left the park with some of their demands met. [2] The leaders soon joined the Native People's Caravan crossing Canada to march on Parliament Hill for the opening of Parliament.

During the Anicinabe Park occupation, a small booklet of sensationalist photos and racist sentiment was published and circulated throughout the Northwest. Its title,

"Bended Elbow", was an obvious reference to the alcohol abuse in the Kenora area. It was also a swipe at Kenora *Anishinabeg* who equated their situation with those of the American Indian Movement who earlier that year had held off the FBI at Wounded Knee.

Into this tempetuous political climate, in September 1974, the Ontario Ministry of Natural Resources released a book, "Background Information and Approach to Policy". Its stated purpose was to solicit public comment regarding the development of a strategic land use plan for Northwestern Ontario (OMNR 1974). This plastic-coiled, green cardboard-covered report of 130 pages unleashed another whirlwind.

In its evaluation of the development and use of natural resources, the OMNR report noted that wild rice "Canada's only indiginous (sic) cereal, has been associated with native tradition and dates from the beginning of recorded history" (1974:49) . The report estimated that the "former Kenora Administrative District accounted for some 75% of the normal Ontario harvest of wild rice ... 400-1000 people, mostly Indian, are employed (i.e. picking) for a period of two to three weeks" (1974:50). Stating there was a market demand as a gourmet food, the report proceeded: "It is worth noting only about 25% of the potential harvestable crop is picked each year. Current research is aimed at developing new varieties of rice with non-shattering heads which may increase the potential harvest by 10 times." (1974:50). While stating that the harvest may range from 60,000 lbs one year to 1.2 million the next, the report emphasized "present harvest is about 1.2 million pounds with value of 2.1 million dollars" and recommends expansion by 400% (1974: 115) or "realistically ..200% rather than 400%" (1974:116). In a brief three to four pages, OMNR had managed to gloss over the very real issues of treaty rights, water level control, transfer of research and development from paddies to lake stands. And, MNR promised new policies to ensure a 200-400% increased crop.

Rationalization of the industry was one of the main reasons Ontario used for the imposition of the 1960 Ontario Wild Rice Harvesting Act (OWRHA). (See also Chapter

8). In 1974, underutilization of the crop became the theme of the Ontario government's attack on *Anishinaabe* control of wild rice in the block areas, established by the OWRHA, throughout much of Treaty #3 (Chapter 8).

Resource development issues were being defined by the Ontario government. Their use of language cloaked the biases of government leaders and set the tone and direction of the debate. Then Minister of Natural Resources, Hon. Leo Bernier, M.P.P. for the Kenora riding, launched a personal tirade aginst Treaty #3 rights to rice. It was no coincidence that his campaign manager, Ben Ratuski, was owner and manager of the Keewatin Wild Rice Company, a wild rice processing and retail business (Avery and Pawlick 1979; Pawlick 1979).

Bernier's assault was two-fold: demonstrate that the wild rice crop is under-utilized, and therefore "wasted"; secondly, bring into public debate, the issue framed as "Equal rights versus Indian privilege"[3] (For more detail, see Chapters 3 &9).

Through the innocuous-sounding program of land use planning for the Northwest, wild rice was targeted for a 200-400% increase in production, and terms such as "percentage of harvestable rice" and "available rice" were introduced into public debate. The effect was clear: "casual references to terms of this sort help create popular biases regarding which people deserve support and which need to be controlled" (Edleman, 1977:110).

The Minister of Natural Resources, Hon. Leo Bernier of Hudson, went on the airways and attended public meetings, calling for the adoption of policies that would increase the harvest by 400%. In the Ontario legislature, Bernier claimed "we are harvesting about 20% of wild rice now" and in 1976 said "only 10%" was harvested (Avery & Pawlick 1979:36). Bernier molded public opinion by "appealing to fears and hopes always prevalent" in the public (Edleman, 1977:50). In the case of Northwestern Ontario, there was a fear of loss of resources to the original owners of these resources,

"the Indians", long considered the bottom rung of society in the northwest. The public debate about wild rice took on emotional, racist overtones almost immediately.

When labels and statistics stated that much of the "available crop" was not harvested by the Indians, the MNR public offensive put the Grand Council Treaty #3 and the Anishinaabe Man-O-Min Co-op on the defensive. Grand Council Treaty #3 Chiefs and staff analyzed the methodology of MNR and found glaring problems in their estimation of the crop from aerial surveys. [4]

There were also problems in the reliability of their records of the harvest, particularly when Indian harvesters kept some rice harvested for their own home processing and use, an amount which would not be reported. Usually, rice buyers (mostly non-Indian) either did not file reports or filed inaccurate ones with MNR (to hide business profits). Customs' records of amounts shipped to American processors did not reflect full amounts harvested either. In 1974-5, Grand Council Treaty #3 critiques of this nature were addressed to the Minister and the Ministry.

However, political developments were occurring at a higher level than one Ministry. The Anicinabe Park occupation had had far-reaching ramifications. A very direct result was action by the Ontario government in meeting the Chiefs of Ontario in assembly in March 1975. The leaders of the four Ontario organizations - Fred Kelly, President of Grand Council Treaty #3, Andy Rickard, President of Grand Council Treaty #9, Leighton Hopkins, President of the Association of Iroquois and Allied Indians, and Michael Roy, President of the Union of Ontario Indians - followed this by a meeting with the Premier and Cabinet in April. Ontario responded positively to a joint Indian organization-Ontario Cabinet committee approach to resolving disputes. Premier Davis committed Ontario to funding a core budget for a Joint Associations' office in Toronto (May 22, 1975 Premier Davis to Presidents of the four Indian organizations). Out of this initiative grew the Chiefs of Ontario office that continues into the 1990s.

In a confidential memorandum to file dated June 2, 1975 (obtained by the Presidents later in June 1975), the Ontario Government acknowledged that their action was due to the Anicinabe Park occupation. "The greatest sense of urgency is felt by Government, wishing to avoid strife and bloodshed." Ontario noted that "Ontario Indians have a strong sense of frequently justifiable grievance at past and alleged current infractions of what they regard to be their legitimate claims to land and resources." (Secretariat for Social Development, May 26, 1975:1; It is likely this author was D.T. Wright, Assistant Deputy Minister of that joint Ministry, who also negotiated the agreement with the Ojibway Warrior Society to vacate the Anicinabe Park peacefully.) However, Ontario noted:

> "It would appear also to be appropriate to acknowledge that there may be additional claims which the Indians feel strongly to be legitimate, but which are not well supported by explicit treaty references or other legally binding documentation. (Wild rice is probably in this category, and Indian concerns about infringements in this area are acute.)"
> (Secretariat for Social Development, May 26, 1975:4)

It was recommended: (#4)"That the discussions already initiated concerning the use and development of the wild rice resource be pursued expeditiously." It is clear that Ontario had no notion of the Paypom Treaty promise regarding *manomin* (Chapter 6).

In 1977, the Minister of Natural resources proposed to replace the Wild Rice Harvesting Act, eliminating the large "block areas", and 'protect' smaller "traditional" areas for Native pickers. There would be two classes of licences: commercial, and private, for those who wished to pick less than 50 lbs. The guidelines also proposed to give the first right of refusal to Ontario processors. The only actively-operating wild rice processor in Northwestern Ontario was Bernier's campaign manager, Ben Ratuski of Shoal Lake Wild Rice in Keewatin (Avery & Pawlik 1979:36; Pawlik 1979:48-49).

Grand Council Treaty #3 understood that a major offensive must be launched to combat the Ministry's proposals. In November 1977, after Grand Council Treaty #3 lobbied opposition leaders to raise questions in the Legislature, the Minister of Natural Resources, Hon. Frank Miller, replied with the same slanderous innuendo used by his

predecessor. MNR was consulting with Grand Council Treaty #3 on changes to their policy on wild rice but he didn't intend to see "95% of the crop wasted.. if they (ed: Indians) are not really able to use modern techniques to harvest wild rice" (Ontario Legislative Debates, November 10, 1977:1738). The opportunity for GCT3 to bring the full force of moral authority - with attendant press coverage - presented itself in the hearings of the Ontario Royal Commission on the Northern Environment (RCNE).

In 1977, Premier Bill Davis announced his appointment of Justice Patrick Hartt of the Supreme Court of Ontario to head the Royal Commission. The RCNE was the Premier's answer to joint environmental and Native attacks against his Tory government, who had secretly let a huge timber tract north of the 50th parallel to the Reed Company of Dryden. Reed was the same company held responsible for mercury pollution of the English-Wabigoon river system, which threatened the lives of Grassy Narrows and Whitedog First Nations within Treaty #3. Although the focus of the RCNE was to be the impact of leasing huge timber rights and other development north of 50, Grand Council Treaty #3 convinced the Commissioner to learn about abuses that had occurred in Treaty #3 territory, most of which lay south of the CNR line. (Four of Treaty #3 territory First Nations - Grassy Narrows and Whitedog (now Wabeseemong), Wabuskang and Lac Seul- are situated to the north of that line.). Thus, Treaty #3 lobbied to hold the 1977-78 hearings in its territory, gained public participation funds from the Commission, encouraged the Commissioner to hire a Treaty #3 liaison who was knowledgeable of their people and area [5] , and made major presentations in Kenora and Dryden, as well as other smaller interventions at Geraldton and Toronto. Hearings were also held in Whitedog, to hear firsthand the impact of mercury pollution and the First Nation's proposals for the future. The impact of Treaty #3's presence was felt in Justice Hartt's recommendations.

Grand Council Treaty #3 was joined by individual bands such as Grassy Narrows and the Anishinahbe Man-O-Min Co-cop in emphasizing wild rice as an *Anishinaabe* resource under attack:

> "For many years trap-lines were held exclusively by native families who harvested their own particular areas. Then the government came along and told us they were going to register trap-lines and manage the taking of furs. They said they were doing it for our own good. But it was not many years before trap-lines started to pass from the old native families to friends of government officials. The people on the reserves tell us that the government is now saying the same things about wild rice as it used to say about trapping."
> Grand Chief John P. Kelly, "We are All in the Ojibway Circle", Presentation to RCNE, in Ondaatje 1990 :587

> "My people wish to harvest wild rice in the traditional way. But, most importantly, my people look on wild rice as theirs to harvest by right. It is an Indian resource, not a white resource. We will fight anyone on any battleground to defend our wild rice rights."
> Man-O-Min Wild Rice Indian Co-operative, Sioux Lookout hearing, p.211; RCNE Issues Report 1978:105

> " The government, of course, claims my people do not exploit the wild rice efficiently enough ..But allow me to point out once again that the white man at one time claimed that Indians were not efficient at harvesting buffalo, and everyone knows what happened to the buffalo."
> Chief Philip Gardner, Treaty #3 Presentation to RCNE, Dryden, 1977. RCNE Issues Report 1978:107

Justice Hartt's Interim report was tabled by the Premier in the Legislature April 4, 1978. Hartt argued that the problem Native people in northern Ontario faced "is largely due to lack of opportunity in the communities and this lack of opportunity is directly due to the absence of a resource base" (RCNE 1978:21). Hartt heeded the voice of Treaty #3, and Nishnawbe Aski Nation (NAN) First Nations such as Osnaburg, that "wild rice, this important traditional base of their economy and culture may be lost to them through proposed Government change to the wild rice policy" (1978:19). He recommended that "the Indians be given the opportunity to develop a viable wild rice industry on their own", with "no new licences to non-Indians allowed in the next five years and government assistance in water control structures, appropriate research and training" (1978:38,41).

Grand Council Treaty #3 applauded the RCNE recommendations. They lobbied the legislature, including NDP leader Stephen Lewis and Liberal leader of the Opposition Stuart Smith, vigourously, and question period was often peppered with queries to the government about its intentions regarding wild rice in Treaty #3.

The provincial government's five or six year emphasis on a "wasted resource" had fostered anti-Indian, 'pro-development' voices. The "whitelash" (as Tobasonakwut Kinew called the backlash to any pro-Indian policies) was immediate. On April 8, 1978, "a group of non-native northerners involved in wild rice production joined together to form the Wild Rice Producers Association (OWRPA). Their express purpose was to:

> "...protect and promote the development of the wild rice industry in Ontario. We request the Ontario government to reject the recommendation on wild rice by Mr. Justice Patrick Hartt as it is discriminatory and not in the best interests of future economic growth and development of the north. We ask that the Ontario government adopt a policy for wild rice that would enable and encourage the development of this renewable resource in Ontario for the benefit of <u>all</u> Ontario residents."
>
> emphasis added, Kenora Daily Miner and News, April 10, 1978, quoted in the RCNE "Issues" Report 1978 :105

On May 16, 1978, the Premier announced his government's policy on wild rice. He had given "careful consideration" to Justice Hartt's recommendation. He prefaced his comments by saying that the Commissioner's premise that "present markets are limited and future markets uncertain...", and "that any expansion of wild rice production by non-Indian producers could jeporadize the Indians' industry" would "require future testing". Davis also noted the "concerns" of non-Indians and non-status Indians and Metis who wished greater access to wild rice harvesting areas. [6] Ontario had already agreed to deal with this "complex and sensitive issue" through the tripartite process, and a working group on wild rice "is now being established". Nevertheless, in the interests of "arriving at solutions satisfactory to all parties", Ontario tabled the following five year program:

"1. In accordance with current policy, only Indian bands will be licensed to harvest wild rice in the Kenora and Dryden district for the coming 1978 season.

2. Outside the Kenora and Dryden district all 1977 licenses will be renewed for 1978 and annually thereafter.

3. Effective immediately Ontario will extend its efforts to assist Indian licensees to develop appropriate technology and to increase utilization of the available crop with the primary objective of establishing an economic base for the involved Indian communities.

4. The tripartite working group on wild rice should give the highest priority to the determination of current and future markets for Ontario wild rice. The first report should be no later than January of 1979.

5. No additional licenses will be issued to non-Indians during the next five years unless it can be demonstrated to the tripartite working group that market potential for Ontario wild rice is sufficient to support an increased share of production by non-Indians without jeporadizing our efforts to establish wild rice production as a viable economic base for the Indian people.

6. In keeping with the spirit of the Hartt Commission that all northerners should be involved in the determination of northern issues, we propose the tripartite working group on wild rice be expanded to include representation of the Ontario Wild Rice Producers Association and the Ontario Metis and Non-Status Indian Association.

Grand Council Treaty #3 celebrated the announcement of a moratorium. It was truly an historic first in the government listening to the *Anishinaabe* people.

Actually, Bill Davis had listened to his own appointee, Justice Patrick Hartt. Davis knew well of Bernier's views and his widespread political support across northern Ontario. The Premier asked the Commissioner, a long time friend, why he should accept his recommendation, with all the political risks well known to him. Justice Hartt had been thoroughly touched by the *Anishinaabe* people of the north. He simply replied, "Because it's the right thing to do." [7]

Not everyone agreed. In headlines in the Kenora Daily Miner & News, the Fort Frances Times and the Dryden Observer, northern spokesmen blasted the government with cries of "reverse racism" . The Kenora Miner & News editor stated: "The Indians need to get cracking in the next five years ... or there'll be no justification whatsoever to

enforcing a closed shop on non-natives after that" (Avery & Pawlick 1979: 46). The non-Indian Ontario Wild Rice Producers Association (OWRPA), and another group, Heritage Ontario, were established in the wake of the Ontario wild rice moratorium. Both groups were founded by Hugh Carlson of Red Lake, Ontario, a bush pilot who had sown northern, fly-in lakes with wild rice, and wanted to protect his investment from what he perceived to be "groundless" claims of treaty rights. The view of these two groups was that the Ontario government should protect the rights of its citizens to resources within its boundaries. Any allocation of ricing areas to Indians under the 1960 Ontario Wild Rice Harvesting Act was considered a violation of the "equal rights of all citizens". As secretary of the OWRPA, Ron Bell of Red Lake stated, "Somewhere along the line, we all have to be considered natives. None of us has lived here any longer than we are old" (Avery & Pawlick 1979:36).

Government policy both reflected and fostered such talk by juxtaposing citizens' rights to resources versus Indian "privilege". This was the Conservative government agenda during the 1970's. Indeed, the RCNE Interim report and the Premier's announced moratorium on wild rice harvesting licences drew the full wrath from non-Indians that Cabinet Minister Bernier had encouraged.

Grand Council Treaty #3 was presented with the opportunity to ensure Premier Davis' recommendations were implemented. Early in 1978, the National Indian Brotherhood withdrew from the bilateral mechanism with the federal Cabinet (Weaver 1985). At this time, the Chiefs of Ontario (of which Grand Council Treaty #3 was a member and its Grand Chief an Executive member [8]) reached agreement with Ontario and Canada to establish a triprtite process to resolve disputes.

The Tripartite Council was established in March 1978.[9] At the first March meeting chaired by the Minister of Indian Affairs, Hon. Hugh Faulkner, agreement was reached among federal-provincial Ministers and the leaders of the Indian associations on the tripartite structure. The Ministers and Presidents in the Tripartite Council would

decide the issues to be addressed and provide direction. Subcommittees of staff would research and analyze issues in "working groups" . They would make recommendations to a Joint Steering Committee level of Deputy Ministers, and then on to the Tripartite Council to provide the political response.

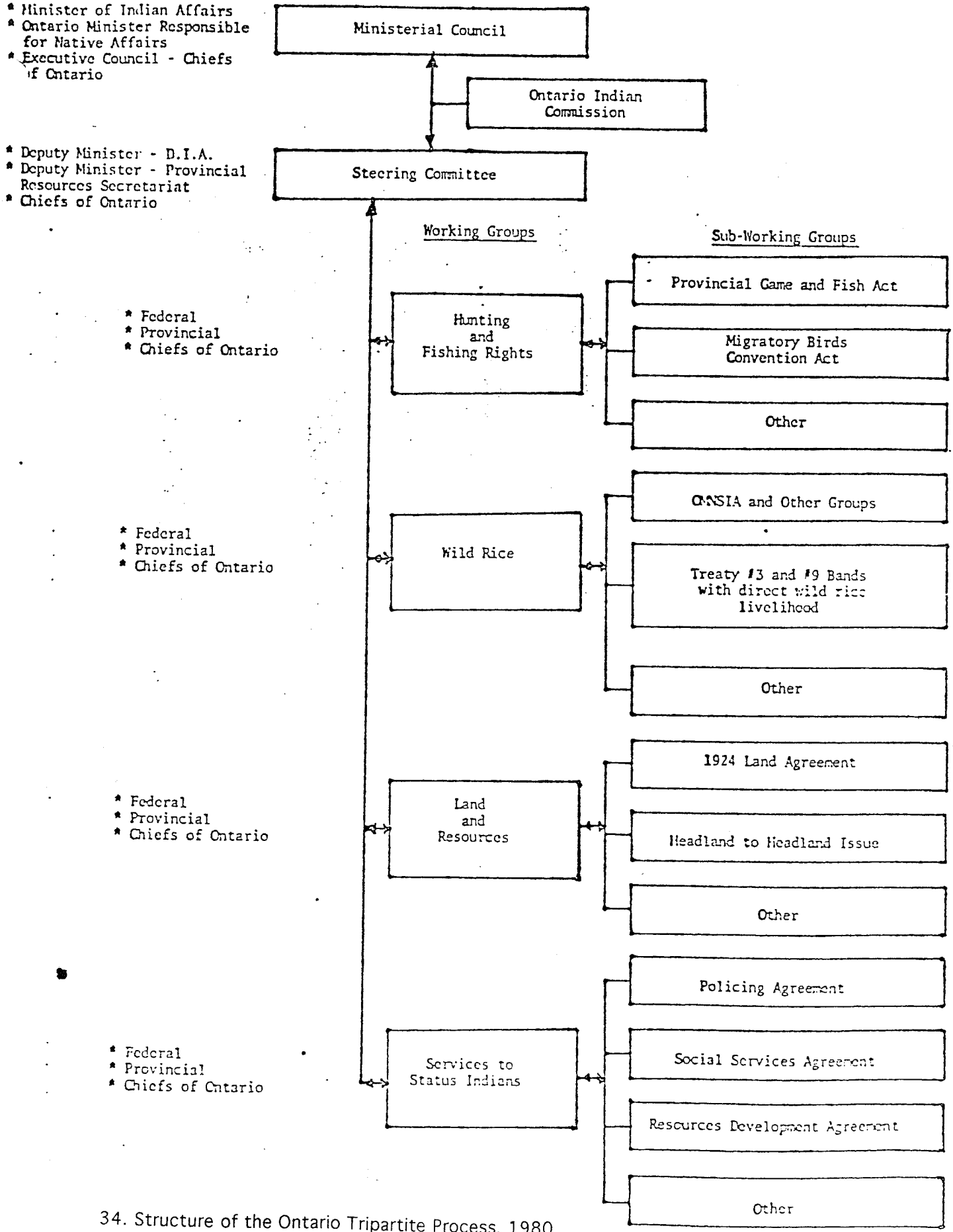
Through joint federal-provincial orders in council and approval of the All Ontario Chiefs' Assembly, the Indian Commission of Ontario was established. Justice Hartt was appointed its first Commissioner. (He also remained as Commissioner of the RCNE.) The ICO was given the mandate to facilitate the resolution of outstanding issues with status Indians. The ICO was to act as an independent body to facilitate talks at the Tripartite Council, and was mandated by all three parties to act as chair, secretariat, and facilitator, yet with no enforceable powers of mediation or adjudication (DEL Community Organization Services Inc. 1982: 21).

At the fourth annual Assembly of Chiefs of Ontario, the Chiefs by resolution gave a mandate to the Executive Council of the Chiefs of Ontario "to participate in the tripartite mechanism and ensure that forums are developed in which issues of direct concern to Indian people of Ontario can be negotiated and resolved ... to the satisfaction of the Indian people and bands involved" (78/30). (Figure #34). In deciding the Tripartie agenda, Treaty #3 Grand Chief John Kelly ensured that Treaty #3 interests were prominent among the four areas of immediate concern: wild rice harvesting, social services, hunting and fishing (raised by the Indian Associations) and lands and resources (raised by Ontario) (Del 1982:16).

The working group on wild rice assumed responsibility for:

> "(1) ascertaining Indian rights to harvest wild rice;
> (2) recommending steps to ensure a viable industry producing the greatest economic benefit to Indian people and the Provincial economy"
> Del 1982:18-19.

The Joint Steering Committee (JSC) level of senior officials from all three parties (Treaty #3 representing all the Chiefs of Ontario; Ontario; Canada) met on June 19, 1978. Their terms of reference had two major objectives:



34. Structure of the Ontario Tripartite Process, 1980
Attachment to AOCC Chiefs' resolution 78/30 supporting involvment in the Tripartite Mechanism

"(a) to recommend a mutually agreeable policy regarding Indian rights to harvest wild rice by establishing the historical (including Treaty), cultural, religious and economic importance of wild rice to Indian and non-Indian people.

(b) to recommend a mutually agreeable wild rice development policy that will ensure a viable industry producing the greatest economic benefit to Indian people, and to the Provincial economy consistent with 5 (a)[ed:the Premier's statement], by studying in detail all aspects of the growing, harvesting, processing and marketing of wild rice, including paddy rice, particularly but not exclusively in northwestern Ontario. "

Immediately, problems beset the process. As announced by the Premier May 18th, the province insisted that the Ontario Wild Rice Producers Association (OWRPA) and the Ontario Metis and Non-Status Indian Association (OMNSIA) have seats on the working group and be involved in any discussions regarding development of the wild rice industry. Ontario was pursuing its emphasis on rice as a crown resource and its policy that Indians had "privileges", not rights, regarding that resource. Grand Council Treaty #3, however, was just as certain that those groups would not sit at the table to make policy. In the view of Treaty #3, only *Anishinaabeg* had a treaty and aboriginal right to *manomin* . After vehement objections from Treaty #3 Grand Chief John Kelly, the two organizations (OMNSIA and OWRPA) were invited to send representatives only to a newly named "task force" level. The task force would deal with wild rice development policy while the working group was to address the Indian rights policy.

By January 1979, the working group completed its terms of reference for the proposed task force to be considered by the steering committee. The report Premier Davis recommended in item 4 of his May announcement was tabled February 1979. Prof. M.A. MacGregor of the School of Agricultural Economics and Extension Education, University of Guelph, recommended that a research program of field and bench research be undertaken to "establish wild rice as a commercial crop in Ontario" (MacGregor 1979:17). In his concluding comments, the author engaged Prof. J.B. Robinson, a specialist in applied aquatic biology at Guelph, to "observe and analyze the existing situation". Prof. Robinson's comments must have taken some wind out of OWRPA and MNR 's sails; he stated "the current moratorium on new licences for wild rice

development is generally good" because "it would ensure that major development errors are not made over larger areas (such as fertilization, introduction of new breeds into new areas which may not accept other more favourable varieties in the future, or wash-out of some component in sediment that is required but not yet known). Further, Prof. Robinson stated that "we met no licensee who even came close to satisfactory development of the rice areas under his control".. and advised caution about "possibly irreversible and potentially damaging activities". He also supported a research program which would give licensees "incentive to manage their present holdings more carefully "(MacGregor 1979:21-22).

The JSC tried to find a high profile chair of the task force, but instead, due to the political strains and the MacGregor report, the task force idea was abolished by September of 1979 (Del 1982:54-55). The wild rice working group met ten times from June 1978 to January 1979, with the federal government as chair. The working group was instructed by the JSC to examine the boundaries between the rights policy and the industry policy. In turn, the working group recommended a study on the cultural and religious significance of wild rice in Indian culture. The working group also promoted the idea of an "Industrial Market Study" and proposals by Treaty #3 for studies on water levels and a survey of stands and yields. No funding was approved for any of these studies.

In 1981, ICO undertook an evaluation of the working groups for the JSC and attempted to recovene the group on wild rice. Based on their frustration of no follow through from the first ten meetings, Grand Council Treaty #3 representatives were reluctant to get involved (Del 1982:56).

It has been observed that policy makers make decisions within a framnwork which restricts their range of options. This was as true for Grand Council Treaty #3 as it was for the Province of Ontario.

The Ontario government became clearer in its intent. They tabled a position paper with the Tripartite process. Entitled, "Negotiating Position, 'Indian Rights to Wild Rice'", Ontario summarized their position as:

> "Ontario is prepared to recognize specific areas where wild rice has been commonly harvested by the Indian people, and Ontario will ensure that the privilege of harvesting wild rice on these areas will be reserved for and granted to Indian people. " August 1979. (emphasis added)

Ontario's negotiating position was developed despite Treaty #3 Grand Chief John Kelly's statement to Premier Davis in August 1978 that "manomin (wild rice) is an exclusive Indian right" (OMNR Negotiating Position, August 1979:3). Ontario stated that Grand Council Treaty #3 had presented "no substantiation ..to indicate that there is any legal basis (i.e., wild rice is not mentioned in treaties) for the Indian claim that wild rice belongs to them, exclusively or otherwise". (OMNR Negotiating Position, August 1979:3).

By that date, Grand Council Treaty #3 had not tabled documentary evidence to the tripartite forum, although they had presented an overview to the Lake of the Woods Control Board in 1975 ("Wild Rice in Early Historical Records", by Leo Waisberg of Treaties and Aboriginal Rights Research, Grand Council Treaty #3). There were a number of reasons why the Chiefs' association did not table any documentary evidence. Fundamentally, the Chiefs had no wish to re-negotiate their treaty, nor did they want to be perceived as doing so. First, the Treaty #3 leaders were secure in their oral tradition, that *manomin* was theirs. Secondly, they had not seen any forum yet conceived where written, documentary evidence had assisted the cause of their people.[10] Thirdly, the Paypom Treaty was in the safe-keeping of Elder Paypom of Washagamis Bay and he did not agree to show it to the public until 1981, during the Governor General's visit to the site of the signing of Treaty #3 (Chapter 6). In 1979, Grand Council Treaty #3 did take the precaution of having Treaty Research Director, Sam Copenace Sr., videotape his interview with Elder Allan Paypom talking about and holding the parchment treaty.

After the debacle of the working group early recommendations and the absence of follow through at higher levels, it took some convincing to revive Grand Council Treaty #3 interest in the tripartite level. Treaty #3 Chiefs' advisor on wild rice, Chief Peter Kelly, recommended to Treaty #3 Grand Chief Robin Greene that Treaty #3 obtain the services of Stephen Lewis, consultant and former NDP Leader of the Opposition in Ontario. In late 1979, Mr. Lewis agreed to lobby for effective action regarding wild rice in Treaty #3, and brought his assistant, Celia Chassels, to work out of the Kenora Treaty #3 office. [12]

Mr. Lewis worked with Grand Chief Robin Greene and Chief Peter Kelly in making high level federal and provincial contacts to ensure Davis' recommendations were acted upon. The campaign began February 1980 with a major presentation to Justice Hartt. GCT3 suggested that the contentious issue ' rights to rice' be held in abeyance. "We do not want the tripartite process to be rendered obsolete by these irreconcilable differences." (Brief by Grand Council Treaty #3 to Indian Commissioner of Ontario, Feb.29, 1980:4). Instead, the Commissioner should urge the federal and provincial governments to concentrate on implementing the focus of Premier Davis' moratorium on new licences for wild rice: to develop a mutually agreed upon provincial policy. The Grand Council urged action by the working group on water levels, research on MNR statistics, development of Native wild rice industry, and needs of individual bands and groups of bands (Feb.29,1980: 4).

The Grand Council also spelled out how the federal government had worked covertly with Ontario in developing a comprehensive wild rice plan, tabled in November 1979. Indian Affairs had made one glaring omission - no one spoke with Grand Council Treaty #3 or those reserves. Needless to say, that policy was doomed from the start.

Grand Council Treaty #3 explained to Justice Hartt the "moratorium pressure" they were under. They placed some onus on the Commissioner to act because his recommendation for a moratorium had "started a course of history which is now

unfolding". Treaty #3 supposed, the 1980 expiry of the ICO mandate could mean either the ICO ended or the appointment of a successor commissioner not as empathetic as Justice Hartt. Then, at the end of the moratorium, MNR would publicize the McGregor report as 'proof' that markets exist that will not harm a native wild rice industry. This would be done - even though McGregor did not investigate markets but rather presumed they existed. "Our (Treaty #3) comments will sound like 'sour grapes' to the public and the cabinet will rest easy making its decision to open up our ricing areas." (Grand Council Treaty #3 to Hartt, Feb.29, 1980:9). Or, even with an extension to the moratorium, without governmental assistance to contain water levels and develop a native industry, the Ontario Wild Rice Producers Association will develop their industry around us. The moratorium would then end "with only the OWRPA as our market outlets and development expertise!" The Grand Council stated that the moratorium

> "was established to serve notice to non-Indians, not Indian people. Rice is our right. We do not lose this right at the end of some arbitrary deadline. No one negotiated this with us. We appreciate this moratorium was the only way you saw of staving off the Ministry of Natural Resources' policy revisions to open up our block areas to white developers. We appreciate your efforts in convincing the Premier of the justice of our cause... we urge you not to relax your stand." (ibid).

Justice Hartt followed through with letters to all Ministers involved with Tripartite, calling for action.

At the same time as the higher level political action, Lewis assigned Celia Chassels to undertake internal Treaty #3 work by visiting every First Nation, with Treaty #3 staff, to discuss wild rice issues. Their task was to bring the message home that Grand Council Treaty #3 was working politically to ensure Treaty rights to rice were protected, and everyone needed to address this urgently. All pickers were encouraged to protect their rights, for example, by making sure they harvested their areas. Chassels gathered data from the Grand Council and member bands, and surveyed the pickers by interviewing key people in each community. Prior to ricing season, she ensured that buyers' prices and other information went out to the bands. This

information was key to Lewis & P. Kelly influencing DIAND to release economic development dollars for rice buying, seeding, processing and equipment in the 1980 season (See Chapter 11).

Yet, unbeknownst to Grand Council Treaty #3, a researcher who had volunteered her time to draw together wild rice information (from universities and businesses on rice growth, methodologies for measuring harvests, relationships among buyers) had left the Grand Council to arrange a contract for herself with the Department of Indian Affairs. That researcher took the knowledge she gained from documented evidence and references which Grand Council Treaty #3 Treaties and Aboriginal Rights Research had built over several years in preparation for political and court action, or either of them. She also took the knowledge given her by *Anishinaabeg* about the Paypom Treaty. Then she wrote a report of archeological and historical background to the Treaty #3 right to rice, passing it as her own original research. The Grand Council did not know and could not prevent this sieve of information. The Paypom Treaty became known to the Department of Indian Affairs before the Grand Council could prepare its offensive. Fortunately, however, the evidence for Treaty #3's position was compelling and did convince the Minister of Indian Affairs, Hon. John Munro and his staff. The Minister wrote the Indian Commissioner, Justice Hartt, in June 1980:

> "Until recently, the federal government has not commented substantively on the rights issue. Recently, however, we have undertaken research in the area, and as a result are now able to offer information that should help to clarify the issue.
>
> This anthropological and historical research has uncovered solid evidence that wild rice has been of supreme importance to the Indians of the Treaty #3 area for the past 2,500 years (and probably longer). During the search, the archives also yielded
> original notes taken by federal and Indian representatives at meetings preliminary to the signing of Treaty #3.. These notes make it clear that the Indians were assured that they would maintain their traditional and historical rights to wild rice. An original, hand-written, vernacular language copy of the treaty that was agreed to by the chiefs of Treaty #3 is currently in the possession of Chief Allan Paypom of Washagamis Bay Band. ...There is also evidence that the 'official treaty' was actually written one year prior to its official signing and prior to the above meetings.

> In my view, this new information would indicate that the Indians of Treaty #3 can make substantial arguments regarding their claims to historical and treaty rights to wild rice throughout the 55,000 square miles that constitute the Treaty #3 area. A resolution to this rights questions should, I believe, be sought through the tripartite forum as soon as possible."
> (June 26, 1981 Hon. John Munro to Justice Hartt, ICO)

The Minister also recommended funding the study of water levels, strengthening the bands' traditional wild rice committees to deal with poaching and other matters, and called on the Commissioner to ensure "the tripartite forum take a lead role in determining the types and amounts of funding and expertise necessary to develop the wild rice industry".

The Ontario Ministry of Natural Resources was clearly as surprised by the the new revelations in Munro's letter about the Paypom treaty, as they were by the federal support for the Grand Council. In a meeting a month later with MNR tripartite working group member Rick Monzon, a Treaty #3 staff reported that Monzon felt Munro's information "puts the rights questions into a completely different light and the province would have to examine its position". However, MNR still wanted to "negotiate the rights issue" in tripartite, while Treaty #3 said that there would be no negotiation of rights, only of economic assistance. (25 July 1980, Grand Council Treaty #3 staff report on meeting with Rick Monzon).

During the GCT3 consultation with First Nations, issues that were presented by the pickers became the main agenda items at the political meetings with the Province that Lewis arranged and Hartt encouraged: water levels, Treaty rights, poaching. Chassels worked with Treaty #3 staff to produce a pamphlet for all Treaty #3 harvesters. (Appendix 10) Grand Council Treaty #3 commissioned Couchichiching First Nation artist Wayne Yerxa to design a logo that would raise the profile and pride in being Treaty #3 harvesters.(Figure 35) Yerxa's logo adorned the pamphlet and "Anishinaabe

35. Treaty #3 Rice Pickers' Button, Anishinahbe Manomin, designed by Wayne Yerxa, Couchiching First Nation, descendent of Migissins, one of the original signators of Treaty #3, 1873

Manomin" buttons handed out at PowWows and other public events or visits at reserves. Pamphlets were sent to all band offices with requests to deliver to each house.

Through these buttons and pamphlets, Treaty #3 harvesters were told "Our rights to rice (are) attacked" and they were urged to act on their rights by respecting the rice, ensuring they followed the traditions of the Elders in their communities, and protect their areas against poachers. The reasoning - and fear - was that non-Indians would try to pick their block areas during the moratorium. What started as a pamphlet to assist pickers against poachers became more all-emcompassing when Grand Chief Robin Green wanted rights and responsibilities of the *Anishinaabeg* made clear so that there would be no recognition of provincial authority. He called for an Indian Wild Rice Harvesting Act (as he said should have been the case in the first instance of any legislation). For the immediate future, the Grand Council Treaty #3 and Lewis strategized that the bands would rely upon their own resources and tell "MNR that we don't recognize the Wild Rice Harvesting Act or their conservation officers". A letter to the Province was drafted to that effect. (June 15, 1980. Notes of special Grand Council Executive meeting with S. Lewis).

The suggestion that MNR game wardens should be notified to evict or charge poachers was a contentious one. Some in Treaty #3 suggested that such requests would demonstrate that MNR had neither the manpower nor the knowhow to manage the harvest; others worried if this might be framed later as an acknowledgement by Treaty #3 bands of the raison d'etre for provincial management. However, the final policy decision was two-fold: call for the end of the Ontario Wild Rice Harvesting Act, and in the interim, use the Act's recognition of huge block areas and MNR's automatic renewal of First Nations licences in Treaty #3 (whether returns filed annually or ignored by the First Nations) as de facto evidence that Treaty #3 guaranteed ricing forever.

Lewis tried to persuade Treaty #3 political leaders to include MNR in dealing with poaching infractions as a way of involving them in the overall tripartite process. If

so, this would have been a case of an outside political professional advising practicality over long term implications. Lewis argued for measures to ensure improvement in the immediacy of retaining the whole harvest. Grand Council Treaty #3 saw beyond this, however. They had consistently raised their stand of exclusive use to all aspects of *manomin* based on Treaty and aboriginal rights in all fora. Such an argument was accepted as important by Lewis but not considered saleable to Queen's Park: treaty rights was a "non-starter" in discussions with government politicos.[12] The political environment in Ontario was such that Treaty #3 leaders wanted to meet the immediate danger of MNR and Bernier's policies and ensure that they did not go through the Conservative majority at Queen's Park. Lewis argued that Grand Council Treaty #3 would win public support through evidence that they were harvesting the "available crop", contrary to MNR propoganda. Lewis argued that Treaty #3 should continue to make their point about rights, but do what he considered to be achievable. Grand Council Treaty #3 insisted on the two-pronged strategy to ensure that their treaty was paramount.

Grand Council Treaty #3 was assisted in gaining positive press and in lobbying MPPs by the Canadian Association in Support of Native Peoples (CASNP) Toronto chapter, and Ten Days for World Development, a lobby group of the United Church. Indeed, during 1979-83, one Toronto woman, Betty Stone, who was actively promoting a Christian sense of justice within the Ten Days for World Development of the United Church, undertook much lobbying for Treaty #3. Stone was responsible for prompting the writing of numerous letters to MPPs and MPs, the organizing of church meetings and workshops , and keeping wild rice as a high profile issue within the church and social action groups. [12]

Grand Council Treaty #3 was able to accomplish much of its work in wild rice,

holding meetings, assigning staff, contracting the services of Stephen Lewis, through a grant received from Indian Affairs in 1979-80 and 1980-81. However, this funding ended, and no specific representative was able to be appointed by the Chiefs to continue. The Grand Chief and TARR staff continued to pursue this issue as the high priority the Chiefs deemed it to be.

During 1980, the GCT3 learned that the Ontario Ministry of Natural Resources had continued to authorize licences to non-Indians in Treaty #3 territory. MNR superiors told staff that it was perfectly alright to offer permits for personal use up to 50 pounds, and to continue permits to people who had started seeding and harvesting operations prior to the moratorium (March 9, 1980 Executive Coordinator, Outdoor recreation, MNR to Reginal Directors). Grand Council Treaty #3 objected strenuously through the tripartite process. Justice Hartt wrote the Minister for a clarification, and was given the Natural Resources' view that Davis' 1978 announcement of "no new licences" allow them to do this. However, the furour caused by the Grand Council led to MNR limiting its renewals only to ricefields actively used in the northern and eastern Treaty #3 territory of Treaty #3. (Some of these eastern lakes near Ignace had been seeded by Mr. Ben Ratuski, Mr. Bernier's friend, in cooperation with MNR and Dr. Peter Lee's research.)

In 1980, the Ministry of Northern Affairs began funding a five year research program to Dr. Lee at Lakehead University, on developing lake wild rice (Lee 1979). Grand Council Treaty #3 challenged the propriety of Ontario granting - without Grand Council Treaty #3 consultation - such funding to Dr. Lee during the moratorium. Practical MNR assistance to First Nations to "build a Native industry" had yet to materialize. MNR replied that they were sure Dr. Lee would be glad to share his research, if the Grand Council wished to ask him (Hon. Alan Pope, Minister of Natural Resources to Treaty #3 Grand Chief Greene, June 26, 1981).

Grand Council Treaty #3 made the most of opportunities within its own fora. In December 1980, at Ottawa, Treaty #3 delegates were among those who framed the "Declaration of Chiefs" of the Assembly of Chiefs from across Canada. The Declaration stated clearly "the Great Spirit put us here and gave us laws to govern us". It was passed unanimously in the assembly (which greeted the Constitutional Express Train of First Nations protestors from BC on eastward) and was presented to the Governor General (Appendix 12). At the 1981 Ontario Chiefs' Assembly, Grand Council Treaty #3 won acceptance of wild rice as a rallying symbol of an *Anishinaabe* treaty and aboriginal right at risk in constitutional wrangles (Appendix 13).

This resolution raised the profile and the stakes considerably from earlier COO resolutions which urged that wild rice harvesting "be left as an Indian right" (1975/31) and which later pressed for support for "an Indian wild rice industry" (1979/26).

By 1981-82, Grand Council Treaty #3 was involved with other PTOs through their association, Chiefs of Ontario, to negotiate a new fishing regime with the Province of Ontario which would recognize "Indian rights" to fishing. These complex discussions involved frequent and direct consultation with fishermen and women in First Nations of Treaty #3 and across the Province. At the end, the Ontario Minister of Natural Resources, Hon. Alan Pope, signed an agreement with all PTOs, but Hon. John Munro, the federal Minister of Indian Affairs, refused. Munro called for more public consultation. The agreement blew up in a backlash of public reaction against the deal, which many perceived as taking "their" fish resource away and "giving" it to the Indians (Library of Parliament, Canada 1987; Avery 1988). The political fallout was to haunt relations between *Anishinaabeg* (and other PTOs and First Nations in Ontario) and MNR for years to come. The Minister of Natural Resources had stuck his neck out and had been undermined by the federal government and lambasted by the public. In future years, the Ontario Ministry of Natural Resources was to prove itself very reluctant to go so far on

any resource issue involving Indians, deferring always to the need for public consultation.

During this same heated time, the Manitoba Department of Renewable Resources was moving toward reorganization of its control of wild rice. In 1981, the Province cancelled all leases in the Whiteshell region (part of Treaty #3's western territory) and allowed only hand-harvesters in that area. Manitoba set up a block system of five areas of land and water traditionally used by five reserves for harvesting. The Pawley government introduced new legislation for the "regulation and management of the growing wild rice industry, designating some areas for exclusive hand-harvesting, and others for exclusive aboriginal use. Aboriginal peoples were still permitted to harvest anywhere on crown lands, providing it was for household purposes." (Aboriginal Justice Inquiry 1991:189). Manitoba's policy of granting a "leading role" to Aboriginal people (without recognizing any basis in treaty or Aboriginal rights) was referred to and approved by the Manitoba Human Rights Commission.

These proposals included the Treaty #3 area of the Whiteshell, southeastern Manitoba, with no provision for Treaty #3 First Nations. Treaty #3 people had traditionally picked there (Chapter 4), but their main settlements lay within Ontario's designated borders. Grand Council Treaty #3 took action. They lobbied the NDP Premier Pawley and Cabinet to recognize Treaty #3 rights to *manomin* in the Whiteshell area. Grand Chief John Kelly and legal counsel appeared before a Legislative committee reviewing the bill and gained opposition support to amend it. It was of no avail.

The NDP Wild Rice Act made provisions for affirmative action allocations of licensed areas to Native peoples and such aboriginal ricers were required to be residents of Manitoba. Grand Council Treaty #3 argued their Treaty rights protected and reserved *manomin* exclusively to Treaty #3 *Anishinaabeg* in their own territory,. (Treaty #3 First Nations were willing to make agreements with First Nations in Manitoba regarding ricing areas). Meanwhile Aboriginal groups and First Nations in

Manitoba relied upon affirmative action. This latter approach proved to be a losing proposition for Manitoba First Nations. When challenged in court by non-Indian rice grower groups, these affirmative action clauses in the Wild Rice Act were later struck down (Report of the Aboriginal Justice Inquiry 1991: 189-190).

"The Manitoba Indians just caved in," says Charlie Perreault of Eagle Lake. "We (in Treaty #3) would never do that. *Manomin* means too much to us."

Indeed, the Aboriginal Justice Inquiry of Manitoba addressed the issue of wild rice rights, and noted that, " although the Wild Rice Act, 1984, does say that this Act is "not intended to derogate from those rights,...this is not the same thing as accepting that such rights exist in relation to wild rice and that provincial jurisdiction is restrained." (Report of the Inquiry into the Administration of Justice in Manitoba1991:190). The Commissioners found Grand Council Treaty #3 evidence to be compelling. Manitoba's Aboriginal Justice Inquiry in its1991 final report stated that they could not give their opinion of the Paypom document which they considered to be "before the courts". However, the judges concurred that

> "based upon a review of the information before us, the right to harvest wild rice is, at least, an Aboriginal right. We believe that this Aboriginal right encompasses both personal consumption and commercial purposes. This right can be exercised on reserves and on Crown lands. As with other Aboriginal rights, it now has constitutional protection." (Report of the Inquiry into the Administration of Justice in Manitoba 1991:191).

The assembly of Treaty #3 Chiefs approved taking court action against Manitoba, to recognize Treaty #3 ricing rights in their territory. A motion was filed in court, however, lack of funds precluded proceeding. [14] This action remains, to be activated at any time by the Chiefs.

In the meantime, Treaty #3 First Nations were very busy in numerous projects to extend seeding into new lakes and rivers, purchase mechanical harvesters, develop new processors or new sales for traditional processing, and form new business

relationships. [14] After the Lewis-Kelly meeting with the Ottawa head of economic development for Indian Affairs, the Department released some $1.2 million dollars in 1980 to assist such projects (July 13, 1981, Eugene Harrigan, Ontario Regional Director General, INAC to Grand Chief Greene). Eagle Lake, as a different example, "organized seeding, rice buying. and marketing, as well as traditional and mechanical harvesting all on their own, with no government money or assistance." In addition, "this band made sure that they picked all of their harvesting area and policed their area against poachers." (January 22, 1981 Peter Kelly/Kinew to E. Harrigan, INAC). Similar projects continued into 1981 season, but were undermined by higher water levels on Lake of the Woods. The Ministry of Natural Resources, however, tried to assert its authority against what MNR considered to be the "uncontrolled seeding of lakes" and sought an alliance with Indian Affairs economic development staff. They wanted to ensure bands would refer designated lakes to MNR first whereupon they would check these lakes for suitability and conflicting uses. There is no record of INAC's response but First Nations were not cooperative with further provincial intrusion in *Manito Gitigaan* .

The Minister stated in a June 1981 letter to the Grand Chief that MNR wished to know "some specifics which Treaty #3 believe are required from Ontario relative to equipment, economics, assistance, etc. in order that the development of the wild rice industry, as it relates to Indian people, can be increased in a substantive way." (June 26, 1981, Hon. A. Pope to Grand Chief Robin Greene). Grand Council Treaty #3 continued to refer this discussion to the tripartite level, where the federal government would also be involved. The Grand Council read through what they considered to be the Province's intentions. In that same letter, the Minister requested Treaty #3 First Nations to identify "those areas you deem important...for the cultural and religious significance of wild rice ... and we can take the necessary steps to protect them in order to conserve them for their continuing contribution to a traditional way of life"(ibid). It

was clear to the Grand Council that identifying meant limiting their ricing areas. As well, the Minister stated it was premature to consider an extension to the moratorium; he was confident a mutually beneficial policy could be worked out (ibid).

The Grand Council's suspicions of Ontario seemed confirmed in November 1981, after Elder Paypom had shown his parchment treaty to Governor General Schreyer. The Minister of Natural Resources continued to speak of Treaty #3's "special interests" in wild rice. He affirmed the Province's "position that non-Indian people also have rights to wild rice and I doubt that you or other members of the Indian people would refuse them their rights" (November 18, 1981, Hon. A. Pope to Grand Chief J.P. Kelly).

At a December 1981 meeting of Tripartite Council, Grand Chief John Kelly sought to offset the ICO's recommendation to suspend the working group on wild rice. Funding arrangements for PTOs to participate more equally in tripartite negotiations had been approved, OMNSIA and OWRPA were not invited to the January 1981 working group meeting, and it was hoped that the negotiation of Indian rights was off the table - "We will not renegotiate Treaty #3" (December 14, 1981, Grand Chief John Kelly to the Tripartite Council). Instead, the Grand Council proposed, in the hopes of reaching a mutually agreeable interim policy, to disclose the Paypom document and related evidence if Ontario withdrew its negotiating position. That proposal did not meet with ready acceptance by Ontario.

It could be argued that during these days of the moratorium, 1978-1982, that Grand Council Treaty #3 evolved from a lobbying organization of the 1970s into a political arm of the First Nations of Treaty #3 in the 1980s . At first, the Grand Council focussed its efforts, with the advice and guidance of Stephen Lewis, on lobbying and ensuring that the moratorium fulfilled its promise. However, when high water levels prevented the potential of a secure economic base being established[16] , then the Grand Council reviewed its political actions taken to date and reassessed its strategy.

Grand Council Treaty #3 continued to propose an extension of the moratorium, as notice to non-Indians regarding the *Anishinaabe* Treaty right. In a grand display at Northwest Angle in October 1981, near the site where Treaty #3 was signed, Elder Paypom showed the Governor General the terms of Treaty #3 that guaranteed wild rice to *Anishinaabeg* "as by the past". And Grand Chief Greene and Chief Charlie Nash spoke of the need to go beyond five years of the moratorium (see Chapter 6). Shortly after re-elected Grand Chief John P. Kelly raised the need for an extension to the moratorium in tripartite fora. However, it became clear that the Ontario government was again pursuing a policy of opening the ricing areas.

As a result of this renewed aggression on the part of OMNR in developing wild rice policy, Grand Council Treaty #3 again relied upon the strength of its Treaty. It had always been emphasized by Treaty #3 Elders, as they proclaimed to Governor General Schreyer in 1981, that *manomin* was given as a gift to the *Anishinaabeg* by the Creator: *Manito Gitigaan* , the Great Spirit's garden. Ontario was a mere interloper. The Chiefs and Grand Chief had made this clear at numerous tripartite and other fora. Thus, the Grand Council decided that the most appropriate action would be to ignore the end of the moratorium. Their reasoning was, as they had told Justice Hartt in February 1980, that the end of a provincial policy regarding an *Anishinaabe* resource was of no consequence to the *Anishinaabeg* . Ontario had no jurisdiction over wild rice. Treaty #3 reserved *manomin* forever and exclusively to Treaty #3 *Anishinaabeg* .

To an outsider, an analysis of how such policy was adopted by the Grand Council may find a turning point difficult to identify - or even a process of reaching this conclusion and strategy. After all, the Grand Council had argued for the extension of the moratorium. The Grand Council had an articling student review all aspects of the moratorium and provincial ricing policies, and recommend specific courses of action (Auger 1982). His analysis was a thorough summary of policies, economics and business aspects of wild rice. Although cultural and treaty aspects were given a

respectful nod, extension to the moratorium and coordinated business development was emphasized in its recommendations. It was, however, an internal report out of touch with the Chiefs and the politics of treaty and aboriginal rights by the 1980s.

Grand Council Treaty #3 was vigorously involved in political actions against Prime Minister Trudeau's patriation of the constitution. Treaty #3 Chiefs and organization staff were lobbying for the inclusion of specific clauses in the Constitution to safeguard Treaty and Aboriginal rights. [17] Grand Chief Robin Green travelled with a delegation of Chiefs and Elders from across Canada to London, England to make their case to the Queen and the British Parliament (D. Sanders 1985). In their own territory, Treaty #3 decided to concentrate its energies on protecting and strengthening their Treaty.

It can be seen that, in the 1978-1984 period, there were very real obstacles to reaching goals set at the highest political level of the tripartite council. In effect, the Ministers and Grand Chiefs sent their representatives to steering committee and working group meetings with political directives which precluded any compromise for agreements. The working group on wild rice was to continue, in fits and spurts, for another few years. They considered a "Memorandum on Reference to Wild Rice" (September 14, 1984, Ava Sutherland, Executive Director, Chiefs of Ontario, to Hon. John Munro). This proposed memorandum called for the appointment of a mediator and negotiators to assist in developing policies. It also stated amendments would be made to The Wild Rice Harvesting Act, R.S.O. c.1980 c.532, "which will be in accordance with the aboriginal and treaty rights of Indians in Ontario with respect to wild rice". The Crown representatives refused to consider mediation, and this Memorandum of Understanding approach was left to another day. (See Chapter 13). The Indian Commission of Ontario was to state, in a later report of 1984 (ICO Wild Rice Reading File), that

> "the special cultural significance of wild rice to the Indian people and a basic disagreement over approaches to negotiations have contributed to making this one of the most delicate issues to be dealt with under the auspices of the Commission. In fact, over the past six years, negotiations have never progressed beyond preliminary discussions.
> During the past year, ... agreement for terms of reference for negotiations on wild rice rights ... provided for direct involvment of both the Minister of Natural resources and the Grand Chief of Treaty #3. At a staff level meeting , March 26, 1984, the parties considered the question of wild rice rights and, in particular, the parties examined and discussed documentation on which the respective legal opinions regarding wild rice rights are based."

This led the parties to consider procedures for obtaining the evidence of Elder Paypom that would preserve such evidence. Grand Council Treaty #3 wanted Ontario to agree that such evidence would not be objected to as future court evidence. The Ontario representative said that decision would have to be made by cabinet. Provincial or Federal Orders in Council and a statutory declaration with cross-examination were all options on the table. Elder Paypom died (at an estimated age of 86+) in August 1985, before any inquiry was established. The parchment Paypom Treaty remains in the possession of his daughter, Verna Paypom, at Washagamis Bay. The other record is the Treaty #3 videotape of Elder Paypom being interviewed by then Treaty #3 Research Director, Sam Copenace, in 1979. Mr. Copenace passed away in 1986.

Yet, how the Paypom Treaty would be used in a court of law [18] is not as important to the *Anishinaabeg* of Treaty #3. What is significant to them is the history of the Paypom Treaty, its first possession by Grand Chief Powassin from the 1873 Treaty signing, and how it came to be with Paypom (Chapter 6). Treaty #3 *Anishinaabeg* know the Paypom family takes care of that document for the future of the whole Treaty #3 Nation. For *manomin* , Treaty #3 *Anishinaabeg* are "free as by the past" as the Paypom Treaty states. The Paypom Treaty continues to play a prominent role in the public affairs of Treaty #3 First Nations. During constitutional discussions in 1982, Grand

Council Treaty #3 published a pamphlet quoting the document and explaining its origin (Appendix 4).

This era of the mid 1970s to mid 1980s saw both very high profile, headline grabbing political action by the Grand Council Treaty #3, as well as backroom lobbying. It was a break from tradition: *Anishinaabe* leaders had not just walked the hallways of political power, as their predecessors had in the 1930s (Chapter 7). By the 1980s, Treaty #3 leaders were right in the offices of the Premier and Cabinet Ministers, in Ottawa and Queen's Park. With the Tripartite Process, and other bilateral meetings, Chiefs had come full circle since treaty-making: they were again at the same table as the Crown, talking. In the 1870s, it was Ottawa's acknowledgement of the military might of the Boundary Waters *Anishinaabeg* , and their ability to disrupt westward expansion of Canada, that brought the Crown to the treaty table. So too in the 1970s, it was the violent reaction of the *Anishinaabe* youth, followed by concerted negotiations by *Anishinaabe* leaders to capitalize on this crisis, that created new mechanisms for resolving differences. It remained to be seen whether the spirit and intent of the Treaty promises would ever be realized through talk at the table.

Endnotes:

1. The Ojibway Warrior Society had made themselves known several months earlier by occupying the offices of the Department of Indian Affairs at the post office building in Kenora. They wished to dramatically change the way *Anishinaabeg* were treated and to ensure decision-making was returned to the people. Prominent members included a cross-section of Treaty #3 reserves - Louie Cameron of Whitedog, Tom Keesick of Grassy Narrows, Joe Bird of Whitefish Bay, and Ron Seymour of Big Grassy, among others.

The Ojibway Warrior Society convened the*Anishinaabe* Youth Conference in July at Anicinabe Park and invited speakers from the American Indian Movement (AIM) Wounded Knee occupation in South Dakota (where they remained under seige by the FBI) An the end of the three days, the youth decided to reclaim the Park where the conference was held.

Anicinabe Park had been once set aside and listed as an agency reserve by the federal Department of Indian Affairs. (During the occupation by the Warriors, Grand Council Treaty #3 researched and published the history of that Park, which demonstrated the Indian interest. The Grand Council filed a claim to that Park but INAC refused to consider it valid. The occupation ended without a resolution to this land ownership issue, rather, like the 1964 Kenora March, on the resolution of more practical issues. (See Chapter Seven)

At that location, the Presbyterian Church had an "Indian House" where *Anishinaabeg* could rest or stay overnight when visiting their children at nearby residential schools, coming for checkups at the doctor or shopping in nearby stores. De facto segregation existed in Kenora in the 1940s and 50s, when the "Indian House" was used. *Anishinaabeg* were refused food or lodging in local Kenora establishments for many years after that. A concerted testing of such places and laying of formal complaints through the Ontario Human Rights Commission in the late 1960s and 1970s proved necessary to change this situation and open things up.

2. As a specific example, a Street Patrol of Native People was set up under the auspices of the Neechee Friendship Centre in Kenora and funded by the Ontario government. This patrol went on to save hundreds of lives of people who live(d) on the streets of Kenora. This program has won several safety and peace-keeping awards and continues into 1995.

3. The same concerns were raised in 1993 regarding the Whitefish Bay First Nation negotiating self government agreements with the federal and provincial governments. The general public reaction was that "all citizens, aboriginal or otherwise, should have equal access to publically owned resources" (Government of Ontario 1993:6). The Northwestern Ontario Tourism Association "holds that access to resources is an inherent right of the non-native citizen, as it is of the native person" (Government of Ontario 1993:17).

4. The methodology used to measure the wild rice crop in the 1970s and 1980s by the Ontario Ministry of Natural Resources was considered unreliable by Treaty #3 *Anishinaabeg* and outside observers. For example, Dr. Oelke at the University of Minnesota, one of the scientists with the longest record of field research on wild rice, queried, "Where do they (MNR) get such numbers (of harvest yield)? I've never seen anything close." (Summer 1980, Ratkoff-Rajnoff report to Treaty #3).

Grand Council Treaty #3 accused MNR of " 'cooking' data to portray Indian people as lazy and the crop as underutlizied", in order to open up the block areas to outsiders (Grand Council Treaty #3 to Hartt, Feb.29, 1980:6).

As well, MNR labels such as "available crop", "harvestable".. raised further suspicions regarding their political purpose and public effect.

Grand Council Treaty #3 recommended an independent body of scientists work in close conjuncton with Treaty #3 bands (ibid). MNR soon hired a biologist, Pritam Sain, to carry out annual surveys. His survey techniques included extrapolations from field samples as well as aerial surveys, but the criticisms remained, and no independent body was consulted.

5. Kathi Avery Kinew worked for the RCNE as Treaty #3 liaison worker Sept.1977 to Sept.1978.

6. I am indebted to Paul Chartrand, Commissioner of the Royal Commission on Aboriginal Peoples, for pointing out such government tactics have been called "official fraud". He refers to John Goddard, Last Stand of the Lubicon, Toronto: Douglas & McIntyre, 1991.

7. This incident was oft quoted by senior and junior staff of the RCNE, of whom Kathi Avery Kinew was a member 1977-1978. It was welcomed as a validation of Justice Hartt's effectiveness and in the worth of the whole Commission as an instrument of positive change in the north.

8. The Chiefs of Ontario structure was agreed upon by the four associations - Grand Council Treaty #3, Grand Council Treaty #9 (subsequently known as Nishinawbe-Aski Nation (NAN)), Union of Ontario Indians (UOI) and the Iroquois & Allied Indians Association (AIAI). These four included, at that time, almost all 118 Chiefs and Councils across the province. Each association would have its President or Grand Chief sit on the Executive Council of the Chiefs of Ontario.

In subsequent years, changes occurred to the make-up of the Executive Council. After the National Indian Brotherhood reorganization into the Assembly of First Nations in 1982, the Regional Chief for Ontario became a new position as an Executive member of the AFN and a coordinator of initiatives at the provincial level. First Nations such as Six Nations and Temi-Augami demanded and obtained their own seat as independents (from the PTOs) and voice on the "Priorities and Planning Committee" of the COO. Thus, representation at tripartite council meetings expanded accordingly.

9. "March 16, 1978 marks the formal beginning of the Tripartite Process. Agreement was readily reached among the Presidents of the Indian Associations and the federal and provincial ministers to their mutual purpose and mission. The parties were well prepared for this decision. For three years, the President had met two or three times per year with provincial Ministers through the Joint Steering Committee on Native Affairs. The Presidents had also on less frequent occasions met directly with the Premier. A similar pattern of bilateral talks had existed for several years with the the federal Minister of Indian Affairs, with occasional meetings with other federal Ministers and Cabinet and house committees" (Del 1982:15-16).

Importantly, in the fall of 1974, the federal cabinet of Pierre Trudeau had invited Native leaders to join in an historic and direct bilateral process of the NIB leaders with federal cabinet ministers, led by Hon. Marc Lalonde. The invitation to establish such a bilateral process came while Native Caravan protestors camped on Parliament Hill and a nearby abandoned building. This joint Cabinet-NIB vehicle was proposed in September 1974 after the summer occupation of Anicinabe Park in Treaty #3, the road blockade at Cache Creek, B.C., and the Native Caravan across Canada for the opening of Parliament. That latter scene was also the first use of the riot squad of the RCMP and the use of barbed wire to keep demonstrators away from Parliament. In the

fall of 1977, after three years of talks had led to no progress, NIB leaders withdrew from this process to pursue more effective routes (Weaver 1982).

10. The 1969 White Paper had disregarded all presentations by Indian people across Canada and, in the view of *Anishinaabeg* , presented its prearranged agenda of ending special status for Indians. The Paper established an Indian Claims Commissioner to consider "specific claims" regarding the crown's "lawful obligations" to meet the conditions of the federal Indian Act. In 1982, "lawful obligations" became the centrepiece of the federal government's new "Specific Claims Policy", now much-maligned (Savino 1989; Indian Commission of Ontario 1990). From 1969 to 1995, only one claim has been settled in the Treaty #3 area. Although the federal government officially shelved the White Paper in 1970, its recommendations are considered by observers to be slowly implemented over the decades (Weaver 1981, 1985a).

11. Mr. Lewis and Ms. Chassels were assisted in their work by Treaty #3 staff, notably the Executive Director, Francis Kavanaugh of Whitefish Bay, and Kathi Avery Kinew, who was then assistant Research Director of Treaties & Aboriginal Rights Research at the Grand Council 1979-81.

12. In 1990, Stephen Lewis was also to relegate Treaty and Aboriginal rights issues to the backburner in the "larger" considerations of keeping Canada together. Lewis joined a cast of other eminent people who hysterically urged the approval of the ill-fated Meech Lake Accord. He and others took this stand despite the Accord's enunciation of the "two founding nations" theory. It was the arrogance of Canada's First Ministers in reaching this agreement in private, their cheering section of elites, and their ignorance of Aboriginal peoples as the First Peoples of Canada with inherent rights, which ultimately led to the downfall of the Accord. (See Chapter 13).

13. In response to the oft-asked question, "what can one person do?", Betty Stone, a United Church member in Toronto, became passionately devoted to understanding and protecting *Anishinaabe* rights to *manomin* . She singlehandedly organized workshops where Treaty #3 representatives, Chief Peter Kelly (Kinew), Diane Kelly (Treaty #3 summer student) and Nancy Jones of Nicickousemenecaning First Nation, spoke of, and demonstrated the harvesting, processing and cooking of wild rice to groups in Toronto, Peterborough, and other centres. Mrs. Stone paid her own way to visit the ricefields of Lake of the Woods, Treaty #3 in September 1981. She continued thereafter to organize meetings and spearhead letter writing campaigns of members of United, Anglican, Presbyterian, Lutheran and Catholic churches to provincial legislators and Cabinet ministers.

14. Winnipeg lawyer Vic Savino prepared and registered the court documents, and participated in strategy sessions with Treaty #3 political reps, Grand Council Treaty #3 TARR and other legal counsel regarding actions in Ontario and Manitoba to protect Treaty#3 rights.

15. The simplistic view promoted for public consumption is that *Anishinaabeg* are averse to technology. Rather *Anishinaabeg* are aware of the toll that technology takes on their people and culture. The reserves that use mechanical harvesters have adopted policies that seek to ensure mechanical pickers either stick to specific bays, or do not pick until the traditional hand pickers are finished. However, there are conflicts in following such a policy, with handpickers feeling the pressure of the pickers with machines who are "breathing down our necks".. The other problem is that mechanical pickers do pick more in a shorter time than hand pickers - and who is to share in the

profit? The owners of the mechanical pickers or the whole community whose legacy is the ricefield. What percentage, if any, should go to the reserve community?

16. Hon. Leo Bernier first mentionned possible control of water levels through the Lake of the Woods Control Board when he presented renewed ideas to open up ricing areas to non-Indians. His intention was clear to Treaty #3: as long as *manomin* remained within Indian control, then it could expect no help from him or his powerful Ministry of Northern Affairs. As Chief Andy White of Whitefish Bay First Nation stated in 1978, at the beginning of the moratorium, "We could have a bad crop every year for five years, Then the province will say, "See, the Indians can't manage the resource'. Then watch them control the water levels." (Avery & Pawlik 1979:45). Chief Fred Copenace of Big Grassy First Nation saw through the hyprocisy of the Ontario government, also in 1978, "On the one hand, the Ministry of Natural resources says there's a $20 million dollar crop on Lake of the Woods. Then they allow the Board to raise the water levels and drown the rice!" (Avery & Pawlik 1979:44).

17. Treaty #3 politicians and technicians were instrumental in drafting clauses that became s.15 and s. 35 of the Constitution Act 1982. See also D. Sanders 1985:151-189, regarding "The Indian Lobby and the Canadian Constitution 1978-1982".

18. However important the potential finding of a court regarding the Paypom Treaty, there remains other evidence which has been assessed sufficient to cause provincial governments to ponder their actions. Manitoba's Aboriginal Justice Inquiry in its 1991 final report stated that they could not give their opinion of the Paypom document which they considered to be "before the courts". However, the judges concurred that "based upon a review of the information before us, the right to harvest wild rice is, at least, an Aboriginal right. We believe that this Aboriginal right encompasses both personal consumption and commercial purposes. This right can be exercised on reserves and on Crown lands. As with other Aboriginal rights, it now has constitutional protection." (AJI 1991:191).

Chapter Thirteen

Implementing Treaty and Aboriginal Rights in the 1980s and 1990s

> s.35 (1) "The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed." *Canadian Charter of Rights and Freedoms*, Constitution Act, 1982

In the late 1970s, Treaty #3 *Anishinaabeg* had joined with other First Nations people across Canada to prevent the patriation of the Canadian constitution. Treaty people in particular believed in their tie with the British Crown, and they believed that only this international tie could prevent the Canadian government from unilaterally extinguishing their rights. Grand Council Treaty #3 was a participant in the political and legal strategy sessions, and subsequent meetings and demonstrations. They did not join the lawsuits of hardline First Nations of BC and Saskatchewan in the British Courts, but did take part, through Grand Chief Robin Greene, in international lobbying and, through numerous Chiefs and representatives, in Canadian demonstrations.

By November 1981, Grand Council Treaty #3 political leaders and staff joined others in the National Indian Brotherhood, to work through successive drafts and lobby for an agreement to entrench aboriginal and treaty rights in a new patriated constitution. The announcement of that achievement was welcomed by many. Within a few days, however, Constitutional Affairs Minister Jean Chretien changed the wording. Once again, the duplicity of the federal and provincial governments was proven to First Nations (Sanders 1985). What was finally agreed to by the Premiers was that "the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed." There was an uproar from the First Nations, Inuit and Metis regarding the inclusion of the word, "existing", which seemed designed to limit Native rights. Decisions and interpretation by the Supreme Court in past years had made aboriginal and treaty rights subject to the will of Parliament, and did not bode well for the future. Yet,

this was the wording that the Queen signed into law when the Constitution Act of Canada became law in April 1982.

Another significant event that April was the tranformation of the National Indian Brotherhood, an association of provincial and territorial organizations representing Chiefs, into the Assembly of First Nations, whereby the Chiefs were the direct and ultimate decision-makers. An A.F.N. executive of Regional Chiefs (Atlantic, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, BC, Yukon and Territories) were to be assisted by a larger decision-making body, the Confederacy of Nations. However, these representatives were expected to consult with the Chiefs regularly and abide by the Chiefs' resolutions of the full assembly, meeting each year and in special assemblies as required.

To outsiders, it may not have seemed a drastic change, in that PTOs continued to have a voice at the Executive and Confederacy level. However, the change had been demanded by the Chiefs over the past several years, and signified a reminder to organizational leadership that the First Nations, the community level of Chiefs and Councils, had the final say. In the 1983 report of the Parliamentary Committee looking at self-government, the term "First Nations" gained wider acceptance. *Anishinaabeg* welcomed the change to replace "band councils" which reflected a bygone era of Indian agents ruling reserve members and approving or disallowing their leaders. "First Nations" spoke of their inherent right of self-government and self-determination - an end to their suppressed sovereignty.

The Premiers may have thought that they had curbed such notions in circumscribing rights by the insertion of the word "existing" into the constitution. However, the Supreme Court of Canada, under Chief Justice Brian Dickson, differed. In a series of judgments, from 1983 to 1990, the Supreme Court gave substance to "existing aboriginal and treaty rights", that had almost been severely undermined before the 1982 constitutional entrenchment clauses (Sinclair 1990;

Kulchyski 1994; Woodward 1989; Reiter 1991,1994).

In Nowegejick v. M.N.R. [1983] 1 S.C.R. 29, the Court ruled that "Indian treaties should be given a fair, large and liberal construction in favour of the Indians" (Reiter 1995:1:5). A year later, in Guerin v.R. [1984] 2 S.C.R. 335, the Supreme Court ruled that aboriginal and treaty rights were legally enforceable. The Supreme Court stated that the Crown had a "fiduciary responsibility", which was more than a mere "political trust" that the federal Justice lawyers had argued (Woodward 1989, Reiter 1991, Kulchyski 1994). Rather, the fiduciary duty of the Crown to the Indians was legally enforceable, and in cases of breach, compensation must be paid, remedies made.

A year later, in Simon v. the Queen [1985] 2 S.C.R. 387, the Supreme Court recognized treaty rights as original sources of rights. Treaties were to be considered "sui generis", unique, and unlike either contracts or international treaties.

The pinnacle of the Court's positive interpretation of "existing" rights came in two rulings, released at the end of May 1990. In Sioui v. A.G. Quebec [1990] 3 C.N.L.R. 127, the Court ruled that a treaty superseded provincial Park legislation, when they found that a 1760 letter by a General Murray to the Huron guaranteeing "free exercise of their religion, their customs" was a treaty within the meaning of section 35 of the constitution. "The intention to create 'mutually binding obligations' is of primary importance; the form that the treaty takes is secondary" (Reiter 1994:1:22). Significantly, the Court further stated in Sioui that "preservation of the natural environment may be a precondition for the exercise of native religion" (Woodward 1992:338).

And, in Sparrow v. The Queen [1990] 3 C.N.L.R. 127, the Court determined that aboriginal rights did not derive from the Royal Proclamation or any legislation of the Crown, but from original occupation of the land. These rights that had been regulated or restricted cannot be said to have been extinguished, but rather to have been recognized. "The honour of the Crown" is at stake in dealings with aboriginal peoples, and any

infringement on aboriginal rights must be proven necessary by the Crown, and undertaken, in full consultation with the aboriginal peoples. Subsequent case law in Treaty #3, R.v.Bombay [1993] 1 C.N.L.R. 92 (Ont. C.A.) found that Sparrow rules applied to treaties as well (Reiter 1994:III:69).

All the above rulings had direct and positive ramifications for the legal enforcement of Treaty #3 *Anishinaabe* rights to *manomin*, and were to be used by Grand Council Treaty #3 in pressing for recognition of their rights to all aspects of governing the Great Spirit's Garden. For example, the Sioui pronouncements by the Supreme Court of Canada are important to *Manito Gitigaan* in Treaty #3 territory, both in the state-sanctioned ability to continue their traditional activities under *Anishinaabe* laws and supervision, and in the preservation of the natural environment that would be required to carry out their ceremonies and religion. The necessity of conservation and the requirement of management of human activity with regard to the plant are basic to *Anishinaabe* customary law (Chapter 3-5). The *Anishinaabeg* believe that the government of Ontario and the Lake of the Woods Control Board and their sister water control boards could learn from this *Anishinaabe* system to act with respect and responsibility.

Yet, just as this trail was being broken by the Supreme Court, the political arena became strewn with many obstacles. In 1983 Justice Hartt returned to the bench, and his assistant, Mohawk lawyer Roberta Jamieson, was appointed the Indian Commissioner of Ontario, by Federal and Provincial Orders in Council and a vote of approval from the Chiefs of Ontario. Jamieson's approach was to push for time limited framework agreements, through which parties would agree to talks. These framework agreements would clearly set down ground rules and goals, including the issues of "mandate and authority of the negotiators, providing resources to participants, and adopting a workplan, including timeframe" (Canadian Bar Association 1988: 75). *Manomin* in Treaty #3 was targetted for this strategy when Commissioner Jamieson wrote to all

parties stating "wild rice had not been the subject of active negotiations for some time... although identified by the parties as an issue of mutual concern in 1978" (Indian Commission of Ontario 1987:12). She requested a statement of intent and "all parties agreed they were willing to deal with the issue of wild rice within the Tripartite Process" (ibid). After an initial meeting in April 1986, the "parties agreed to negotiate a Memorandum of Understanding on Manomin (MUM) on the rights issue, and deal with the development of the wild rice industry in separate discussions outside of the Tripartite Process" (ibid).

From April to November 1986, at least four draft memoranda were discussed and passed among Ontario, Federal Indian Affairs, and Grand Council Treaty #3 in working group sessions chaired by the ICO. By 1986, it seemed as if a final agreement to define the terms of future negotiations in a Memorandum of Understanding on Manomin (MUM) would be signed.[1] The draft memorandum stated, in brief, that the parties were committed to talks within the time frame of twelve months, and under the chairmanship of the Indian Commission of Ontario. Grand Council Treaty #3 was making arrangements for an official signing in their territory, first for September 1st, and then for December 15th. A target date for signing January 30, 1987 was set, but Canada announced it was conducting a "policy review in that area and could not proceed with negotiations at that time". Since that time, Canada has not informed the ICO that it is prepared to proceed (ibid). As Commissioner Jamieson stated, "the presence of sustained political commitment to actually resolve issues is ..the determining factor for success of negotiations", and this was not present for *manomin* (Canadian Bar Association 1988: 75).

Ontario negotiator, Mel Crystal of the Ministry of Natural Resources, cited "stumbling blocks" in talks with Treaty #3: the Grand Chief wanted the Minister there, not his representatives. The Grand Council also wanted the whole 55,000 square miles of

Treaty #3 territory recorded in the memorandum, but Ontario "couldn't accept that. Ontario can't represent Manitoba. I don't know if that's what (Grand Chief Greene) was saying or not. I mean I'm not sure his point was to include Manitoba. But he kept saying it and we drew our own opinion" (Mel Crystal 1990). The MNR negotiator wondered if the Treaty #3 representatives understood what was at stake:

> "The (continuing) years of the Government of Ontario moratorium ...means we're serious that there is something about the Treaty right to wild rice. When Treaty #3 came in and said the (MNR stand on continuing to issue licences (from the period prior to 1978) during the moratorium) was wrong, that there should be no licences at all, that's what really killed it. ...
>
> We do recognize a Treaty #3 right but not exclusivity. ..But a policy on no non-Indian involvment doesn't make a lot of sense to me. It's stifling an environmentally friendly activity which could also be economically successful. When seeding a new lake could lead to a business opportunity, MNR sees the need for recognizing a preferred right, just like the right to hunt, yet short of an exclusive right.
> There's still a willingness to negotiate the Treaty right to harvest ...something like tenure to harvest wild rice at certain locations and include the right of first refusal for other locations within Treaty #3. ...We know that there's a spiritual attachment although we're not exactly sure why." (Mel Crystal 1990)

Treaty #3 Grand Chief Robin Greene knew full well the implications for drafting such a framework agreement. The Fort Frances Chiefs wanted immediate economic development in the rice industry, but had no wish to transgress the Treaty (Chapter 11). They proposed leaving the Treaty issues aside on a 'non-prejudice' basis and get on with the business of wild rice. The Kenora Chiefs wanted - first - the Treaty recognition of *manomin* as a right. Elders in all regions of Treaty #3 sought protection of the sacred and spiritual traditions of *Manito Gitigaan* .

It was impossible for a Grand Chief to say that such rights would be negotiated or circumscribed, in territory or any other way. All that could be said would be that discussions would be held to have *Anishinaabe* rights recognized and implemented. To the Chiefs, Elders and people of Treaty #3 this was not a symbolic but a real distinction. And, to the *Anishinaabeg* of Treaty #3, it was unacceptable to have less than that written in a memorandum intended to focus negotiations to recognize that right.

ICO clearly had difficulty in getting the parties to go beyond their positions and set their sights on the larger goal of a mutually agreeable policy recognizing rights. It seemed that the MUM itself was used to begin negotiations, instead of the MUM merely setting the stage and protocols, as was intended.

The Liberal government of 1986-1990 preferred to change the political environment and announced with much fanfare a framework for negotiating self-government. The Attorney General and Minister responsible for Native Affairs, Hon. Ian Scott, tabled the new policy in the Ontario Legislature, with a special reception for Chiefs of First Nations and Grand Chiefs of organizations. Once again, however, treaties and recognition and implementation of treaty rights were being placed on the back burner. The Ontario government guidelines for negotiating of Aboriginal Self Government Agreements were strictly:

> "directed toward enabling aboriginal specific institutions to exercise a range of administrative powers for the purpose of:
> (i) regulating the manner in which aboriginal community members exercise rights of access to Crown land and natural resources;
> (ii) participating with the province in the management of certain Crown lands and natural resources; and
> (iii) managing programs of economic development for aboriginal community members." (Ontario Government Guidelines for the Negotiation of Aboriginal Self Government Agreements, December 1987: 19)

Significantly, the Ontario policy stated its priority was to the wider public and to the limitation of aboriginal governance:

> "In order to retain development opportunities for the wider community, Ontario will negotiate on the basis that there should be an inverse relationshop between the degree of power to be exercised by aboriginal specific institutions in relation to Crown lands and natural resources and the extent of the territory over which those powers are intended to be exercised." (Ontario Guidelinesfor the Negotiation of Aboriginal Self-Government Agreements, 1987:21)

The Ontario Liberal design was more pro-active than the Tories of the 1970s but their direction was the same: their priority was to meet the needs of Aboriginal communities, to provide basic services to Canadian citizens on reserves. There remained a refusal to meet the legal obligations of section 35 entrenchment of treaty and aboriginal rights in

the constitution. Minister Scott's right hand assistant expressed the policy of that government succinctly.

> ".. the need for cooperation between the federal and provincial governments is obvious and paramount. It must be clear that the aboriginal peoples cannot be made to suffer harm or neglect as a result of federal or provincial intransigence or contentiousness. Their needs must come before the rights of either level of government" (Emphasis added in: Shelley Spiegel, Special Assistant to Ontario Attorney General and Minister responsible for Native Affairs, Hon.Ian Scott, in Long & Boldt, 1988:108).

Importantly, Grand Council Treaty #3 always had to consider the western part of their treaty area, and initiatives of the province of Manitoba (Chapter 12).

In order to address the Treaty rights concerns of many in Treaty #3, Elders from several First Nations held a meeting in March 1988. Their task was to set down the traditional teachings, the *Anishinaabe* law regarding *manomin* . They worked together with younger people listening and providing translation. Their finished work was published in a poster format by Treaty #3 TARR and presented to the Chiefs' Assembly that spring, entitled "Grand Council Treaty #3 Nation Declaration on Anishinabe Manomin":

> 1. The Creator put what we need to survive, including Anishinabe Manomin, on the land. He gave this to us. We have a duty to protect these things for future generations. If we do not, there will be trouble ahead.
>
> 2. Anishinabe Manomin is a sacred gift from the Creator. It must be used properly, according to the Elders' teachings. It must be respected and honoured.
>
> 3. Anishinabe Manomin was not given to the white people by the Creator. They do not know how to respect it. We did not give it to the white people in the Treaty or at any time. The Treaty agreement was that we would keep the Anishinaabe Manomin. It says:
> *"The Indians will be free as by the past for their hunting and rice harvest."*
> If that was not in the Treaty then there is no Treaty and the white people should go home.
>
> 4. How Anishinabe Manomin should be planted, picked, processed and sold will be decided in our communities, according to our Elders.

> 5. Our rights are from the Creator and guaranteed in the Treaty. If we honour the Creator, and if the white people honour the Treaty, we will not lose our rights. The white people must honour the Treaty because it says: *"This Treaty will last as long as the sun will shine and water runs, that is to say forever."* (Appendix 2)

It is indicative of *Anishinaabe* thought that the *Anishinaabe* law regarding manomin would be written simply as "according to our Elders" and "according to our Elders' teachings". It is not a codified system, but rather one of customary law that has well served the Boundary Waters *Anishinaabeg* for millenia (Chapters 3-5, 14).

At the assembly, the Chiefs expressed their appreciation that the Elders had prepared this declaration. They questioned Treaty #3 Research staff, however, about the simple English wording. The Chiefs knew full well how the Elders speak in *Anishinabemowin* , their own language, about such matters, and to read such uplifting, complex thoughts simplified into this foreign language did not sit well with some Chiefs. They also asked that the real *dodem* symbols of the Treaty #3 people be placed on the border of such a poster, instead of the drawings used in the "mockup" to indicate the *dodemuk* of Treaty #3. [2]

The intent of the Elders was followed by the Chiefs. The Grand Council had launched court action in February 1986 against the Province of Manitoba proposed legislation that violated their Treaty rights of access to the wild rice in the Whiteshell area (Chapter 12). Treaty #3 Chiefs had spearheaded and established the Ontario Indian Wild Rice Development Agency, to promote business and development opportunities for wild rice within Treaty #3 and beyond (Chapter 11). And, Grand Council Treaty #3 had been pursuing political arrangements which might lead to practical implementation of the Treaty.

The Chiefs of Ontario coordinating body was working toward a Declaration of Political Intent by parties to the Tripartite Process. This DPI was signed in 1986. At that time, though, Grand Council Treaty #3 was seeking a bilateral recognition of the Treaty with the federal government, and, Grand Chief Greene was coming to realize that

this bilateral initiative was not going to happen. He signed the DPI "under duress". The Grand Council did not participate in these trilateral talks .[3]

Shortly thereafter, the Chiefs resolved to undertake a reorganization of the Grand Council, as they deemed it was "out of touch" with the First Nations, and needed to strengthen its original purpose of protecting the Treaty. Each tribal area hired a person to discuss with Chiefs, Elder and councillors what needed to happen. As one Elder said, the Grand Council's purpose was "to take (our concerns) to a higher level". In this age of instant communications by phone, fax, and plane, with budgets for Chiefs and office staff, the First Nations were becoming used to taking initiative on their own. It was only when they needed strength in numbers that they joined together in tribal councils to undertake programs such as economic development. In the field of Treaty rights, they were of one mind that unity to protect their Treaty was needed. However, many Chiefs felt that the "efficiency and effectiveness of our political organization" must improve (GCT3 Resolution Re: organization Structure Oct.6, 1988). They wanted to ensure the Grand Council "fulfils the treaty and traditional mandate'. Certainly, the Grand Council assemblies saw the involvment of Elders, their advice and teachings offered, the presence of the pipe symbolizing " a way to pray to the Creator and a way of sharing ideas and gathering strength and unity amongst the people." (Grand Chief Robin Greene is quoted in the Chief's Report, Ojibways of Onegaming, November 1988). Some of the Chiefs' comments were that the Grand Council lacked consistent follow-through on resolutions and needed continuing communication to and from the First Nations communities. Reorganization was to become a constant theme of Treaty #3 Chiefs' Assemblies, and finally, a mission of some substance by the Chiefs from 1992-1995.

During this period of the mid 1980s to 1990s, the Grand Council continued its political work. It did canvas and consider several possible ways of proceeding: claims negotiation toward agreements; co-management; political protocols; bilateral agreements; and finally, *Anishinaabe* assertion of *Anishinaabe* jurisdiction.

Several Treaty #3 First Nations were pursuing settlement of their so-called "land claims" with Canada and Ontario. [4] Grand Council TARR usually would undertake the historical research in consultation with one or more First Nation(s), liaise with the legal counsel chosen by the First Nation(s), and prepare the package to be presented to the Crown governments upon launching a 'claim' . The Crown governments would then review the documents, undertake their own research and legal review, and announce, after this "validation stage", whether a 'claim' would be "accepted for negotiations" . There would be no reasons given for acceptance or rejection, and no appeal, except political access to the Minister or Cabinet. Thus, the Crown acted as judge, jury and defence in such claims. The Specific Claims "process" has been highly and roundly criticized by First Nations, and by outside observers such as the Canadian Bar Association, and the Red Book of the Liberal Party of 1993. [5] The "black hole" of specific claims (Savino 1989) continues to suck dollars from the taxpayers, energy from the participants, and make a mockery of the Supreme Court admonition that the "honour of the Crown is at stake in relations with aboriginal peoples" (Sparrow v. The Queen [1990] 3 C.N.L.R. 160). Clearly, claims resolution mechanisms existing in Ontario or Manitoba were not an option that Treaty #3 Chiefs could use to resolve the conflict regarding governance in the Great Spirit's Garden.

At the time of the Liberal government at Queen's Park, 1986-88 (minority), 1988-90 (majority), Treaty #3 First Nations were given to understand, by political appointees in the office of the Minister responsible for Native Affairs, not civil servants in the Ministry of Natural Resources, that the most they might expect with regard to *manomin* would be some sort of co-management. As the government watched the actions of the Ontario Indian Wild Rice Development Agency (1985-1990)and saw a gap developing between the OIWRDA and Grand Council Treaty #3 (Chapter 11), the civil servants developed a "credibility gap" with respect to the Grand Council's ability to

manage rice. One idea floated was that the Ontario Ministry of Natural Resources might give over jurisdiction for wild rice to an independent tripartite mechanism, with an *Anishinaabe* majority on the Board, perhaps even an *Anishinaabe* chair, somewhat along the lines of the James Bay Agreement. Such a regulatory body would go a long way toward Ontario believing that the industry would develop "along rational lines" within Treaty #3. (Sources for this information requested anonymity.)

The Grand Council looked at co-management agreements being developed and in force across Canada and the United States.

> "A co-management regime is an institutional arrangement in which government agencies with jurisdiction over resources and user groups enter into an agreement covering a specific geographic region and spelling out (i) a system of rights and obligations (ii) a collection of rules (iii) procedures for making collective decisions. It is not required to relinquish or transfer any legal jurisdiction or authority but share decision-making with user groups". (Osherenko 1988:13)

" The "interests" , not the rights of the First Nations, are recognized in such agreements (Angus 1989:62). (Indeed, most ministries of natural resources specifically use the jargon of "user groups" or "stakeholders" whether speaking of sportsmen, campowners and other local people, or Treaty Nations.) The promise of co-management is that "the practical and knowledgeable views of people - hunters, fishermen and biologists -with firsthand experience are brought to bear directly on the issues" (Wagner 1986:27). And, while First Nations and Crown representatives sit in equal numbers at the meetings. co-management arrangements tend to allow Native people to act in an advisory capacity only, with the Crown government representatives holding the final decision. In each agreement, the Crown reaffirms its determination to "protect the interests of all users, to ensure resource conservation, ..and to manage renewable resource within its jurisdiction" (Angus 1989:62).

Grand Council Treaty #3 had observed and learned from the "truly sordid history of non-implementation" of the James Bay Northern Quebec Agreement (Feit 1988:85). GCT3 recognized from James Bay that "political pressures (become) more significant in

present decision-making than management and conservation considerations, more important than legal obligations and negotiated compromises" (ibid). GCT3 saw that in co-management agreements thus far there is little or no recognition of prior aboriginal jurisdiction, nor of the conservation since time immemorial by the aboriginal people for the gifts the Creator gave them as the First Peoples of this land.

Certainly, there is a legacy of mistrust by Native people of biologists and Natural Resources personnel:

> "The language of scientific management rarely makes sense to native hunters, while professionals are prone to dismiss native customs, beliefs and even observational data..scientists use sophistocated observational and statistical techniques, while hunters reply, 'You didn't look in the right place'. "(Peter Usher 1982 in Connell 1983:93)

Notwithstanding all this background, many observers believe there is potential for such a Crown government-Aboriginal government partnership "to foster mutual respect" and to lead to "everyone taking responsibility for the success of joint conservation and management" (Osherenko 1988:40). What is required is "mutual education and interchange" and a leaving aside of the "non-Native community's rigid insistence that it always knows what is best" (Hunt 1979:592).

Yet, problems that exist need to be overcome if First Nations and Treaty Nations are to enter into co-management regimes with Crown authorities. One problem familiar to Grand Council Treaty #3 from its experience in tripartite negotiations is the lack of equality in informed decision-making, demonstrated by a lack of financial and paper resources to support the institutional capability of the First Nations representatives to participate (Osherenko 1988:42) . To the *Anishinaabeg*, this is an indication of the lack of recognition and respect that the First Nations were bringing their knowledge of millenia in this land to the table.

The Great Lakes Indian Fish & Wildlife Commission, for example, was established in the wake of court decisions which recognized the Treaty rights the states of Minnesota, Wisconsin and Michigan had long refused to acknowledge. Further, the *Anishinaabeg* in

the Boundary Water States recognized that "DNR has resisted power sharing with tribes in ceded territories, so implementing co-management means a change in the way DNR does business with tribes, including changed attitudes, politices and practices (Bushian 1990:19) With no such attitude change in Ontario or Manitoba, what could co-management offer Treaty #3 First Nations who knew their right to all aspects of *Manito gitigaan* was guaranteed by treaty "as by the past"? The *Anishinaabe* tribes "in ceded territories" in the United States agree that "cooperation (is) required of government, Indians, anglers and others to implement Chiipewa (*Anishinaabe*) treaty rights" (Wisconsin State Department of Natural Resources pamphlet, "Fish Wisconsin 2000 Action Program). No government in Treaty #3 territory was at that point yet.

The Chiefs also recognized dangers in translating *Anishinaabe* governance into modern day institutions. For example, one insidious fact of the 1960 Ontario provincial legislation and policies that established new regimes in wild rice is that these new regimes such as Wild Rice Harvesting Areas (WRHA) or blocks set aside for certain "bands" may be taken as reflective of *Anishinaabe* tradition. This is certainly not the case, as the following testimony documents (see also Chapter 3-5):

> "At that time (1930s) Bands did not go to certain lakes to pick rice. They amalgamated together wherever there was plenty of rice. In those days, the Bands did not belong to certain areas at that time. They gathered together to have their ceremonial feats and they were precautioned as to how they would harvest their rice, what days to pick and rest their fields."
>
> (Annie Wilson in Holzkamm 1989:25)

> "Back then (1959) the Province (of Ontario) was pulling the blinds on a lot of things. I doubt if there was any consultation when they set up these checkerboard areas. If there had been true consultation, then Whitefish Bay's traditional area would have gone into Manitoba. There was an annual movement out to the ricefields and among many ricefields".
>
> (George Crow, 1990)

> "My uncle, Miskwakapins (Jim Elliott), told me they'd invite everyone to come and pick ..at Obabikon Bay (1900s and 1947) ..we really managed the rice. We'd invite people to pick in certain bays.We'd have Elders say when to pick and when not.." (Pete Seymour 1990)

In the case of the OntarioWild Rice Harvesting Act ,1960, law has served "as the handmaiden for processes of domination, helping to create new systems of control and regulation" (B. Cohn 1985 in UM 1992:33). The general public surrounding the reserves have taken this 1960 system of block areas (and band licences in the Fort Frances area) as an historic reality, while generations of children raised on Treaty #3 reserves have heard of both their assigned WRHAs and their wider use of the 55,000 square miles that is Treaty #3 territory. With areas defined by the province, Ontario Ministry of Natural Resources officials say they "regulate the harvest" by insisting on annual licences and harvest reports from each band. It took Ontario Lands and Forests (the predecessor of OMNR) perhaps a decade for bands to apply for a licence and fill out returns, just as the Province insisted *Anishinaabe* trappers do. Some bands never did. The ones who did subsequently refused as they began to act on their inherent right to self -government. They rejected what they saw as the irrationality of the province having anything to do with *manomin*, their God-given gift and Treaty right (Robin Greene 1982; Fred Greene 1990). Certainly, First Nations of Treaty #3, as they now call themselves, do not abide outside regulation of *Manito Gitigaan* , as has been witnessed in resolutions by Grand Council Treaty #3 and Chiefs of Ontario (Chapters 7,12) .

Importantly, however, such laws as the Ontario Wild Rice Harvesting Act, 1960 can also "constrain these (colonial) systems and serve as arenas of resistance" (B. Cohn 1985 in UM 1992:33). For example, the very fact that Ontario set aside huge continguous blocks of wild rice harvesting areas within the Kenora and Dryden regions of Treaty #3 area has assisted Grand Council Treaty #3 in arguing for further recognition and implementation of the Treaty. The possible conundrum presented by the lack of such WRHA blocks in the Fort Frances area has been simply considered a provincial mistake. First Nations in that southern part of Treaty #3 support and helped to frame GCT3 arguments regarding recognition of 55,000 square miles of wild rice areas.

Ontario and Manitoba remain unmoved by protestations of treaty rights. They continue to insist that wild rice is one "crop" and "natural resource" for which they have constitutional responsibility (Chapter 12).

Grand Council Treaty #3 sought to negotiate a bilateral accord with Ontario, for recognition of all Treaty #3 rights to lands and resources, among other matters, and implementation of that recognition on a day to day basis. The Grand Council tabled with Ontario, on an informal basis, a detailed document to negotiate a new agreement. GCT3 stated that it contained "interesting possible approaches to a permanent settlement of ..the treaty right to the wild rice harvest". This comprehensive agreement was intended "to clarify, renovate and implement existing treaty provisions covering the use and jurisdiction over natural resources in the Ojibway Nation Lands ..and to recognize mutually their respective jurisdiction, to facilitate the exercise of exclusive jurisdiction and to cooperate in the exercise of joint jurisdictions" (September 2, 1988 DR Colborne to Mark Krasnick, ONAS Secretary). There were no talks forthcoming, so GCT3 countered with another tack.

Grand Chief Green met with Hon. Ian Scott and proposed that their technical advisors work on a draft accord which would govern provincial relations with Treaty #3 First Nations, and guide government policy, programs and direction. The Minister asked for time to "cost" what recognition of treaty rights would mean to Ontario. No word was heard from the Minister's office, despite repeated requests from the Grand Council, and a new government was elected in 1990. It seemed the Liberal government considered the cost of implementing Treaty #3 rights was too high.

The 1990s ushered an entirely different era into the stage of Aboriginal politics in Canada. After the Queen signed the Constitution Act into law in April 1982, there was a flurry of activity by the federal government to prepare for a conference of aboriginal leaders with Federal and Provincial First Ministers, required under section 37 of the new Constitution. For the First Nations, the activity centred upon whether to attend.

Ultimately, the Assembly of First Nations was fractured among those who refused to attend (Prairie Treaty Nation Alliance and the Union of New Brunswick Indians), those who would participate as observers only, and those from the AFN who took the chair. Representatives of the Inuity Tapirisat, Metis National Council, and Native Council of Canada also attended. [6] As a result of the first conference, the one and only made in Canada amendment to the Constitution Act, 1982 was passed in 1983, to clarify treaty and equality rights. The section 37 constitutional conferences (1983, 1984, 1985,1987) were called to a close by Conservative Prime Minister Mulroney in 1987, without any agreement to entrench the concept of the inherent right to self-government - or recognize that it is already in the constitution. [7]

Within ten weeks of that snub to Aboriginal Peoples, the Prime Minister brokered a new constitutional deal dubbed the Meech Lake Accord, in honour of the site where all ten premiers unanimously agreed to its terms. The Meech Lake Accord could not have been more ominously timed as an affront to Aboriginal peoples. Aboriginal leaders were livid: all ten Premiers agreed to recognize Quebec's "distinct society" - only weeks after they refused to recognize "aboriginal self government" as too vague a notion. Aboriginal people across Canada immediately understood what was at play: they were to be relegated to the sidelines of history once again. Meech Lake perpetuated the myth of two founding nations of French and English."What are we - chopped liver?" Inuit leader Zebedee Nungak wanted to know (Hall 1988)

However, 1990 saw a new stage set. New governments in Manitoba and Newfoundland had fundamental concerns about the Meech Lake Accord which the Mulroney government had failed to address, holding firm to its stand about "the seamless web" of Meech that would become unraveled if even one change was made. By May of 1990, two months before the deadline for unanimous approval by provincial legislatures for the Accord, Mulroney's team was franctically foisting its "politics of fear" on Manitoba Opposition leader Sharon Carstairs and Premier Clyde Wells of

Newfoundland. The Prime Minister threatened political and economic disaster if this deal did not go through (Delacourt 1993: 402-3).

Aboriginal leaders, ever the astute political observers and actors, were waiting for opportunities. The Assembly of Manitoba Chiefs (AMC), led by Phil Fontaine, and aided by Assembly of First Nations Regional Chief Ovide Mercredi, found that opening: P.M. Mulroney decided to let the clock tick on and, as the P.M. arrogantly confided to a newsreporter, "roll the dice" when he thought there would be just enough time for the two remaining provincial legislatures to approve the deal.

The AMC recruited the only Aboriginal Member of the Manitoba Legislature, Elijah Harper of Red Sucker Lake First Nation, to the cause of obstructing the vote. The Manitoba legislative procedures for review of constitutional measures could not be followed and a vote was not held in Manitoba before the clock ran out June 22, 1990 - three years after the unanimous Premiers' approval. Despite Mulroney's denial of the Aboriginal role and his frothing at the mouth against the Newfoundland Premier (a blame the P.M. still attached on his resignation speech in February 1993), it was clear to Aboriginal people, and many others, that Aboriginal people had stopped Meech Lake.

Treaty #3 Chiefs and organization staff were in Winnipeg to support the AMC initiative and helped to celebrate on the lawn of the Manitoba Legislature that sunny June day. A feeling of exhuberance and solidarity - 'Aboriginal Solidarity' proclaimed the smiling Elijah T-shirts - was felt by everyone. It was a feeling of a new day, a new beginning - not an end at all. 'This time, this time would be our time'. Aboriginal people would never again be left out of constitutional renewal. The myth of two founding nations seemed to have been buried along with Mulroney's dreams of being a constitution maker.

Within a few weeks, the Securite de Quebec stormed the Mohawk blockade at Kanesastake and so began the three month seige that will be remembered in Canadian history simply as Oka (Richardson 1993; Dickason 1992). Many individuals from Treaty #3 went to the peace camp outside the Mohawk blockade; others joined at peace

camp of solidarity formed on the grounds of the Manitoba Legislature. Those peace camps were one of the few outlets for the pent-up rage of Aboriginal people for this latest subjugation of their brothers and sisters and theft of their land. Without a place to pray and carry out ceremonies, to receive the latest news and be able to send support in words, money and supplies directly to the Mohawks, there would have been many more acts of violence. Blockades were erected in many places by Aboriginal people across the country; hydro transmission towers were toppled in Ontario. Children in reserves across Canada put a new twist on playing with tiny cars in the dirt. Suddenly the 3 to10 years old Aboriginal kids were building dirt blockades and playing Mohawk warriors vs. the army. Only in the 1990 version, the warriors won.

Oka provided the impetus for the Canadian government to fast track many specific land claims and to commission retired Supreme Court Justice Brian Dickson to inquire into a mandate for a Royal Commission on Aboriginal Peoples. In April 1991, the Dickson mandate was accepted in full by the Conservatives, and Aboriginal and non-Aboriginal co-chairs and another five commissioners were named. The most comprehensive inquiry into the relations between Aboriginal peoples and the rest of Canada, the Royal Commission on Aboriginal peoples, is still continuing in 1995.

In Ontario, other fallouts from the Meech Lake fiasco were visible. Ontario Liberal Premier David Peterson, confident of victory, called a summer election early in his term. On September 4th, 1990, the voters of Ontario sent a message - an end to elitist decision-making: the first NDP government in Ontario history was elected with a majority. Premier Bob Rae immediately set about to make his government different and important to people who had been marginalized before.

One of Rae's first meetings was with the Chiefs of Ontario, an umbrella organization of the major status Indian organizations and independent First Nations in Ontario - including Grand Council Treaty #3. The Premier urged the Chiefs' organization and their Regional Chief, Gord Peters, use this mandate to "do more than

fiddle with words", but to make real changes that will improve conditions for the people on reserves (Wedge 1990). Peters replied that they wanted a statement of respect that would guide all government action regarding Aboriginal peoples in the province.

In August 1991, after months of wording proposals and changes, the Premier and the Chiefs met at Mount McKay on Fort William First Nation at Thunder Bay to sign the Statement of Political Respect, the first official Canadian document to agree that "the inherent right to self-government of the First Nations flows from the Creator and from the First Nations' original occupation of the land". It further stated that this right is "within the Canadian constitutional framework and that this relationship between Ontario and the First Nations must be based upon a respect for this right". The SPR also committed the First Nations and Ontario "involving the Government of Canada where appropriate .. to facilitate the further articulation, the exercise and implementation of the inherent right to self-government within the Canadian constitutional framework by respecting existing treaty relationships and by using such means as the treaty-making process, constitutional and legislative reform and agreements acceptable to the First Nations and Ontario." (See Appendix 15 for full script).

Unlike the earlier Declaration of Political Intent signed through the tripartite process, Grand Council Treaty #3 signed willingly, having participated in the process of wording. The Treaty #3 Chiefs assembled at Mount McKay to witness what they perceived to be an important and historic occasion. Treaty #3 Elders blessed the occasion and the participants through a pipe ceremony led by Robin Greene of Shoal Lake #39, a former Grand Chief of Treaty #3, and Alex Skead of Wauzhushk Onigum. (Alex Skead is arguably the most photographed elder in the country since his involvment in the 1980s constitutional meetings, sharing his pipe with Prime Ministers Trudeau and Mulroney).

Native Affairs & Natural Resources Minister Hon. Bud Wildman predicted major accomplishments as a result of this SPR. "The way every ministry of the government

deals with the First Nations will change." ("Ontario to recognize native governments: Province sees end to paternalism with historic signing by Rae, Chiefs", Richard Mackie, Globe & Mail, August 6, 1991).

Time and events had a way of undermining the good intentions of all these participants. Constitution making was to become the priority of the Ontario Government, Chiefs of Ontario and Grand Council Treaty #3. While Ontario's recognition of the aboriginal inherent right to self-government was to be a beacon in talks leading to the Charlottetown Accord of 1992 (which was to recognize aboriginal self-government in practical ways), the "big show" took away the attention of major players who would be required to implement the SPR throughout all Ontario ministries.

During the 1990-91 period, Grand Council Treaty #3 held meetings with the Minister of Native Affairs, Bud Wildman, and his Deputy, Murray Coolican, to seek a specific statement of respect for Treaty #3. The Chiefs and Elders of Treaty #3 wanted their Treaty recognized in government directives and policy as binding and overriding - particularly in any issue concerning the Ministry of Natural Resources (Don Jones 1990). A bilateral process was established by the fall of 1991 whereby the Ontario Native Affairs Secretariat (raised in status from a directorate by the NDP government) would meet regularly with a Treaty #3 delegation to hammer out appropriate wording.

In the fall of 1991, after Keith Spicer had received a full course of venom from the public in the Citizens Forum on Canada's Future, a federal policy paper on constitutional renewal was issued. It called for a 'Canada Round', one that would include everyone - most prominently, Quebec and Aboriginal peoples. However, the federal proposals fell far short of what the Chiefs and Elders were seeking in having self government entrenched in any renewed constitution. The AFN was speaking for their whole constituency when they insisted that the "inherent right to self government" must be included. After all, Ontario had crossed that threshold. As Premier Rae had stated in his 1990 inaugural address, "One man's sovereignty is another's self-government". It

was a necessary, essential ingredient for Grand Council Treaty #3. They assumed that practical respect for treaties would flow from the 1991 Statement of Political Respect.

The Treaty #3 Chiefs and Elders held their annual meeting in October 1991 at Wauzhushk Onigum First Nation near Kenora and elected as Grand Chief, Tobasonakwut Kinew, a man formerly known as Peter Kelly who had served as CGT3 President (now called Grand Chief) of Treaty #3 from 1971-1974. The Chiefs wanted someone who could speak knowledgeably and forcefully about Treaty #3 and their rights. Kinew's first task was to represent Grand Council Treaty #3 at the AFN in Ottawa that November:

> "We know what it means to have a document that states the basic relationships between Peoples and Nations - just as we know how it is to have the Great Law which shows our relationship with the Creator and each other... We must always keep in mind that our rights derive from the Creator, certainly not from the legislation of Canada. ..An Elder (who initiated me into the Mite'iwin traditional religion) showed me the Mite'iwin teachings recorded by the Great Spirit in the sky. I realized if the invaders wanted to burn things, let them burn the sky! That is what our people meant when they said at Treaty signing, that we will hold fast to these promises "as long as the sun will shine and water runs, that is to say, forever. ..Negotiations based upon the sacred relationship of our people to the lands, waters and resources confirmed in our Treaty, and defined by the teachings of the Mite'iwin for us ..provide the opportunity for enshrining promises that will last in the Constitution of Canada." (Address by Treaty #3 Grand Chief T. Kinew to the Assembly of First Nations Constitutional Conference, Ottawa, November 26, 1991.)

Respect for Treaty rights was to be the hallmark of Treaty #3 for the next few years. The Grand Chief immediately became involved in planning the first National Treaties Conference to be held in Edmonton in April 1992. Grand Council Treaty #3 played a prominent role in the Ontario Roundtable on the Constitution, a conglomeration of Aboriginal organizations invited together to advise the Premier and Cabinet on constitutional issues. Treaty #3 embarked on a re-organization of the Grand Council which involved meetings in every First Nation, major assemblies of on and off reserve status Indians throughout Treaty #3, meetings with Friendship Centres and local tribal councils. The message was that the Chiefs and Grand Council should represent everyone and work to protect treaty rights - rights that included the inherent right to self government and were "portable", that is, not dependent upon residency on reserve.

The approach of Grand Council Treaty #3 was traditional. The Chiefs relied upon direction from the Elders. They opened and closed their meetings with prayers. They held traditional ceremonies and caucuses throughout larger meetings, to allow the time and respect needed for everyone to have an equal say, to participate in consensual decision making. Yet such approaches had been questionned, even ridiculed in earlier years (Wagamese 1990; McGinnis 1990). Now, the Treaty #3 traditional approach was being studied and copied by other organizations and the leadership of Treaty #3 Grand Chief, Chiefs and Elders welcomed. Grand Council Treaty #3 was becoming recognized as the earliest organization based upon the Treaty.

In Ontario, the Chiefs of Ontario with its member organizations were holding regular meetings with the Cabinet Committee on the Constitution, led by Native Affairs & Natural Resources Minister Bud Wildman. By January 1992, the Chiefs of Ontario held an historic meeting with this Cabinet Committee at Sault Ste Marie. Elders, Chiefs and Grand Chiefs who were pipe carriers brought their pipes, and medicine bundles, to the meeting at Garden River First Nation, near Sault Ste Marie. The prayed early in the morning, before each session, and held sweat lodges each night.

When they met Ministers Wildman, his colleague Howard Hampton (the Attorney General and MPP for the Rainy River riding within Treaty #3) and other cabinet ministers, the Chiefs and Elders had decided that they needed to delve deeper into the concept of the inherent right to self government. They went after and received the assurance from this powerful Cabinet committee that the inherent right indeed included lands and resources (Kinew 1992; Chiefs of Ontario memorandum to First Nations January 1992). Wild rice was going back on the constitutional agenda.

While Hampton in particular tried to distance the government from the significance that the Chiefs of Ontario made of this Cabinet understanding, Native Affairs Minister Wildman said that it only made sense. Yet, Wildman added in a comment full of portent, such a statement linking self government to lands and resources was not as far

reaching as some aboriginal leaders indicated. Chiefs of Ontario leaders considered the Sault Ste Marie agreement as a major breakthrough. The key would be to elicit an appropriate provincial response. This would prove difficult.

Ontario's NDP government had stuck its neck out in some decisions early in its mandate. Notably, the proposed agreement for Ontario co-management with the Algonquins of Golden Lake First Nation. In this agreement, the Ontario government proposed to establish a joint regime with the First Nation to manage the continuation of their treaty right to hunt in Algonquin Park, the oldest jewel in the provincial park system. Environmentalists, sportsmen and tourist operators were apoplectic! They saw such an agreement as "open season" on the trees, fish and animals by 'predatory Indians' (McNab 1992; Smith, Dan 1993).

Disregarding wider public backlash, Grand Council Treaty #3 proceeded to speak out about their Treaty right to resources. In February 1992, the Grand Council gave Elder Robin Greene the responsibility to issue the first Treaty #3 license to fish to the Minister of Natural Resources for Ontario. It stated:

> "Grand Council Treaty No.3 Association of Ojibway Chiefs.
> Grand Council Treaty Nations agreement to fish in Indian territories.
>
> The Creator placed fish in the water to sustain the Anishinaabe. In return the Anishinaabe must manage and protect the fish. The Elders advised on how this is done and the Chiefs set the rules in accordance with the Elders advice.
>
> The Anishinaabe are prepared to share the Creator's gift, but only with those who do not abuse it. The person named in this agreement accepts the duty to abide by the Creator's teaching by honouring the rules made by the Chiefs"

At this historic occasion, the Hon. Bud Wildman, Ontario Minister of Natural Resources, signed his name as a licensee (Minutes of February 13, 1992 Grand Council Treaty #3 Chiefs meeting with the Minister of Natural Resources at Wauzhushk Onigum First Nation). It seemed that symbolic gestures were easier for both parties to undertake than the resolution of substantive issues. During this visit, the Minister also spoke to the Northwestern Ontario Municipal Association (NOMA) stating "the wild rice resource

should be considered a resource primarily for the aboriginal people in the area and an important step toward a self-sufficient economy" (October 6, 1992 Hon. Wildman to Grand Chief Kelly-Kinew). Such a policy was not any different from the government policies of the previous Conservative and Liberal governments. More was expected of the NDP.

Grand Council Treaty #3 had been pressing for bilateral talks since Peterson's government two years before, and continued to press the Ontario NDP government for their own bilateral process to actually start. The Ontario ONAS deputy minister funded a Treaty #3 staff person and some meetings, assigned one of their Thunder Bay staff to meet, and let the process evolve. Frustration mounted with each delay of another meeting or the few meetings that led nowhere. The Grand Council had insisted on a declaration of policy which would force all bureaucracies to cut through technical defences and difficulties and honour Treaty #3 rights. The ONAS negotiator thought otherwise. The Ontario representative stated that the government would prefer to "address major issues head on" but were willing to work on a joint statement similar to the August 1991 SPR - "mighty words signifying nothing" (A. Skye 1992).

That summer, letters were exchanged between the Grand Chief and the Minister to try to guide the process and set the agenda of issues, with wild rice prominent among them. The SPR had seemed to be a good beginning, but it did not take long for the process to be delayed and caught up in lack of bureacratic mandate. The more direct political route seemed to be the only way to go.

In March 1992, the Treaty #3 Grand Chief was involved at the inception of the multilateral constitutional process, under the chairmanship of the Right Honourable Joe Clark . Grand Chief Kinew continued through the mulitlateral process and was invited by the National Chief Ovide Mercredi and Ontario Regional Chief Gord Peters to speak on treaties at several multilateral meetings with constitutional and First Ministers.

Premier Rae and Native Affairs Minister Wildman were always present and attentive. The time was coming when this educational process would have to bear fruit.

Aboriginal leaders across the country appreciated the crucial role played by Premier Rae in bringing aboriginal peoples to the constitutional table. The National Chief was so sure of Rae's personal commitment to the cause that the AFN did not bother lobbying the Ontario premier and delegates (Delacourt 1993). The Chiefs of Ontario and Treaty #3 did lobby the Premier to ensure he was up to date and supportive. Premier Rae was onside in a very visceral way, not only because of recent lobbying, but because of his involvment in Aboriginal causes when he was leader of the Opposition (Delacourt 1993).

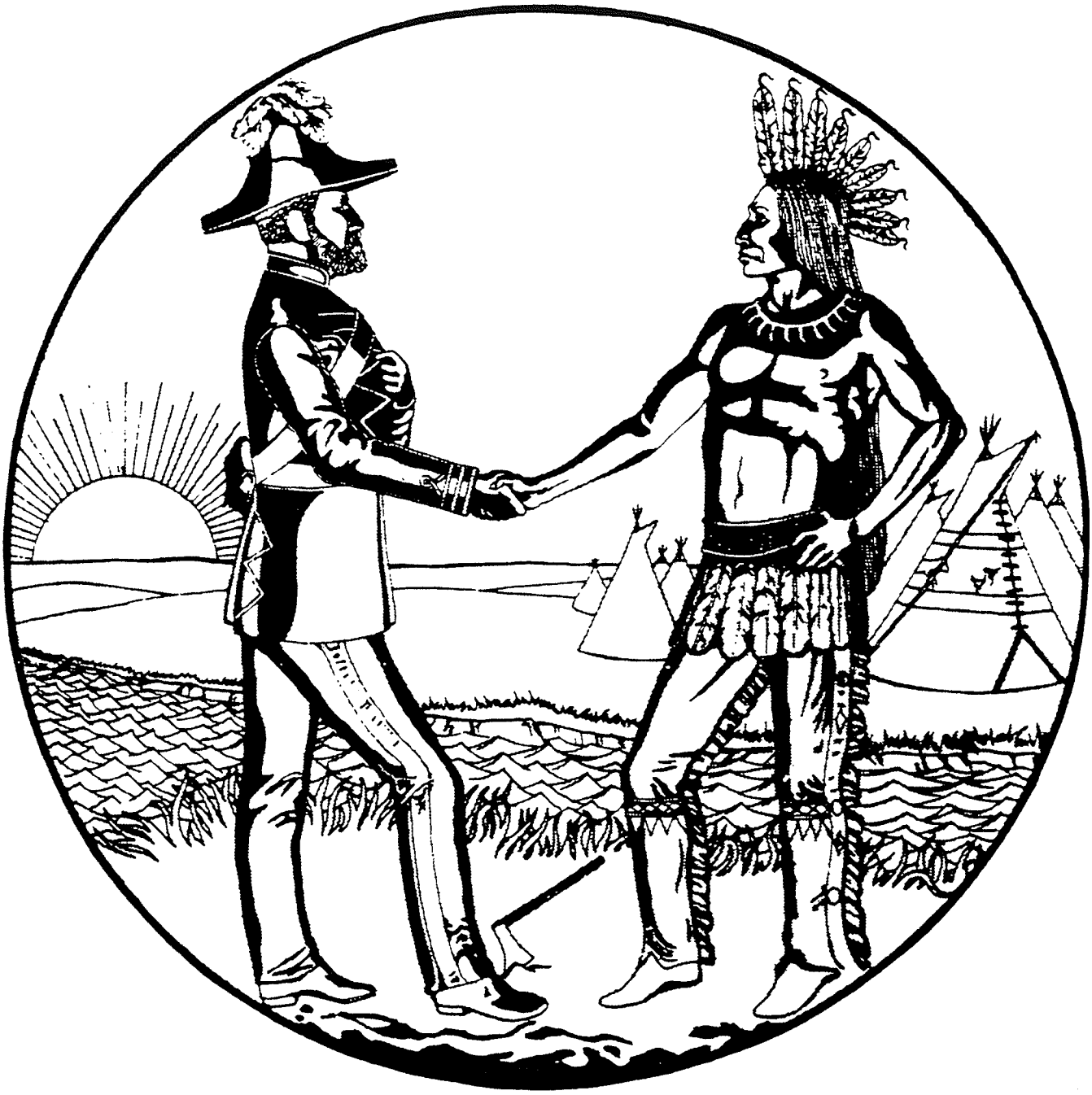
Treaty #3 had played a significant role in promoting treaties. The divergence of views held by First Nations regarding the treaties was well evidenced at the first National Treaties Conference April 6-9, 1992, when Treaty #3 co-hosted the conference with Treaties 6,7,8. Grand Chief Kinew co-chaired. The Lake of the Woods drum and Treaty #3 Elders had a front and centre seat at the assembly and guided the proceedings toward consensus.

Treaty #3 Chiefs seemed to stand somewhere in middle ground between Treaty #6 & 7 of the west who spoke against the danger of the multilateral process "domesticating treaties" [8] and Treaty # 1, 2 who were just beginning to organize around the protection of their treaties. The Dene and Cree of the later treaties 8, 9, 11, had argued for almost two decades the pre-eminence of their aboriginal rights. At this Conference, they were speaking about honouring their treaty rights, in their "spirit and intent", as understood and communicated by their Elders, <u>not</u> as written in documents by the Crown governments. These themes were spoken of again and again by all treaty areas: the spirit and intent of the treaties kept alive by the Elders, the sacredness of the treaties, their bilateral Nation to Nation nature with the Crown, in right of Canada.

Chief Gerry Antoine of Treaty #8 (where his First Nation is located in what is now known as the Northwest Territories) spoke of the symbolism in the Treaty Medallion used as the Conference logo (Figure #36). He said the First Nations were together to discuss the "handshake, not the paper that the Treaty Commissioner is hiding behind his back."

Ovide Mercredi attended this conference to state unequivocally that treaties would be protected in the constitutional amendments the AFN was participating in drafting. What he asked from the Assembly of Treaty Nations was for them to state the principles they would agree must be protected. That evening, Chiefs and advisors such as Fred Kelly of the Ojibways of Onegaming, Sonny McGinnis of Manitou Rapids and Don Jones of Nickikousemenecaning, all of Treaty #3, prepared a resolution to establish a Sovereign Treaty First Nations Council (STFNC) within the Assembly of First Nations. The resolution noted that AFN resolutions from 1987 and 1989 to establish a treaty unit within AFN had not been followed through, and the expectation was that the STFNC would followup on these resolutions as well. The Chiefs of the National Treaty Conference stated that the STFNC would be guided by, but not limited to, the following principles:

> 1. That we are Sovereign Nations under our sacred laws as given to us by the Creator.
>
> 2. That the Nation to Nation status of the Treaties is protected and guaranteed, and that the Constitution of Canada respect the Sovereiegn Treaty First Nations.
>
> 3. That the Crown in right of Canada recognize, guarantee, and honour our inherent and Treaty rights.
>
> 4. That the Constitution of Canada recognize and respect all differences between Treaty Sovereign First Nations and Sovereign First Nations which do not at present have rights under Treaty.
>
> 5. That a complete review of all non-Indigenous laws and agreements which affect the Treaty relationship be undertaken.
>
> 6. That a complete review of Section 91(24) of the Constitution Act of 1867 to deal specifically with the fiscal relationship between the Crown in right of Canada and the Sovereign Treaty First Nations be undertaken.



NATIONAL TREATY CONFERENCE

INDIGENOUS TREATIES - SELF-DETERMINATION

PAST • PRESENT • FUTURE

> 7. That any Constitutional amendment can only occur with the consent of the Sovereign Treaty First Nations.
>
> Moved by Chief Gerald Antoine, Fort Simpson First Nation, Treaty 11, seconded by Chief Peter Yellowquill, Long Plain First Nation, Treaty 1, approved by consensus of the National Treaties Conference, April 8,1992

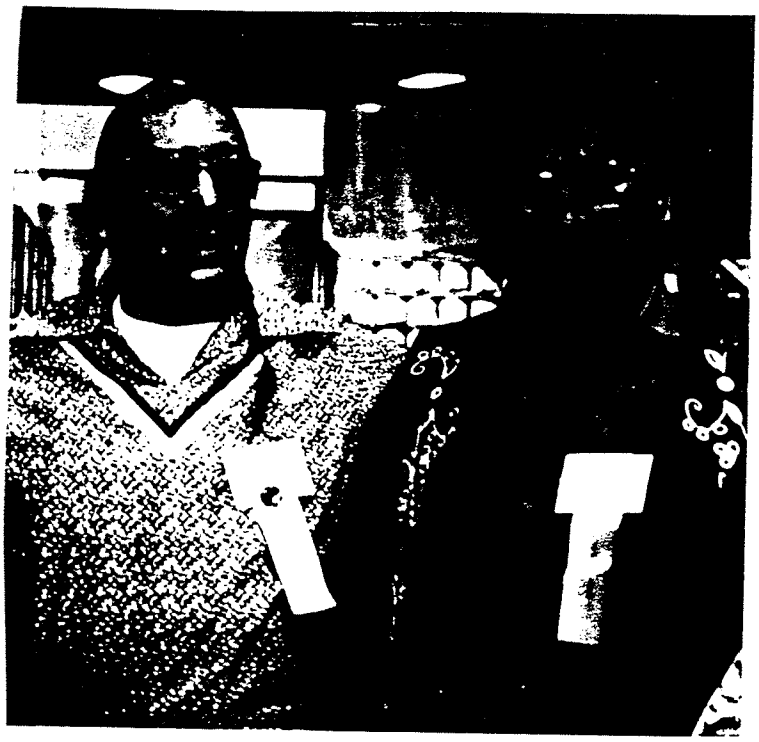
This resolution also attached AFN resolution 6/87 which included 11 guiding principles, including the statements that treaties were made on a "Nation to Nation basis between First Nations and the Crown" (#5), and that "the Treaties must be honoured and implemented in accordance with the spirit and intent of each Treaty as understood by the First Nations signatories" (#9). While the resolution stated that any process to "clarifying their treaty, rectify unconscionable treaties, or renovating or implementing treaties" (#11 (iii)) was and continues to be a "bilateral process with the Federal Crown; the provinces have no constitutional role in making treaties", it also allowed that "at the request of a First Nation, the provincial government may be involved in this process but shall not be a party to the treaty nor involved as a treaty-maker. (#11 (v))." It was clear to First Nations that their main tie to the Crown continued through the federal government, and that provinces were to be secondary players.

The Treaty #3 presence at this conference was very pervasive and persuasive. Treaty #3 Treaties and Aboriginal Rights Research staff had prepared, and distributed at the Conference, several pamphlets on Treaty rights to wild rice, education, fishing, indigenous government and other issues that pertained to the 1992 discussion of the spirit and intent of the treaties and giving meaning to their historical context. Treaty #3 Elders met in caucus with their Chiefs and leaders at the assembly and voiced their concerns and direction. Treaty #3 Elders and the Lake of the Woods drum had met their leaders one week before leaving for Edmonton and had thoroughly discussed the Treaty and its meaning to their people. Now these Elders and the drum were in front centre throughout the whole Treaties assembly.

On the last day of the Conference, recalled in a photo reminisicent of a bygone Victorian era, the Chiefs welcomed and posed with Governor General Ray Hnatyshyn at their conference (Figure #37). The Governor General echoed the Queen's words twenty years before, that "you may be assured that my Government of Canada recognizes the importance of full compliance with the spirit and terms of the treaties" (Speech on the Occasion of the Closing Ceremonies of the Treaty Leaders Conference, His Excellency the Right Honourable Ramon John Hnatyshyn, Governor General of Canada, Edmonton, Alberta, April 9, 1992:3)

The careful choosing of these words came to be a major debate at the multilateral constitutional negotiations when Canada accepted, instead, that the "spirit and intent of the treaties" would be honoured.The constitutional ministers in the multilateral process, however, refused to accept the clause "as understood by the Indians" as a guide to interpretation. [9]

All the while that the Grand Council Treaty #3 was participating in the multilateral process of constitutional ministers, the Ontario Roundtable with Ontario aboriginal organizations, and the conferences and meetings with First Nations across Canada, they were also consulting the people in their First Nation communities. Meetings were held in several communities . A large gathering of Treaty #3 students met for one day in March, and the next day, all interested Treaty #3 First Nations members considered constitutional proposals with their leaders listening to what the people considered important. Natural resources and the land, economic development and education, protecting and strengthening the language and culture were all considered priorities. The issues were as inextricably tangled and as tied to *Anishinaabe* identity as had been the case when Treaty #3 was negotiated 1869-1873. Treaty #3 leadership knew from this reporting back and listening to the communities that what they were promoting about treaties at the constitutional table was indeed an accurate reflection of the Elders and Treaty #3 members.



National Treaties Conference, Edmonton, April 1992
Treaty #3 Grand Chief Tobasonakwut Kinew with Treaty #3
Elder Alex Skead of Wauzhushk Onigum First Nation;
Chiefs with Governor General Ray Hnatyshyn
(Treaty #3 Elder & former Grand Chief Robin Greene
seated at left of Governor General and Grand Chief Kinew
standing behind at right).

When National Chief Mercredi left the Edmonton Treaties conference early, he headed for the April multilateral process in Halifax (April 8-9). There, all governments agreed that the inherent right to self government, as lobbied by all Aboriginal organizations and as recommended by the Senate-Commons Committee in March, would be included in the constitution. And the Treaties conference did establish a broad mandate to negotiate protection of treaties. As stated above, the resolution required that only each Treaty Nation could speak to its own treaty and that any constitutional amendment include the implementation of the spirit and intent of the treaties.

At the Edmonton multilateral meeting April 29-30, the aboriginal delegations were angry at the lack of progress on their issues - any difficult questions were being put off. After the aboriginal delegates withdrew to caucus away from the main meeting, the Premiers agreed to spending a day and a half at the next meeting in Vancouver, where the AFN staged a "sensitivity session" lunch. At the next meetings in Vancouver (May 11-14) and Toronto (May 25-31), the National Chief called upon Treaty #3 Grand Chief Kinew to explain the significance of treaties and the essential message that there must be protection in the constitution. The AFN knew treaties were a 'make-or-break' issue as far as garnering First Nations' support for any constitutional changes (Delacourt 1993:334). Joe Clark couldn't understand why specifics on treaties were important given the litany of positive Supreme Court rulings on treaties in recent years and the place of such court interpretations in the constitutional tradition in Canada (Delacourt 1993). However, progress was made at the multilateral talks when Clark took the position (which won out whenever major agreements were made at this table): "I don't agree with what you're saying but I understand that you believe it's important." (Delacourt 1993: 335, 402). The federal government changed its mind and agreed to entrench treaty clauses; the provinces followed suit, led strongly by Saskatchewan. In Toronto, multilateral representatives agreed that treaty rights would be guaranteed in the constitution (Delacourt1993:447).

However, the constitutional process was missing two key players - Prime Minister Mulroney and Quebec Premier Bourassa. By the time they both joined the process, agreement had been reached on all issues by all other players on July 7th. Both insisted on major changes. First, the context clause [10] to describe aboriginal rights was removed, then reinstated. [11] Financial commitments to aboriginal governments, however, were to be placed in separate political memos, not in the constitution itself. Newfoundland, speaking, as Premier Bourassa ironically noted, for the interests of Quebec as well, required that aboriginal self government be subject to the Peace, Order and Good Government clause in the 1867 Constitution. And, finally, also for Quebec, a clause was added that no "new" lands were to be included in any future agreements. The aboriginal rights clauses were quite circumscribed. It was debatable whether there was enough left to support. [12]

Grand Council Treaty #3 tried another approach to evaluate the Accord. At an AFN Executive strategy meeting in Saskatoon early in September, Treaty #3 Grand Chief Kinew told the National Chief Ovide Mercredi that the people of Treaty #3 wanted simply to know how this Accord would affect their treaty and their lives. How would it honour and implement Treaty #3 rights to fishing and manomin? If the Accord would take a positive, practical effect, then Treaty #3 people would likely support it. Kinew invited the National Chief to join him [13] in pressing the Premier of Ontario to make this practical result of the Accord a reality to Treaty #3: the Grand Council would propose that the Province of Ontario vacate the field of wild rice within Treaty #3 territory. If not, then it would be clear to Treaty #3 First Nations that the Charlottetown Accord would mean nothing more than 'business as usual' with the provinces.

After consultation with Treaty #3 Chiefs, the Grand Chief wrote to the Premier of Ontario:

> "The Grand Council Treaty #3 is very appreciative of your efforts personally, and that of your government, to entrench our inherent right to self-government in the constitution of Canada. However, doubt remains in the minds of many First Nations people that there will be tangible benefits. We propose that a concrete demonstration of the benefits of those new provisions is in order..There seems to be an obvious and easy demonstration available, with any foreseeable problems able to be resolved. It is our suggestion that the province vacate the field of wild rice (manomin) in the Treaty #3 area; and recognize the mechnisms that the Treaty #3 First Nations will put into effect to manage the resource." (September 21, 1992 Grand Chief Kinew to Ontario Premier Rae).

The Grand Chief added that "these mechanism would protect the present licences of third parties", in a bid to make it easier for Ontario to "open discussions immediately".

The response came in an immediate meeting the Treaty #3 Grand Chief and legal advisor Don Colborne had with the Deputy Minister of ONAS. It was agreed the Minister would set out in a letter "Ontario's understanding of this issue (wild rice) in the context of the constitution"(October 2, 1992 M. Coolican, ONAS Secretary to Grand Chief Kelly-Kinew), and further that the Grand Council could advise in drafting that letter.

The subsequent letter from the Minister responsible for Native Affairs to the Grand Chief gave much hope for discussions to begin immediately after the referendum vote (October 26, 1992), and further that "I am prepared to recommend to my colleagues that we begin a process to resolve this issue as a priority irrespective of the outcome of the constitutional talks" (October 2, 1992 Hon. Bud Wildman to Grand Chief Kelly-Kinew). Mr. Wildman stated that the inherent right clauses in the Charlottetown Accord called for negotiation of agreements to elaborate the relationship between our governments, including lands and resources:

> "In my opinion a reading of these clauses leads to the conclusion that the harvest of wild rice would be an important part of the negotiations leading to the implementation of Treaty #3 First Nations' right to self-government. ..(as well as act) as an important issue to be resolved both to clarify the treaty and to implement its terms as understood by the Treaty #3 First Nations. A possible outcome of these negotiations would be that the Wild Rice Harvesting Act would no longer apply in Treaty #3 territory and an agreement on a transition process to recognize Treaty #3 and Ontario rights and interests. Under the self-government provisions of the constitutional accord the replacement for the Wild Rice

> Harvesting Act could be a law passed by the duly constituted legislative body of the Treaty #3 First Nations."
>
> Hon. B. Wildman to Treaty #3 Grand Chief Kelly-Kinew, October 6, 1992

The Minister pointed to a number of issues which would have to be discussed between Ontario and Treaty #3 First Nations:

> "What questions would require cooperation in management between our governments?
> How would Ojibway regulation of wild rice harvesting relate to other jurisdictions over land and resource use?
> What process of consultation would be required to determine issues of land use and compensation where harvesting rights are affected?
> What transitional process would protect the interests of existing licence holders as we move to a new management regime?"
> (October 6, 1992 Hon. Wildman to Grand Chief Kelly-Kinew)

On October 21st, the Grand Chief met the Premier at the airport while they were heading to the Vancouver AFN assembly. After some discussion on the matter, Bob Rae reviewed his Minister's October 6th letter and handwrote on the margin of it:

> "I fully endorse the contents of this letter. After discussions with Chief Peter Kelly-Kinew we are agreed that the Treaty #3 itself will be the basis of our negotiations over wild rice, a resource historically, tied to the tradition and economy of the people of Treaty #3." (signed) Bob Rae, Premier of Ontario

The Grand Chief also handwrote on the letter: "I agree as Grand Chief of Treaty #3. I look forward to full implementation of my people's treaty and aboriginal rights." This commitment seemed - at last - to be something tangible. [14]

At the October annual assembly of Chiefs and Elders at Wabigoon, the Grand Chief tabled a proposed *Treaty #3 Anishinaabe Manomin law* for discussion . This law was intended to take the place of provincial legislation, once Ontario repealed the *Ontario Wild Rice Harvesting Act* for the Treaty #3 territory. The proposed Treaty #3 law was brief, following the advice of legal experts who spoke against codification and detail, preferring to follow the Navajo model that practices would follow custom and tradition. The draft Treaty #3 Anishinaabe Manomin Law, 1992 proposed to govern "the management of Anishinaabe Manomin (known also as Manito Gitigaan in the Anishinaabemowin language and as wild rice in the English language) throughout the

Treaty #3 territory". It was to be enacted "as a continuation of the responsibility of the Anishinaabe people to care for and use the gifts given by the Creator" and was to be "interpreted in a manner consistent with the fundamental characteristics of the Anishinaabe people and their relationship with Anishinaabe Manomin"..such as

> "(i) Manomin is of fundamental spiritual, cultural and economic importance to the Anishinaabe people, and the ownership is in the Creator
> (ii) The 1873 Treaty of Northwest Angle included a treaty promise to recognize Anishinaabe manomin as the responsibility of the Anishinabaig since time immemorial
> (iii) The treaty promise amounts to an exclusive right of use and management of the resource, in perpetuity, and is a land right."

The administration of this law was to be "under the control and direction of the Treaty #3 Anishinaabe Manomin Management Board, who are in turn directly responsible to Grand Council Treaty #3 in Assembly." Importantly, "Traditional Anishinaabeg practices shall be honoured and encouraged."

Treaty #3 Chiefs who had been long involved in both the politics and business of wild rice, such as Willie Wilson of Manitou Rapids, spoke strongly in favour. Many liked the approach and wished to take it back to their communities for consideration. The approach suggested was to have each First Nation pass a resolution of support for such a law, and establish a working group to consider the transition period from the Ontario Ministry of Natural Resources administration to a Treaty #3 *Anishinaabe* body. The Chiefs did not pass a resolution at this meeting. Rather, The Grand Chief was authorized to continue his inter-governmental affairs portfolio, and to push the province on Treaty implementation of resource rights as far as possible. The Grand Chief did commission consultant Fred Kelly to prepare a briefing paper outlining the work to be done to pursue an administrative transfer and political protocol with Ontario. This was done immediately.

Grand Council Treaty #3 had commissioned a thorough review of the whole Charlottetown Accord by experienced lawyers and legal scholars; the results were compiled in a binder of information for the Chiefs' fall assembly, October 1992. On

balance, the legal analysts viewed the Charlottetown Accord as having given sufficient recognition of the inherent right and as offering new processes which seemed better than what had existed at any level before. The Chiefs discussed the Accord, and asked for immediate community information sessions. During the last three weeks of October, the Grand Chief visited many of the 25 First Nations in Treaty #3 for community meeting to explain the Charlottetown Accord and its potential for treaty implementation of rights, especially to wild rice, fishing and education. However, on October 26, most First Nations across Canada joined with millions of Canadians in rejecting the Accord. (Ontario accepted it by the narrowest of margins).

After the referendum defeat, politicans across Canada scampered to shelter, vowing they'd "learned their lesson" and would concentrate on the economy from now on. In the estimation of several observers, aboriginal rights suffered a backlash in B.C. and northern Ontario. In mid November, when Grand Council Treaty #3 again raised the issue of wild rice, the Deputy Minister of ONAS put off any dates for talks.

Treaty #3 First Nations, however, had continued in their reorganization of the Grand Council Treaty #3, and in a special assembly at Couchiching First Nation, November 4th, the Chiefs and Elders formally adopted the "Declaration of Anishinabe Meenigoziwin" ('What the Creator has given us'), whose preamble proclaimed :

> "We, the Anishinabe, know that the Creator placed us here on Mother Earth as sovereign peoples of the Ojibway Nation and as part of the international human family, and
>
> Knowing that the Creator also gave us our Language, Culture, Customs and Beliefs which form a part of our Sacred Gifts as a distinct society; and
>
> Knowing that the Creator have us our laws, rights, trusts and responsibilities; and
>
> Continuing our special relationship of being at one with the land, air, water and resources therein from time immemorial; and
> Seeking for ourselves, as a nation, the freedom to continue to live in peace and harmony with Nature and all life including all of our brothers and sisters of other nations in the international community." (See Appendix 16 for full text)

The Meeingoziwin document affirmed, among other things that:

> "All Anishinabe peoples have the right of self-sufficiency through the inherent right of self-determination and self-government, ..
>
> "Our treaty relationship with The Crown in right of Canada is confirmed and as such our relationship with Canada is as Nation to Nation and her several Provinces and Territories as government to government. ...
>
> "Any agreements, treaties or jurisdictional arrangements as a nation with other nations and their governments must be based on the truer and informed consent of all of our Anishinabe in our traditional territory."

The "inherent and traditional values" recognized in Meeingoziwin included spirituality, honour, sharing, kindness, love and respect, integrity, equality" and affirmed the First Nations commitment to the sacred teachings of "Kizhi-wa-tiziwin, Ot-so-kay-nun, Ka-ge-kway-nun and Kinama-tiwi-nun as passed from generation to generation by our elders". The inherent powers and freedoms, and areas of government jurisdiction which the Anishinaabe reserved included the power and freedom "to make and enforce our own laws", "to regulate our land and property", and "to make treaties, alliances and agreements with other nations and their governments" regarding "land and land management, and natural resources" among other things.

With Meenigoziwin securely in place and in mind, Grand Council Treaty #3 proposed to Ontario in January 1993 a new initiative for recognition of Treaty rights:

> "The Chiefs and Elders of Treaty #3 believe that you and I, as the political leaders of our people, must redirect the process and set the political direction to be followed ..or civil servants will continue to ..find these issues chronically irresolvable.
> It is proposed that you and I meet soon to discuss two items:
> (i) Anishinaabe Manomin - Wild Rice. A decision from you is needed that Ontario will withdraw from the field in the Treaty #3 area.
> (ii) Statement of Respect for Treaty #3. A decision from you is needed if Ontario is going to proceed with a legally binding document or merely a statement of political intent. If the latter, then Grand Council Treaty #3 is not interested." (Jan.26, 1993 Grand Chief Kinew to Premier Rae).

In a subsequent letter to Minister of Natural Resources & Native Affairs, the Grand Chief proposed that the Ontario Statement of Respect for Treaty #3 be finalized so that "Ontario adhere to the treaty". The Grand Council called for talks to recognize fishing rights to begin immediately, and for an end to using individuals as "guinea pigs"

in testing treaty rights issues in the courts. With regard to *manomin* , the Grand Council suggested :

> "It is (an issue) in which First Nations management of the resource can be renewed without undue practical complications, or concerns by third parties. (Manomin).. presents the opportunity of putting into actual practice some of Ontario's publically declared principles." (January 28, 1993, Kinew to Wildman).

The Grand Chief proposed a joint process begin. Grand Council Treaty #3 would develop, in consultation with Ontario, a written manomin resource management law. The Grand Council of Chiefs and Elders would enact this law according to their own protocol. Thereupon, Ontario would "formally withdraw from management of the resource in all respects within Treaty #3 territory". Thereafter, Treaty #3 *Anishinaabe* government would carry out management of *manomin*, in consultation with the Crown. The details of coordination with Ontario's management system would be worked out (January 28, 1993, Grand Chief Kinew to Hon. Bud Wildman). The Minister of Native Affairs (his other portfolio of Natural Resources had been reassigned) ostensibly agreed that "technical work should commence on the appropriate steps toward recognition of Anishinaabe authority over manomin" (April 19, 1993 Treaty #3 Grand Chief to Hon. Bud Wildman). A target date for signing an agreement was set for May 26, 1993.

At a staff level, however, the mandate was not received from the Deputy and no meetings were held. "Ontario is not prepared at this time to name persons to commence the technical talks" was the message to GCT3 (April 27, 1993 Grand Chief Kinew address to Ontario)

The Grand Chief raised this problem at an April 27, 1993 Chiefs of Ontario meeting of Hon. Bud Wildman. The topic of this summit was the Statement of Political Respect and how this could be implemented, that is, what the Ontario government and Chiefs could do now that all their eggs in the constitutional entrenchment basket had been broken. Grand Chief Kinew reminded the Minister of Native Affairs of his government's commitment to respect treaty rights and the inherent right of self government. Then he

itemized numerous refusals by the Ontario government to reach a statement of respect for Treaty #3 or to recognize Treaty rights to fish - even in the aftermath of the February 1993 Ontario Court of Appeal ruling in favour of Treaty #3 fishing rights (R. v. Bombay [1993] 1 C.N.L.R. 92 (Ont. C.A.). The Grand Chief reminded the Minister of his commitment to work toward the May 26th, 1993 deadline for an agreement on recognizing Treaty rights to wild rice, while his officials stated they have no staff to meet:

> "I ask you, Sir, if we have the political will and can seconde staff from within our organizations, tribal councils and First Nations to make such an historic agreement, surely the Ontario government can do the same with its thousands of civil servants within ONAS and MNR" (April 27, 1993 address by Treaty #3 Grand Chief to Hon. Bud Wildman).

The Grand Chief reminded the Minister of the historic January 1992 meeting at Garden River First Nation, Sault Ste Marie, when the cabinet committee on the constitution agreed that the inherent right included lands and resources, and that Ontario could vacate its jurisdiction to the prior rights of First Nations. Once again, the Minister promised action. Meetings were to be scheduled, staff assigned, deadlines reestablished. None of this took place.

When a new Minister of Natural Resources was named in Ontario, the Grand Council again pursued talks on recognition of Treaty #3 rights to governance in *Manito gitaan* (June 29, 1994, Grand Chief Kinew to Hon. H. Hampton, Ontario Minister of Natural Resources). The Minister replied - during rice harvest season - that the Premier, the Minister of Native Affairs and he as Minister of Natural Resources recognized "the need to resolve outstanding matters" and were "aware of the importance of wild rice to Aboriginal peoples..and the need to address the complex set of issues related to wild rice harvesting". Then, he begged off any movement on rice by stating that Grand Council Treaty #3 and MNR were pursuing trapping negotiations and these "may lay the groundwork for progress in other natural resource negotiations" (August 24, 1994 Hon. Hampton to Grand Chief Kinew).

Grand Council Treaty #3 was succinct in its reply:

> "Treaty #3 Anishinaabeg have a Treaty, Aboriginal and Anishinaabe right to manomin (wild rice). Ontario has no business in this area and never has.
>
> We are not seeking talks to 'address the complex set of issues related to wild rice harvesting'. Instead we have every intention to seeking (sic) Ontario's implementation of our Treaty right to manomin, and of Ontario honouring its Statement of Political Respect for our inherent rights. ... Our people have a history of governance regarding all aspects of manomin which the Creator gave to our people for (sic) care for. Harvesting wild rice is only one part of this tradition, legacy and right. ... We wish to meet immediately, as has been promised several times by leaders of your government, to honour and implement Treaty #3 rights to manomin." (September 1, 1994 Grand Chief Kinew to Minister OMNR Hampton).

The Grand Chief indicated that while an Ontario-Treaty #3 trapping agreement may be proceeding, "progress in this one sphere cannot replace action to implement Treaty #3 in all spheres" (Sept.1, 1994 Grand Chief Kinew to Minister Hampton). As of 1995, no meetings to recognize Treaty #3 rights to *manomin* have taken place.

The Grand Council Treaty #3 had been undergoing a review and self-analysis for several years, as to how to make self-government a reality across the Treaty territory. Reorganization meetings at communities, with Elders, women, youth, and all interested members, had led to the declaration on fishing licences of February 1992, the Meenigiziwin Declaration of 1993, and other initiatives such as agreements with Ontario Hydro to research and negotiate rights of way as nation to corporation agreements (1991) and with Bell Canada for Treaty #3 *Anishinaabeg* to permit rights of way for fibre optic cable to cross Treaty #3 territory, subject to agreed conditions (1994). Several First Nations had entered into historic agreements with the Province of Ontario to co-manage traditional territory (Lac La Croix -Quetico Park Agreement 1994; Shoal Lake Watershed Agreement 1994). If self-government is the actual decision-making about the future of the people, land and resources, then certainly Treaty #3 First Nations were making great strides in the direction they wished.

The oldest form of traditional government within Treaty #3, the Grand Council, had undergone many metamorphoses during the several decades after Treaty. The

overarching goal was always clear: to preserve and strengthen treaty rights. The Treaty #3 First Nations of the 1990s were envisioning ways to make their treaty organization more relevant and effective to pursue that long held vision. But, thus far, talk at the table, even at the highest level of constitutional talk, had not realized the elusive goal of treaty implementation.

As of the fall of 1994, another harvest continued. *Manomin* remains on the political agenda of Grand Council Treaty #3. The recognition of Treaty #3 jurisdiction remains before the Ministers of the Crown. There have been no talks in Ontario or Manitoba to give meaning to the constitutional recognition and entrenchment of Treaty and aboriginal rights for Treaty #3. And the Treaty #3 *Anishinaabeg* believe that the metaphor of *Manito gitigaan* also remains: *manomin* -and *Anishinaabe* rights - may be submerged, but they will grow when and where tended.

Endnotes:

1. There is never one single issue to deal with at one time in politics. *Anishinaabe* politics is no exception. Grand Council Treaty #3 was seeking separate bilateral discussions with Canada to recognize Treaty #3 rights, and was participating in tripartite fora on lands & resources, policing, social services, and some land claims. As well, the Indian Commission of Ontario arranged for a mediator to listen to arguments from Ontario, Canada and Grand Council Treaty #3 regarding the issue of the import of Ontario's 1915 legislation confirming Treaty #3 reserves. When were Treaty #3 reserves in legal existence - after choosing by *Anishinaabeg* and approval by the federal government, after federal survey and acceptance, or not until the 1915 legislation?

> Although the legal positions of the three parties remained in disagreement, the mediation process was considered to be successful in that these positions were clearly presented to each side; legal problems, in particular reliance upon cases that would be decided differently by the courts if they were heard today, were identified; and areas of consensus were reached, especially regarding the validity of the Treaty. No further mediation was required and in his report, the mediator expressed his "hope that the mediation may open new doors toward a resolution of the Treaty 3 land claims at an early date." (Cottam 1994:276-7)

All claims in Treaty #3 remain outstanding almost ten years later.

2. According to TARR Director Don Jones, several including TARR staff, however, were disappointed. They had brought the Elders together, and had fluent speakers (such as Shirley Andy of Big Grassy)translate the substance of what the Elders spoke about

manomin to make the five key points. Then Don Jones had the key points translated back again into written Anishinaabe language. This was written by his mother, Nancy Jones, a fluent speaker and Anishinaabe culture and language teacher, and Don's brother Dennis Jones, a university graduate and Anishinaabe language teacher at a nearby college. A dual poster featuring both languages was to proceed. Perhaps, part of the Chiefs' delay was because written Anishinaabemowin (with an agreed upon orthography) was not widely read nor accepted across Treaty #3 in 1988, and that continues to be the case into the late 1990s. In the end, the TARR staff felt that the Elders themselves had approved this project and the wording, and how could they change it? It remains available to the Chiefs to use in the future, as guidance offered by the Elders.

3. Grand Council Treaty #3 decided to rejoin the DPI process, chaired by ICO, in 1992. By this time, its high sounding words to implement self government had become focussed on education and pilot projects to implement on a regional basis some further local control of educational programs. It was no longer a far-reaching proposal.

4. "Land claims" is a classic example of the use of oppressive language by government to maintain social control of a minority and continually assert de jure and de facto control of lands and resources. The Crown denotes the process in which a First Nation (or Treaty or non-Treaty region) asserts their rights to territory and resources as an "abopriginal land claim". It is the First Nations who are making a claim, rather than the settler-governments who arrived later and imposed a foreign system of government and law. Once this language of oppression is utilized, then the onus of proof is on the "claimant" to make the case for "ownership" of land and resources, while the Crown retains for itself the position of judge and jury. (See also Glossary for brief description of Specific Claims Policy).

5. It is said by the Liberal government elected in 1993 that the present process would be replaced by an independent commission. However, as of this writing in 1995, no concrete steps have been taken to do so.

6. For a consideration of the tensions and politiking of these times, see Sanders 1983. Another good source to consult is newspaper files, particularly Native newspapers such as The Ontario Indian and Windspeaker from Alberta.

7. This question refers to the debate about whether s.35 is a "full box" or rights including the inherent right to self-government or an "empty box" just referring to a few rights "existing" as of 1982. For more discussion see Hawkes & Peters 1986; Little Bear, Boldt & Long 1984; Boldt & Long 1985; Boldt 1993; Mercredi & Turpel1993; Richardson 1989, 1993.

8. "Domestication" of the treaties refers to the efforts in Canadian constitution making to bring Indian Treaties under Canadian jurisdiction rather than international. In Supreme Court judgments since the Constitution Act, 1982 (Simon 1985), Indian treaties have been considered "sui generis" or unique, neither a contract nor an international treaty. Treaty #6 First Nations find this ruling as evidence of a move toward "domestication", which would render First Nations in Canada similar to the "domestic dependent nation" status of tribes in the United States. It is rather the case, in the view of Treaties 6,7 in particular, that Indian treaties are international treaties which are gaining stature through the United Nations Declaration on Indigenous Peoples and through a U.N. sponsored review of treaties. In this view, Indian Nations signed treaties with the British Crown, who passed on their obligation, to Crown Canada. There is no room in this view for any but bilateral relations with Crown Canada - not the provinces. Treaty #6,

with strong support from Treaties #7 and #8, did not approve of being lumped into a "Melting pot" as "aboriginal" with Metis, Inuit and non-status Native Council of Canada. They were not supportive of any process, like the multilateral process, which equated Treaty Nations with "other aboriginals". (From notes author took in attendance at National Treaties Conference, April 1992).

9. Most of the words included in the treaties section of the Charlottetown Accord reflected Supreme Court of Canada decisions since the Constitution Act, 1982, with that sole exception of omitting the phrase "as understood by the Indians" as a guide to interpretation.

Yet, the Charlottetown Accord was an historic breakthrough as well as a confusing patchwork of recognition and potential limitation. The Canada clause of the Accord recognized:

"(b) the Aboriginal peoples of Canada, being the first peoples to govern this land, have the right to promote their languages, cultures and traditions and to ensure the inetgrity of their societies, and their governments constitute one of three orders of government in Canada."

The "inherent right to self government was recognized, and - significantly - was not considered contingent upon negotiations with the federal and provincial governments, as had been the First Ministers' position during the 1985-87 constitutional talks. Self-government rights had specific recognition and specific enforcement mechanisms, through negotiations, and after five years, through the courts.

10. The context clause to describe the inherent right of self government in the Charlottetown Accord was summarized:

> "The exercise of the right of self-government includes the authority of the duly constituted legislative bodies of Aboriginal people, each within its own jurisdiction:
>
> (a) to safeguard and develop their languages, cultures, economies, identities, institutions and traditions; and,
>
> (b) to develop, maintain and stengthen their relationships with their lands, waters and environments,
>
> so as to determine and control their development as peoples according to their own values and priorities, and ensure the integrity of their societies." (Delacourt 1993:329)

11. Indeed, to gain an understanding of First Nations perspective on their comprehension of the Charlottetown Accord and attempts by translators to convey the meaning of what their leaders were negotiating, the reader is referred to "Governing the Implicate Order:Self-Government and the Linguistic Development of Aboriginal Communities" James (Sagej) Youngblood Henderson, presented to the University of Ottawa, Faculty of Law, December 1993.

> "The contextual clause of self-government (ed: see above) was translated as the 'Aboriginal or Indian vision' or *L'nuwey*. .. The most difficult translation process was understanding the 'justiciability' clause, which created a five-year delay in enforcing the inherent right of self-government. After many discussions over a long time,

> the Mikmaq elders translated this as the 'disappearing, reappearing ink-rights' or *Keskateskewey*." (Henderson 1993:18).

12. Treaty #3 leaders attended the AFN assembly at Vancouver at the end of September and were presented with great confusion. A panel of legal experts promoting the Accord began the sessions, in a technical, legal way which put off many delegates (Kinew, 1992). When it became evident that a vote by all Chiefs might not approve the Accord, a vote was put off indefinitely. It was a portent of things to come.

13. Both National Chief Ovide Mercredi and Ontario Regional Chief Gord Peters personally contacted Premier Rae to urge that he abide by his commitment under the Charlottetown Accord, and agree to negotiate to positive conclusion the recognition of Treaty #3 jurisdiction over wild rice (Kinew 1993).

14. If there were ever a time for an Ontario government to understand and be amenable to Treaty #3 rights to *manomin* , it certainly seemed to GCT3 and the COO to be with Bob Rae's NDP government. In 1993, the Premier's principal secretary, Melody Morrison, was a longtime associate of Stephen Lewis and worked with him on the lobbying effort for the recognition of Treaty #3 rights to wild rice in 1979-80. A special consultant to the Ontario Native Affairs Secretariat, and former executive assistant to Minister Wildman, was a lawyer, Grant Wedge. He had worked for the Grand Council Treaty #3 from 1979-81 on wild rice, treaty rights and constitutional issues, and subsequently for the Chiefs of Ontario on constitutional entrenchment of treaty and aboriginal rights and other issues, and then for the Indian Commission of Ontario on claims resolution.

Chapter 14

Manito Gitigaan - Governance in the Great Spirit's Garden

Conclusions

"What is it about wild rice anyway?" , an Ontario bureaucrat asked. He seemed to wonder in all sincerity why the great Canadian compromise could not work with this environmentally-friendly cash crop. Upon further inquiry with the *Anishinaabe* people of Treaty #3, I came to realize that *manomin* is neither "rice" nor "wild". Wild rice is a member of the grass family and is North America's premier and only native grain. An annual plant which requires reseeding, wild rice extended its territory by the intentional seeding by *Anishinaabe* and other neighbouring peoples. Their aboriginal methods of taking care of the plant ensured its continuance and growth. Their system of management developed into the longest lasting form of aboriginal governance in this part of the land (Chapter 3-5).

The *Anishinaabe* people of Treaty #3 are living in 55,000 square miles of the Boundary Waters can relate their heritage back to long before recorded history. Indeed, archeological digs determine that ancestors of the present day *Anishinaabeg* have lived in that area from 8000 B.P. (Before Present). Year round settlements in the area have been excavated and determined to be 3000 years B.P., with evidence of wild rice being used by the people then (Chapter 5).

The ancient origins of the relationship of the *Anishinaabe* people to *manomin* can be traced through the rock painting of the anthropomorphized wild rice grain (Chapter 3; Appendix 3), while the present day ceremonies mark its continuing significance to the spiritual life of the Boundary Waters *Anishinaabeg* (Chapter 4). Historically, the location of village sites and reserves have been proven to be adjacent to rice fields, many the people have sowed themselves (Rajnovich 1981; Vennum 1988; Moodie 1987; Syms 1982).

The root of this word, *manomin*, indicates the people's sacred relationship to the plant. "*Man* " refers to the Creator and Great Spirit, *Kizha Manito* , who gave this gift of "*min* ", a berry or delicacy, to the *Anishinaabeg*. A more ancient term for wild rice, according to Elder Alex Skead of Wauzhushk Onigum, is *Manito gitigaan* , the Great Spirit's Garden. In this term is understood the sacred relationship of stewardship and caretaking which the *Anishinaabe* people have for *manomin*. Within this phrase is the connotation of both rights and responsibility. The *Anishinaabeg* understand their responsibility as being to the Creator, for the gifts given, a duty owed to those who have passed before, those living today, and those yet to come. The ceremonies associated with *Anishinaabe manomin* continue to ensure the growth of *manomin* and the identity of the people (Alex Skead 1988, Nancy Jones 1992).

And yet, *Anishinaabe manomin* and the governance in *Manito gitigaan* have been undermined by the myths of progress, whereby explorers thought "they (*Anishinaabeg*) reap without sowing a kind of wild oats" (Chapter 3). Such myths which undermine or ignore *Anishinaabe* science and governance contrast with the sacred myths of the *Anishinaabe* people, the *atisokaanan* which teach the people their identity, rights and responsibilities (Chapter 3,4).

In this thesis, *manomin* or wild rice has been examined from the perspective of the Treaty #3 *Anishinaabeg* in three dimensions. As a symbol, manomin signifies the conflict in the constitutional division of powers in Canada. In the Constitution Act, 1867, s.91(24) gives authority over "Indians, and Lands reserved for the Indians" to the federal government while s. 92 reserves crown lands and natural resources to the provinces. This conflict continues despite the Constitution Act, 1982 where section 35 recognizes and affirms the Aboriginal and Treaty rights of the Aboriginal peoples of Canada. *Manomin* as a symbol, then, affirms wild rice as an aboriginal and Treaty right rather than a provincial crown resource.

In fact, the culture and governance of *manomin* in the Treaty #3 area has been documented as the longest continuing form of self government in this area. The ceremonies, preparation, control of the growing period, harvesting camps where Elders regularly check the harvest and say when to pick, when to rest the rice, are all evidence of *Anishinaabe* government in Treaty #3 territory (Chapter 3-5). As Jenks described it in 1900, *manomin* provides a portrait of "an aboriginal economic activity which is absolutely unique, and in which no article is employed not of aboriginal conception and workmanship" (Jenks 1900:1019). It is a solely *Anishinaabe* exercise of authority by a people regarding a resource and the organization of their people that was untouched by successive Indian Acts and survived other forms of suppressing the sovereignty of the people such as residential schools, relocation of villages, anglicization of names, outlawing of traditional religion and ceremonies (Chapter 4, 7).

Thirdly, *manomin* can also be seen as a metaphor for the continued existence and re-assertion of aboriginal and treaty rights. Significantly for the cultural and political life of the Treaty #3 *Anishinaabeg* , it affirms the spiritual foundation of *Anishinaabe* government. One of the main *Anishinaabe* negotiators at the Treaty #3 final discussions in 1873, Grand Chief Mawedopenais, explained:

> "We think where we are is our property. I will tell you what he said when He planted us here; the rules that we should follow - us Anishinaabeg. He has given us rules that we should follow to govern us rightly." (*In* Morris 1880: 59)

Treaty #3 affirms for the people the nation-to-nation agreement that they negotiated. Although the federal government has their own printed version of Treaty #3, this document does not reflect the oral tradition of the people whose ancestors gathered in the thousands to be present at the Treaty negotiations in 1873 and whose leaders instructed several of their own to record in memory the negotiations and promises made (Chapter 6). Their oral tradition is corroborated by other written records.

While the printed federal government version is silent about wild rice and states that hunting and fishing will be subject to regulations, the Paypom Treaty and

corroborative documents state that "the Indians shall be free as by the past for their hunting and rice harvest" (Chapter 6). This freedom regarding wild rice would have included the seeding, caretaking of the growing period (eliminating competing plants, trapping predators such as muskrats, shielding rice from blackbirds by bundling the rice, and holding the water levels constant for the growing period by using beaver dams, for example), preparing for and carrying out ceremonies, preparing the tools and organizing the community for carrying out harvesting and processing, and marketing (Chapter 4,6). While the commercial use of any resource by Treaty and Aboriginal peoples is just beginning to be recognized in Canadian law (Chapter 13), for *manomin* , its exclusive and commercial use by *Anishinaabeg* is a documented historical fact (Chapter 3-6,7,9).

The "commercialization of a traditional pursuit" changed the political situation of wild rice from one of de facto *Anishinaabe* control to provincial-commercial intrusion and legislated control (Lithman 1973; see also Chapter 9,10). Historically, *manomin* was one resource that the *Anishinaabeg* of the Boundary Waters (later known as Treaty #3) reserved for themselves. And, unlike fishing and hunting, in the Treaty #3 area, there is no record or memory of white man ever being allowed to harvest *manomin* or ever doing so... until intermarriage with whites from 1950s on (Holzkamm 1984; see also Chapter 4,5,9).

From the 1930s, but increasingly in the 1950s, white entrepreneurs entered the Treaty #3 area as buyers of hand processed rice at lakeside and became the wholesalers and retailers. Hand processing of *manomin* is an elaborate activity involving curing and parching the rice to remove the moisture, thrashing or 'dancing' it to loosen husk, and then winnowing to remove the husk by shaking the husk and blowing it away (Chapter 4). These are the basic steps, with many variations according to the ingenuity of the people (Fred Green Sr., Stuart Jack). With the development of processing machines to remove the grain from the hull, entrepreneurs began to buy

green rice, just harvested off the field, and the Treaty #3 *Anishinaabeg* began to process the rice by traditional means for their own use only.

Once *manomin* is processed, it can be kept for years, indefinitely - one reason why it was so important for the fur trade. However, if sold 'green', right off the lake, the rice must be sold quickly to avoid fermentation and spoilage. Once this change occurred in the 1950s, to sell green rice at lakeside, there became increased pressure on *Anishinaabeg* to see wild rice as a "cash crop" which would provide quick monetary income (Chapter 9,10). Thus, a major economic and cultural shift occurred. Figure #38 illustrates the variables of tradition and technology affecting *Anishinaabe Manomin.*

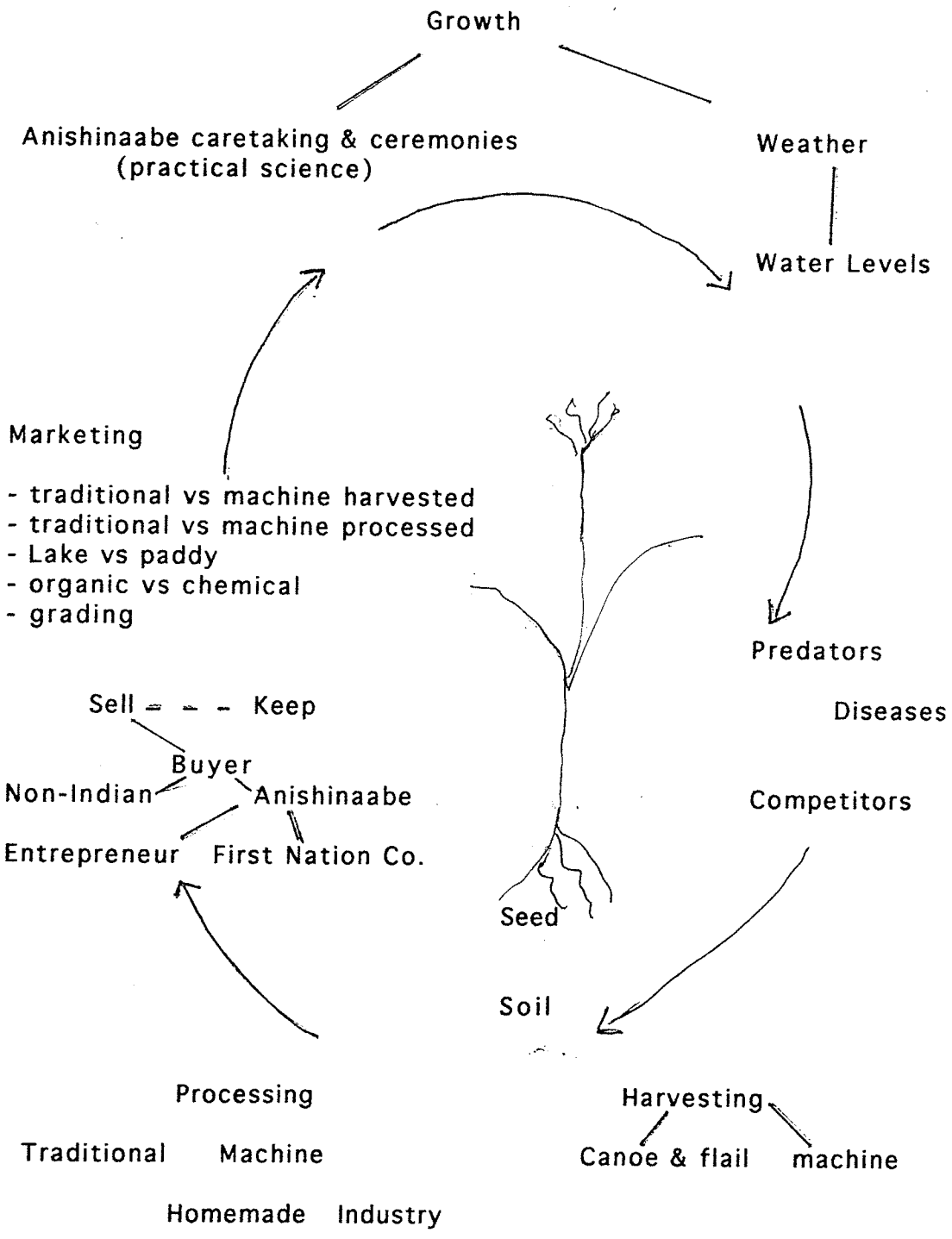
The recent history of Treaty #3 since 1873 saw the establishment in colonial law of the Ontario/Manitoba boundaries, and the infamous 1888 St. Catherine's Milling Co. case (Chapter 7). In St. Catherine's, the British Lords of the Judicial Committee of the Privy Council, who had never stepped foot in North America, ostensibly decided a case regarding which level of government in Canada (federal or provincial) could let a timber cutting license in the Treaty #3 territory. However, this judgment defined aboriginal rights as a "personal and usufructuary right ...dependent upon the goodwill of the sovereign". The effect of these two decisions was that the beneficial interest in the lands and resources of Treaty #3, which the *Anishinaabeg* had signed with the crown in right of Canada, came under the jurisdiction of the Province of Ontario, and after 1930, the western portion of Treaty #3, under the Province of Manitoba. This is the same decision that has to date deprived the Nishga, Gitskan-Wet'suwet'en, and Teme Augami people, among others, of their just day in court and recognition of their traditional governance of their lands (Chapter 13). The legacy of the St. Catherine's case has been destructive and all-pervasive.

Such cases belong to an established branch of law in Canada called "Native Law" or "Indian Law" in the United States. This law documents the interpretations that the courts of those nation-states have given to treaty and aboriginal rights and all things "Indian"

Figure 38.

Tradition and Technology

Variables of Anishinaabe Manomin



that have been considered by the courts (Chapter 13). Interestingly, Native law actually has nothing to do with what the indigenous peoples living in those nation-states would call their "law", that is what Chief Fox of the Blood Nation calls, "immemorial law".

Indeed, Native people who have become lawyers are "dismayed by the general lack of scholarship on what may be termed the Native perspective to the study of law, not how Native people view Canadian law, when, to what extent, under what circumstances these (ed: outside, imposed) laws apply to them, but rather the larger, more encompassing theories of Native epistemology, metaphysics and jurisdictional thought vested in Native people" (Dockstator1993:1).

In such indigenous thinking, the concept of Native title in Canada is necessarily much different, and expresses the "reverse usufruct" that Treaty #3 elder Nowegejick spoke of (Chapter 6). Indeed, following the thinking of Mawedopenais that the Creator made everything and "placed us Anishinaabeg here .. and given us rules that we should follow to govern us rightly", then:

> "title or interest of the Crown is a mere personal and usufructory interest dependent upon the goodwill of the Indians. The Indians have all along had a paramount estate underlying the Crown's interest. The Crown's interest is a mere burden on the title of the Indians." (Little Bear 1989:34).

The fact that *Anishinaabe* legal thinking has not yet found acceptance in Canadian Native law is reflective of Eurocentric bias (Henderson 1993). Such a system of law and governance and its suppression of Aboriginal and Treaty rights is summarized as:

> "The preamble to the Charter of Rights and Liberties states, 'whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law ..' ..I feel confident enough in saying to you that 'law' does not rule. People rule. People pass laws. people interpret laws. People enforce laws, and do so, substantially out of self-interest." (Penner in Cassidy 1992: 248)

Yet, within the federal state that is Canada, there are alternatives. This thesis about governing in the Great Spirit's Garden demonstrates the system of customary law within the context of the *Anishinaabe* relationship to the Creator and its attendant responsibilities of respect and caretaking. To understand customary law is to begin to

comprehend how much "Native law" has usurped the position and conceptualization of Indigenous "immemorial law". In "Native law", and Canadian property law, underlying "title" is held by the Crown. In customary or immemorial law, there can be no ownership of land: title is held and granted by the Creator. What exists is a relationship to the Creator, by the indigenous peoples, to care for this land and the other gifts (that is, what others or outsiders called "resources").

An *Anishinaabe* family has the right to harvest a particular field each year, and to invite others to join, because they, and their family predecessors, have cared for that ricefield for generations. Perhaps they have planted rice and extended the area, trapped muskrat around it, chased the blackbirds away, or torn the weeds out. "Thus, the rights to both the land and the resources are understood to be relational rather than possessive" (John in Little Bear 1995:14). And, for the aboriginal people, "the telling of stories arising out of the relationship to the land, renewal ceremonies, and songs is what evidences an exclusive grant from the Creator for 'relating' (Little Bear 1995:22). Indeed, "the relational network 'with all my relations' (ed:humans, animals, plants, rocks, trees included)is going to continue: "Europeans (ed: or settler Canadians) are going to be incorporated into the network" through treaties (Little Bear 1995:27). In such a philosophical approach, the basic tenets of "Native law" do not hold; rather immemorial law of the First Peoples begins with the premis of the Creator and the interconnectedness of the land and the people. Newcomers are allowed entrance to this circle through treaty-making.

Immemorial law included the consensual decision-making of the council of headmen where everyone present had a voice, and there were ceremonial ways of resolving disputes. This law spoke of resolving disputes by restoring wholeness and balance between people. The rules were based upon the sacred relationship with the Creator who "planted " the *Anishinaabeg* and all the fruits of the lands and waters for the *Anishinaabeg* to look after. This is a law in which rights and responsibilities are

interrelated and integral to any understanding of the cultural identity of the people. It is not a case, as outsiders have written, of Native rights versus crown responsibilities. Instead, it is *Anishinaabe* rights and responsibilities to the Creator, to the essence of cultural and individual identity and being. This is why Treaty #3 Elders speak of continuing the ceremonies and the rice will grow (Alex Skead 1988, Nancy Jones 1992). As elder Fred Greene stated, "Our authentic ways are still with us."(Fred Greene 1990).

Increasingly, Ontario and Manitoba have sought to assert their authority across Treaty #3 territory through legislation and enforcement of laws and regulations against *Anishinaabe* fishermen, hunters, trappers. Commercial interests also asserted their authority by cutting immense tracts of timber across Treaty #3, developing mines without benefit to *Anishinaabeg* , and flooding the Lake of the Woods, Rainy Lake, Lac Seul and other boundary waters (Chapter 11). The court judgments and subsequent major flooding and regulation by outside authorities took place without consultation or notification given to the *Anishinaabe* people, and certainly without regard to Treaty #3 (Chapter 11).

As white entrepreneurs invested more in processing and marketing, they pressed the province to become involved in this "cash crop" , which they considered to be a natural resource properly within the jurisdiction of the province under Canadian constitutional law (Chapter 8, 9, 12). *Anishinaabeg* of Treaty #3 saw this as further evidence of the concept of "kiiashkway andimog", ie, whites being 'crazy to control everything'. In 1960, the Ontario Legislature approved the Ontario Wild Rice Harvesting Act which established a permit system and provided for other measures of control (Chapter 8). (Significantly, the regulations governing the permits asked for the colour of eyes of the permit holder, an obvious indication that this legislation was not designed to protect Anishinaabe interests.)

Western law has justified and legitimized conquest and control of aboriginal peoples, lands and resources, and has acted as the "handmaiden of domination through control and regulation" (Cohen in Pue 1992). In the case of *manomin* , the Ontario Wild Rice Harvesting Act "constrained systems and provided arenas for resistance" (Cohen in Pue1992).. The OWRH Act provided for ten vast tracts of lands and waters within the Kenora and Dryden Lands & Forests districts of Ontario land within Treaty #3 to be set aside as Wild Rice Harvesting Areas for certain bands. In the southern portion of Treaty #3, ie. Ontario's Fort Frances and Thunder Bay districts, traditional areas of bands were set aside for annual permit renewal, in effect, whether applied for or not. Thus, the provincial legislation provided recognition of Aboriginal and Treaty rights through its own regulatory procedures (Chapter 8,12, 13).

The Grand Council Treaty #3 led the fight against provincial incursions into *Manito gitigaan* (Chapter 7,9 -13). In 1972 the Chiefs wed commerce and Treaty rights by forming the Anishinaabe Man-O-Min Co-op, which continued from1973-79 (chapter 10). The Chiefs wished to establish an economic presence with their Treaty and aboriginal right to exclusive use of *manomin* . During 1977-78, Grand Council Treaty #3 made strong representations to the Ontario Royal Commission on the Northern Environment, which led to the Province declaring in 1978 a five year moratorium on any new licences to harvest wild rice (Chapter 12). This moratorium continues today.

The story of *manomin* involves the development of Grand Council Treaty #3 from a traditional form of government through its years as a lobbying organization (1930s to 1990s) to its present evolution into an adapted form of traditional governance with law making ability (Chapter 7,9 -13). For example, at the 1992 Annual Assembly the Chiefs and Elders of Treaty #3 discussed a draft *Treaty #3 Anishinaabe Manomin Law* which would re-assert its own customary law across the 55,000 square miles of Treaty #3 (Chapter 13).

During the negotiations toward the Charlottetown Accord in 1991-92, and thereafter, Grand Council Treaty #3 pursued an initiative with the Premier and cabinet of Ontario that proposed to see the province vacate the legal field of *manomin* and recognize the jurisdiction of Treaty #3 immemorial law (Chapter 13). The Ontario NDP government stated it was committed to the jointly constructed and signed Statement of Political Relationship recognizing that aboriginal rights includes "an inherent right to self government". The Premier signed this SPR with status Indian leaders from across Ontario in 1990. In 1992, cabinet level meetings with Grand Council Treaty #3 and other provincial/territorial organizations in Ontario led to the further clarification that this government recognizes that inherent right to self government included lands and resources (Chapter 13). In Manitoba, Grand Council Treaty #3 lobbied hard to gain recognition of their Treaty rights under 1980s wild rice legislation. Despite political support from Opposition M.L.A.s and later positive findings by the Manitoba Inquiry into the Administration of Justice regarding wild rice as "at least an aboriginal right", Treaty rights to rice have no standing in Manitoba. Regardless of vigorous lobbying by the Treaty #3 Chiefs' organization and individual First Nations, no Crown government - Ontario, Manitoba nor Canada - has taken the concrete steps required to implement the practical recognition of *Anishinaabe* governance of *Manito gitigaan* in Treaty #3 (Chapter 12, 13) .

Ironically, the key to the recognition and implementation of Treaty rights is within the vision and grasp of all legislators in Canada: federalism.

> "Federalism gives us the key to reconciling multiple communities. We are on much more fruitful ground when our starting point is the legitimacy, in fact, desirability of multiple loyalties, multiple communities, co-existing and strengthening each other... A neat and tidy mind is an enemy of federalism." (Simeon 1990:54).

Many versions of federalism were discussed and debated throughout the Charlottetown Accord deliberations and referendum campaign in 1992, including

asymmetrical federalism, Charter- federalism, cooperative federalism, Treaty federalism (Chartrand 1995; Delacourt 1993). (Any and all are preferred to executive federalism, whose last hurrah was the two failed constitutional "Accords" of 1987 and 1992, judging by the results of the Charlottetown Referendum.)

Asymmetrical federalism allows for a differing arrangement of powers for different governments within the federation, allowing one province (or other government) to have control in jurisdictions that others may not wish to hold or exercise. Charter-federalism preaches accomodation of the "multiple Canadian conceptions of community and identity" - federalism to manage space and territorial senses of community" and the Charter addresses the identity, hopes and aspirations of the many peoples composing Canada (Cairns 1992:28-29). Cooperative federalism allows for agreements among federal, provincial and Indiegnous authorites to implement self government: "important matters as jurisdiction, financing and transitional arrangements can be handled in an orderly and amicable manner" (RCAP 1993:47).

Treaty federalism, however, returns to the older model of co-existence of two societies [2] (Bear Robe 1992; Little Bear 1989). It calls for a recognition of existing treaty arrangements or the establishment of new arrangements for co-existence through treaty. Treaty federalism acknowledges that other forms of federalism impose limits on the role and position of Indigenous nations within Canada. It understands that existing federal-provincial constitutional arenas "will always tend to lead towards the development of constitutional provisions that circumscribe Aboriginal government within a federal-provincial framework - one which does not principles of Aboriginal governing authority" (Cassidy 1994:10). Completing the circle of Confederation would mean that Canadians recognize "the right of Indigenous peoples to preserve and protect their cultural distinctiveness" (Lenihan, D. 1992:32), and that this cultural distinctiveness is based upon their traditional lands and resources. This would imply the

need for agreements between Crown governments and Indigenous governments for ownership, access, shared and exclusive use, and any other options, including "a transformation in thinking and language" (Cassidy 1994:11). [3]

Giving meaning to and implementing treaty and aboriginal rights will involve cooperation and respect to achieve recognition of jurisdiction and exercise of authority through protocols, agreements and structures. In the 1970s-90s, Grand Council Treaty #3 believed that they were raising one of the simplest ways to do so, in pressing Ontario first, and later Manitoba, to respect and recognize Treaty #3 rights of governing in *Manito gitigaan* (Chapter 12,13).

Along with strategizing for the practical implementation of Treaty rights, Treaty #3 Chiefs and leaders are considering such issues as, whether and to what extent to codify customary law. They are considering what forum (eg. Intergovernmental protocols, *Anishinaabe* processes, international tribunals) may be used to re-establish traditional laws and traditional stewardship of the lands and resources given by the Creator to the *Anishinaabeg* . The Elders continue to say simply, the traditions need to be taught and practiced, the language spoken, and the ceremonies carried out.

In reflecting on *Manito Gitigaan* from an interdisciplinary field, I looked in many directions for a paradigm that would assist in explaining the conflicts of governance at issue here (Chapter 1,2). In the communications field, Neil Postman developed a paradigm of cultures along a continuum of toolmaking, technology and technocracy. Toolmaking cultures invent tools "to solve specific, urgent problems of physical life or to serve some symbolic need in the world of art, politics or religion" (Postman 1992:22). Such tools "did not attack the dignity or integrity of the culture that produced them" and did not disrupt the inextricable wholeness of social, economic and spiritual life. Later, machines were invented to make more machines. And these tools began to play a central role in the thought -world of the culture - the mechanized clock replaced other

time measurements, the printing press replaced oral tradition. In this age of technocracy, technologies and traditions were able to "co-exist in uneasy tension"; while technology was stronger, traditions were still functional, still exerting influence (Postman 1992:48). The present age of "technopoly", Postman defines as the "surrender of culture to a totalitarian technocracy" (Postman 1992:48). "Technopoly hopes to control information and thereby provide itself with intelligibility and order" (Postman 1992:91).

The Postman paradigm has immediate application to governing in the Great Spirit's Garden. The *Anishinaabeg* first developed the tools which allowed the seeding and caretaking (via canoe), the harvesting (canoe, thrashing sticks, poles and paddles), and the processing (pots, paddles, poles, thrashers, winnowing baskets) (Chapter 3,4,5). This is "the absolutely unique economic activity .. .in which no article is employed not of aboriginal conception and workmanship" (Jenks 1900: 1019). In an era of mechanization, *Anishinaabeg* and non-*Anishinaabeg* developed machines to do the harvesting (airboats with "speedhead" attachments like wireframe baskets) and processing (parching ovens and thrashing drums). This second era of technocracy created some dissonance between the new technologies, which allowed for the separation of the stages of labour involved in caring for the crop, and the traditions, that fostered a familial closeness with the preparations for the wild rice season (Chapter 3,4). Beginning with the provincial incursions in the ricefields in the 1960s, and more increasingly with provincial statistical collection from the 1970s, the era of technopoly has sought to disassociate the *Anishinaabe* people from the Great Spirit's garden. Through the usage of provincial legislation and regulations, bureaucractic control of data and definitions, and the promulgation of research intended to wrest control of the rice from *Anishinaabeg*, governments have introduced the era of technopoly into the Great Spirit's Garden (Chapter 8,9,11,12). Technopoly is now threatening to force the original peoples from the gifts the Creator has given them. Thus, the provincial ideology

Figure 39

Chart 1: Organic Model of Expression/Suppression of Anishinaabe Rights

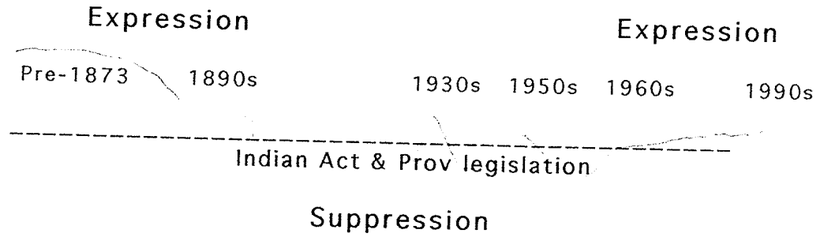


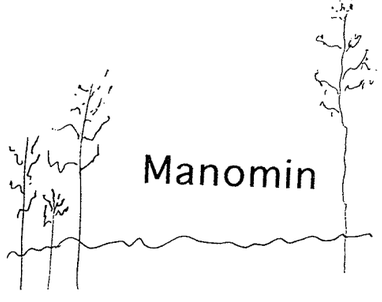
Chart #2: Organic Model - comparison of Manomin & Anishinaabe Rights

Manito Gitigaan
Anishinaabe ceremonies &
Care-taking activities

Treaty #3
Oral tradition
safeguarding spirit & intent

Paypom Treaty

Continuation of language
ceremonies, traditions



⟵ Relationships ⟶

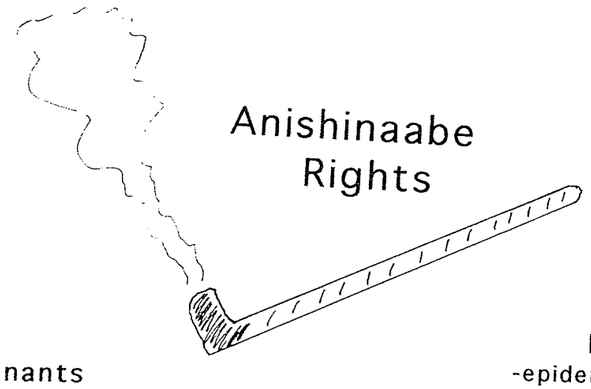
Anishinaabe cultural traditions
of Manominikenshii

Anishinaabemowin language

Anishinaabe spirituality & Mite'iwin

Anishinaabe governance & stewardship
in Manito Gitigaan

Anishinaabe Identity



Environmental determinants

Water Levels*
*(affected by Crown regulatory bodies as well)

Weather

Predators
-muskrats,
blackbirds,bugs

Diseases

Competitors
-water plants

Soil conditions

Environmental determinants
-political climate
-backers of movement for
Equal rights vs Treaty rights

Predators -
Indian Act suppression
of gov't, culture, language,
religion
(including residential schools)

Diseases
-epidemics followed
by alcohol abuse, mercury
contamination & other polluta
-disease of the soul
- lost identity as internal threat to Na

Predators & Competitors
Dispossession of Lands & Resources
by Crown gov'ts thru'
courts, legislation, enforcement
policies & 'rule of outside law'

of Crown resources and economic development is confronting the *Anishinaabe* ideology of the Great Spirit's Garden. The *Anishinaabeg* understand that their concept of *Manito gitigaan* involves the *Anishinaabe* stewardship responsibility to care for the Garden and their identity as a people that this responsibility entails.

To relate and analyze this story of the Great Spirit's garden in Treaty #3 requires understanding an *Anishinaabe* perspective, concepts and language. A model in the English language may be developed from the concept of "supressed sovereignty", a phrase from law argued in the eastern United States case on behalf of the Mashpee people (Brodeur 1978). It speaks of the continuation of sovereignty or right of self rule by a people, and at the same time, the activities of an outside force to overwhelm and subvert that self rule . A model then of "expressed (or asserted) sovereignty" and "suppressed sovereignty" is well applicable to the story of *Manito Gitigaan* , the Great Spirit's Garden. And, it fits well with the paradigm of organic rights, which grow and evolve within a people as well, despite the effects of opponents (predators), internal pressures (disease), or environmental determinants (Figure #39).

Just as *manomin* needs *Anishinaabe* protection from predators such as muskrat, blackbirds and moose, so too treaty and aboriginal rights require *Anishinaabe* protection from their 'predators' (seeking to eliminate them or their rights) and competitors (seeking to intrude and take over their territory). Such opponents speak of the primacy of "equal rights" and mask the dispossession of the *Anishinaabeg* of their land and resources by the "rule of law". As Penner has noted, "law does not rule. People rule. " And they pass laws, interpret and enforce them, and "do so substantially out of self-interest" (*In* Cassidy 1992:247-252). Opponents of treaty and aboriginal rights speak in laudatory terms of antiquated and Eurocentric decisions of courts and governments which have perpetuated Crown supremacy, even against the prior occupation of the First Peoples. Treaties, on the other hand, can be seen in the context of expressing the co-

existence and inter-connection or relationship of two peoples, two governments, two worldviews. [2]

Manomin must also resist disease, as must *Anishinaabeg* resist the everpresent temptations of assimilation and acculturation. To maintain treaty and aboriginal rights means that a member of that society states "I am *Anishinaabe* " (or another culture) and "the survival of my culture and my people means that I need to act according to my understanding of that culture". The internal threat to the protection and strengthening of treaty and aboriginal rights is like a disease. It can strike at any time, at any part of the body. This 'disease' needs both prevention (through active participation in culture, ceremony, language) and treatment (revitalization of cultural activites, ceremonies, language) in order to ensure survival and health. The need for prevention and treatment of such a disease has been described forcefully in comparison to a twentieth-century nation-state, with ancient roots:

> "..the survival of Indians as Indians depends primarily upon cultural revitalization within a framework of traditional philosophies and principles, not upon political sovereignty. Put another way, revitalized Indian cultures are a prerequisite for political sovereignty, not the reverse. Jewish culture survived for thousands of years without benefit of political sovereignty. But the Jewish state would have been impossible without the survival of Jewish culture." (Boldt 1993: 201)

Given soil conditions conducive to growth, such as opportunity to join speakers and practitioners of the Anishinaabe language and culture, then the disease described is less likely to take hold.

The environmental determinants of *manomin* such as water levels and weather have their counterpart in human life in the political climate of each succeeding era. Treaty #3 *Anishinaabe* culture, religion, government and way of life have been under seige since first contact, and more graphically so, since the Treaty-signing in 1873: first, by the Crown imposition of the Indian Act and by Crown protection of non-Indian business interests, then by their imposition of missionary teachers, schools and

residential schools, and finally by provincial incursions in natural resources, education and social services. When the right to *Anishinaabe* governance in *Manito gitigaan* is undermined, so too is the culture of the *Manominikenshii* (Chapter 3,4). So too is the connection or relationship of *manomin* to the *Anishinaabemowin* language, the *Mite'iwin* religion, the identity of a people. To protect this right is to ensure the survival of the *Anishinaabe* people.

The political climate of the late twentieth century is certainly more amenable to respect for treaty and aboriginal rights than that of one hundred years ago. Rights have been protected by First Nations forcing their way "out of irrelevance" and into the front seats of constitution making and resource development decisions in Canada.

This model of "expressed vs suppressed sovereignty" also assists in analyzing and understanding the conflicts inherent in the federal state of Canada. Each level of government has historically acted to protect its sovereignty - First Nations, Canada, Provinces. While the treaty making eras of the 18th and 19th centuries were greeted by Indigenous peoples as offering peaceful co-existence of peoples, cultures and laws, these intergovernmental-relations instead led to conflict of laws.

The *Anishinaabeg*, and other aboriginal governments trace the roots of their governments back to a time before recorded history. The "responsible government" of Canada and the provinces has very definite roots (and dates) in British, French, American and early Canadian history of the past few centuries. Yet, despite being recent arrivals from the same legal, political and social tradition, each Crown govenment has sought to extend its authority and jurisdiction, at the expense of the other, and certainly at the displacement and dispossession of the First Peoples (Chapter 7). Aboriginal governments have always sought co-existence, <u>with</u> the Crown respecting and recognizing their inherent rights (Chapter 7,12,13).

This model of expressed vs suppressed sovereignty can be used to understand present conflicts. Yet to find a way beyond such conflicts, it is useful to look to an

interdisciplinary field of law. Legal pluralism considers how customary or folk law is enhanced or undermined by state laws, and how state laws may be modified or adjusted to make way for the reassertion and/or continuation of customary aboriginal law (Morse & Woodman 1987; Dockstator 1993; Saugeen 1992; Boldt 1993; Little Bear 1989) . Legal pluralism provides an interdisciplinary perspective to add to the field of aboriginal or "immemorial" law which documents and analyzes EuroCanadian law and its effects on aboriginal peoples (University of Manitoba Legal Pluralism Seminar, November 1992)

Within *Anishinaabe* governance in *Manito gitigaan*, one can discover an "Indian common law", or unwritten rules that have guided past behaviour and continue to do so today (Zion, in Morse & Woodman 1987:123-4). Such aboriginal customary law can be seen to be "a definable body of rules, practices and traditions accepted by the community or traditional society" which may exist "as part of an oral culture, with no written codes" (Crawford et al, in Morse & Woodman 1987:37). The "almost perfect system" as Treaty #3 Elder Fred Greene described the *Anishinaabe* governance in *Manito gitigaan* continues into today and has the ability to be recognized by outside Crown governments without overemphasis on codification. Treaty #3 First Nations can determine the format and the extent of writing in any Treaty #3 Anishinaabe Manomin Law of the future, according to the principles they have outlined in Meenigoziwin 1993 (Chapter 13). These are not the political concepts that one expects from a government: spirituality, honour, kindness, sharing, love and respect, integrity and equality. Yet, these allow for the tradition of consensual decision-making to prosper. These values allow for ceremonies to play an integral part of social and political life. In *Manito gitigaan*, ceremonies are a part of every aspect of *manomin*, from making offerings in the bush before taking the cedar and carving the thrashing sticks, to offering tobacco into the water and offering a prayer of thanksgiving, to preparing the first bowl of rice for feasting with family and community. "Ceremony builds social policy... and sets out the

processes which have to be followed prior to moving into a position of responsibility" (Hodgson 1992:7). This is an essential uniqueness of *Anishinaabe* governance, which has been characterized as "oral social policy" (ibid), and it explains much about why *Anishinaabeg* are reluctant to legislate and codify their traditions:

> "Mainstream society thinks you can legislate behaviour. We believe social policy is built by role models and setting new community norms. ... Social policy dictated who, and how, people became leaders - what processes they had to go through. ... You gotta earn it. You don't get something for nothing." (Hodgson 1992:7)

Thus, when the Treaty #3 Elders speak of the need to practice the ceremonies and the rice will return, they are speaking in many dimensions deeper than first thought. Upon some considered reflection, other meanings would be revealed. The significance of ceremony in *Anishinaabe* political and social life. The stewardship inherent in *Manito gitigaan.* The inextricability of the culture of *manominikenshii*, the language of *Anishinaabemowin*, and *Anishinaabe* spirituality and identity.

There are opportunities in federalism for aboriginal and treaty rights to be implemented: "State law may replace, reform or conserve the norms and concepts of customary law" (Morse & Woodman 1987:1). Is there room for a people simply continuing to act according to traditions that predate the recorded history of Canada?

The story of *manomin* in Treaty #3 is one in which outside nation-state law seeks to replace and usurp the customary law of the Boundary Waters *Anishinaabeg* . Grand Council Treaty #3 and member First Nations are working to halt what they term ethnocide. They want the traditional laws of *Manito gitigaan* to be recognized and conserved. Treaty #3 *Anishinaabeg* assert that it is their right to determine how customary laws will operate into the next millenium.

This thesis has studied Treaty #3 *Anishinaabe* people, "not as the subject of government policies" but rather to understand how, over a period of more than one hundred years, they have sought to "create and re-create their governments" (Cassidy 1990:74).

Manomin continues to overcome historic and pervasive threats to its survival. Predators, competitors, environmental hazards of changing water levels and weather are among the many factors that affect the growth of *manomin*. So too, Treaty #3 *Anishinaabe* people see themselves as emerging from a prolonged period of what they characterize as "suppressed sovereignty" into an era of "expressed sovereignty". To the people of Treaty #3, *Anishinaabe* governance in the Great Spirit's Garden is an expression of their continued sovereignty and their continued taking care of their responsibility to *Kizhe Manito* for all the gifts, for the rules to live by, for the life of their people. Just like *manomin*, Treaty #3 *Anishinaabe* rights will continue as long as there is a seed.

Mi'kaikitowat. Mi'akaakitowakobanin. Mi'initimun.

Endnotes:

1. Professor Catherine Bell of the University of Alberta Law School also expressed derision at the Delgamuukw decision and the judge's view of aboriginal rights as "vague and ill-defined'...dependent upon "ordinary usage". Said Bell, "Sounds exactly like common law to me." (University of Manitoba Legal Pluralism Seminar, 1993).

2. "Two peoples, two governments, two worldviews" is to be understood in the generic sense of two referring to "Indian" and "non-Indian". This may refer to "Indian" as the 53 remaining aboriginal language groupings or the 500+ First Nations or the number of

Treaty or aboriginal title areas, and "non-Indian" as any number of immigrant groups who have stayed in Canada in the past few centuries.

To speak of "two peoples .." is to speak in terms suggested by the Two Row Wampum that the House of Commons Special Committee on Indian Self-Government selected for their logo in 1983:

> "When the Haudenosaunee first came into contact with the European nations, treaties of peace and friendship were made. Each was symbolized by the Gus-Wen-Tah or Two Row Wampum. There is a bed of white wampum which symbolizes the purity of the agreement. There are two rows of purple, and those two rows have the spirit of your ancestors and mine. There are three beads of wampum separating the two rows and they symbolize peace, friendship and respect.
>
> These two rows will symbolize two paths or two vessels, travelling down the same river together. One, a birch bark canoe, will be for the Indian people, their laws, their customs and their ways. The other, a ship, will be for the white people and their laws, their customs, their ways. We shall each travel the river together, side by side, but in our own boat. Neither of us will try to steer the other's vessel.
>
> The Principles of the Two Row Wampum became the basis for all treaties and agreements that were made with the Europeans and later the Americans. Now that Canada is a fully indepdendent nation, perhaps it will be possible to strike up the Two Row Wampum between us, so that we may go our ways, side by side, in friendship and peace.
>
> -excerpted from presentations to the Special Committee by the Haudenosaunee Confederacy and from Wampum Belts by Tehanetorens. (Back cover, the Report of the House of Commons Special Committee on Indian Self-Government in Canada, 1983)

3. Conflict about any sort of federalism ensues when it is presented to Aboriginal peoples as a definition or limit to their authority. This was the case when the Royal Commission on Aboriginal Peoples lobbied for the inclusion of aboriginal self-government in any revision to the Canadian Constitution:

> "any new constitutional provision dealing with the Aboriginal right of self-government should satisfy six criteria. It should indicate that the right is inherent in nature, circumscribed in extent, and sovereign within its sphere. The provision should be adopted with the consent of the Aboriginal peoples, and should be consistent with the view that Section 35 may already recognize a right of self-government. Finally, it should be justiciable immediately."
> (RCAP "The Right of Self-Government and the Constitution: A Commentary", February 13, 1992:23).

This commentary managed to infuriate the AFN National Chief, who resented the RCAP official pronouncements on a delicate issue in negotiations toward what became the Charlottetown Accord, and the western numbered treaties, who most vociferously considered their treaties to be international, certainly not "circumscribed". Yet, the inherency of self-government was becoming an accepted fact of Canadian political life, and the Liberal government elected in 1993 agreed that they would act as if it were already recognized in the Constitution (Chapter 13).

GOVERNING IN THE GREAT SPIRIT'S GARDEN

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Appendix 1:A

Guide Questions for unstructured interviews of Treaty #3 *Anishinaabeg*
(Exploratory and probing questions on specific issues would follow)

How do you feel about wild rice, manomin? What is important about it to you? Do you practice ceremonies around manomin, with manomin?

How do you use it? Do you harvest, process, keep, sell manomin?

How do you view *Anishinaabe* control of wild rice? In what ways do/did *Anishinaabeg* control wild rice? How would it work today? or what would it take to get there?

What conflicts are involved in wild rice?

What role did you play in the development of strategy at Grand Council Treaty #3 (or your First Nation? or at Anishinahbe Man-O-Min Co-op? or at OIWRDA?)

How does the policy process work at GCT3? In tripartite (GCT3-Ont-Canada)?

What do you think the federal gov't role is, vis a vis GCT3 and tripartite?

What do you think the Ontario govt role is, vis a vis GCT3 and tripartite?

How do you see the role of the Indian Commission on Ontario?

How do you view Indian self-government? What does it mean to you?

Guide questions for unstructured interviews with federal & provincial officials. (Exploratory and probing questions on specific issues would follow)

What role do you and did you play in policy making re: wild rice?

How does your policy procvess work?

How do you/did you involve Treaty #3 *Anishinaabeg* in your policy-making? At what point, when?

At what point do you/did you involve the other level of Crown govt?

What do you know of wild rice?

What do you know about Treaty #3 Anishinaabeg and their cultural connection to manomin?

What is your opinion about Treaty #3 Anishinaabeg control of wild rice?

What are the conflicts involved?

What is a workable model to resolve these conflicts? What would it take to get there?

What is your view of Indian self-government?

Appendix 1B : List of People Interviewed for this thesis

Treaty #3 Anishinaabeg

Mr. Tobasonakwut Peter Kinew, Ojibways of Onigaming, Key informant

Mr. Raymond Bruyere, Elder & former rice buyer, Couchiching, Oct. 6, 1990
Mr. Tom Bruyere, (then) Director of Economic Development, Pwi Di Goo Zing Advisory Services, Couchiching, Oct.6, 1990
Mr. Eli Carpenter, Wabeseemong, July 17, 1990
Mrs. Evelyn Copenace, Onegaming, July 3, 1990
Mr. George Crow, (then) Chief, Whitefish Bay Sept.12, 1990
Mr. Don Jones, Director, Treaties & Aboriginal Rights Research (TARR), Grand Council Treaty #3, Fort Frances, Nicickousemenecaning, July 12, Aug.23,1990
Mrs. Nancy Jones, Nickicousemenecaning August 1992
Mr. Phil Gardner, Elder (Chief for 22 years), Eagle Lake, Oct.5, 1990
Mr. Fred Greene, Elder, Shoal Lake #39 , July 5, 1990
Mr. Harold (Sonny) McGinnis Jr., (then) Executive Director, Grand Council Treaty #3, Manitou Rapids, July 14, 1990
Mrs. Nancy Morrison, Kenora January 9, 1992
Mr. Charlie Perreault, Eagle Lake, Oct.5, 1990
Mr. Joe Pitchinese, Kagiwiosa Manomin Ltd., Wabigoon F.N. Oct.4, 1990
Mr. Archie Potson, (then) Executive Director, Ontario Indian Wild Rice Development Agency, Seine River, Oct.19, 1990
Mr. Walter Oshie, Elder, Northwest Angle #34, July 3, 1990
Mr. Herb Redsky, Rice buyer, former President OIWRDA, October 4, 1990
Mr. Ron Sandy, Rice buyer, Northwest Angle #33 *, October 1990
Mrs. Josephine Sandy, Rice business bookkeeper, Northwest Angle #33*, October 1990
Mr. Pete Seymour, Elder, Wauzhushk Onigum, Aug.25, 1990
Mr. Charles Wagamese, (Then) Acting Executive Director, Grand Council Treaty #3, Wabeseemong Sept. 13, 1990
Mr. Willie Wilson, (then) Chief, Manitou Rapids, Oct.19, 1990
Mr. Jim Windigo, Elder, former Chief & Man-O-Min Co-op Board member Oct. 6, 1990
Mr. Frank White, Elder, Whitefish Bay , Oct.27, 1990
Mr. Bert Yerxa, Elder and former Man-O-Min Board member, Couchiching Oct.19, 1990

Government of Ontario

Mr. Grant Wedge, Executive Assistant to Minister of Natural Resources & Native Affairs, Toronto November 14, 1990
Mr. Mel Crystal, Senior Negotiator regarding Native Issues, Ontario Ministry of Natural Resources, Nov. 14, 1990*
Ms. Monika Turner, Resource Policy Advisor for Outdoor Recreation, OMNR, Nov. 14, 1990*
Dr. Lise Hansen, Policy Analyst, Ontario Native Affairs Directorate, Nov.16, 1990*
Mr. Victor Lytwyn, Researcher, Ontario Native Affairs Directorate, Nov. 16, 1990*

Government of Canada

Mr. Jules Hebert, Director, Economic & Employment Services,, INAC, Toronto,
Mr. Bob Bibeau, Economic Development Officer, INAC, Toronto, Nov.14, 1990
Mr. Greg Hancock, Business Development Advisor, INAC, Ontario, Nov.15, 1990
Mr. R.E. Hadfield, Associate Director, Lands, Revenue & Trusts, INAC, Ontario Region,
Mr. Peter Wyze, Economic Development, INAC, Ottawa Nov. 15, 1990 (telephone interview)

Other

Mr. Leo Waisberg, Ethnohistorian and consultant to Grand Council Treaty #3 TARR, Kenora, July 20, 1990

Dr. Peter F. Lee, Professor of Biology, Lakehead University, August 23, 1990

Mr. Laurie Catherall, (then)Executive Director, Pwi Di Goo Zing Advisory Services, Fort Frances (tribal council support staff), Aug.20, 1990

Mr. John Dennehy, (former Community Development Director, Grand Council Treaty #3 1972-74) Winnipeg, Sept.26, 1990

Primary Sources: Files

I would like to thank the following people and organizations for allowing me access to their files of correspondence and reports regarding the years 1970s-1980s, and public archive material from 1873-1960s:

Don Jones, Research Director,
Grand Council Treaty #3, Treaties and Aboriginal Rights Research

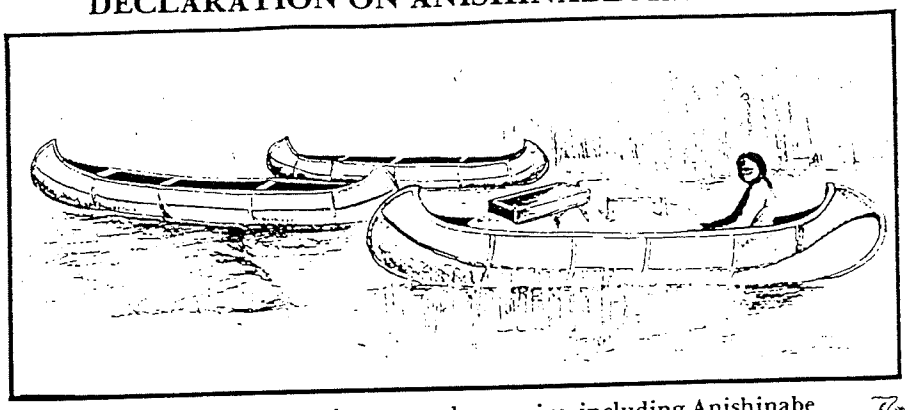
Jules Hebert, Director of Economic & Employment Development, Indian & Northern Affairs, Ontario Region, Toronto, Ontario

Ralph Abramson, Director,
Manitoba Treaties & Aboriginal Rights Research Centre, Winnipeg

Bennett McCardle, Head Archivist,
Public Archives of Ontario

2.

GRAND COUNCIL TREATY #3 NATION DECLARATION ON ANISHINABE MANOMIN



1. The Creator put what we need to survive, including Anishinabe Manomin, on the land. He gave this to us. We have a duty to protect these things for future generations. If we do not, there will be trouble ahead.

2. Anishinabe Manomin is a sacred gift from the Creator. It must be used properly, according to the Elders' teachings. It must be respected and honoured.

3. Anishinabe Manomin was not given to the white people by the Creator. They do not know how to respect it. We did not give it to the white people in the Treaty or at any time. The Treaty agreement was that we would keep the Anishinabe Manomin. It says:

> *"The Indians will be free as by the past for their hunting and rice harvest."*

If that was not in the Treaty then there is no Treaty and the white people should go home.

4. How Anishinabe Manomin should be planted, picked, processed and sold will be decided in our communities, according to our Elders.

5. Our rights are from the Creator and guaranteed in the Treaty. If we honour the Creator, and if the white people honour the Treaty, we will not lose our rights. The white people must honour the Treaty because it says:

"This Treaty will last as long as the sun will shine and water runs, that is to say forever."

Declared by the Chiefs of the Treaty #3 Nation.

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