

COURT OF APPEAL OF ALBERTA

COURT OF APPEAL FILE NUMBER: 1703-0195AC

TRIAL COURT FILE NUMBER: 1103-14112

REGISTRY OFFICE: EDMONTON



IN THE MATTER OF THE TRUSTEE ACT, RSA 2000, c T-8, AS AMENDED, and

IN THE MATTER OF THE SAWRIDGE BAND INTER VIVOS SETTLEMENT CREATED BY CHIEF WALTER PATRICK TWINN, OF THE SAWRIDGE INDIAN BAND, NO 19 now known as SAWRIDGE FIRST NATION, ON APRIL 15, 1985 (the "1985 Sawridge Trust")

APPLICANTS: MAURICE STONEY AND HIS BROTHERS AND SISTERS

STATUS ON APPEAL: Appellant
STATUS ON APPLICATION: Respondent

RESPONDENTS: ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE and CLARA MIDBO, as Trustees for the 1985 Sawridge Trust

STATUS ON APPEAL: Respondents
STATUS ON APPLICATION: Interested Party

RESPONDENT: PUBLIC TRUSTEE OF ALBERTA

STATUS ON APPEAL: Not a Party to the Appeal
STATUS ON APPLICATION: Not a Party to the Application

INTERVENOR: SAWRIDGE FIRST NATION ("Sawridge")

STATUS ON APPEAL: Respondent
STATUS ON APPLICATION: Applicant

DOCUMENT

OTHER MATERIALS RELIED ON BY SAWRIDGE FIRST NATION ON SECURITY FOR COSTS

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF

Parlee McLaws LLP
1700 Enbridge Centre

Filed on the following condition(s):

Complete T. of Contents req'd

to be met by date: Nov 20/17

see the applicable Mandatory Requirements

Back/Return Form for an explanation of the enumerated conditions)

{E7606119.DOCX; 1}

COURT OF APPEAL OF ALBERTA

COURT OF APPEAL FILE NUMBER: 1703-0195AC

TRIAL COURT FILE NUMBER: 1103-14112

REGISTRY OFFICE: EDMONTON

IN THE MATTER OF THE TRUSTEE ACT, RSA
2000, c T-8, AS AMENDED, and

IN THE MATTER OF THE SAWRIDGE BAND
INTER VIVOS SETTLEMENT CREATED BY
CHIEF WALTER PATRICK TWINN, OF THE
SAWRIDGE INDIAN BAND, NO 19 now known as
SAWRIDGE FIRST NATION, ON APRIL 15, 1985
(the "1985 Sawridge Trust")

APPLICANTS: MAURICE STONEY AND HIS BROTHERS AND
SISTERS

STATUS ON APPEAL: Appellant
STATUS ON APPLICATION: Respondent

RESPONDENTS: ROLAND TWINN, CATHERINE TWINN,
WALTER FELIX TWIN, BERTHA
L'HIRONDELLE and CLARA MIDBO, as Trustees
for the 1985 Sawridge Trust

STATUS ON APPEAL: Respondents
STATUS ON APPLICATION: Interested Party

RESPONDENT: PUBLIC TRUSTEE OF ALBERTA

STATUS ON APPEAL: Not a Party to the Appeal
STATUS ON APPLICATION: Not a Party to the Application

INTERVENOR: SAWRIDGE FIRST NATION ("Sawridge")

STATUS ON APPEAL: Respondent
STATUS ON APPLICATION: Applicant

DOCUMENT **OTHER MATERIALS RELIED ON BY SAWRIDGE
FIRST NATION ON SECURITY FOR COSTS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF **Parlee McLaws LLP**
1700 Enbridge Centre

PARTY FILING THIS DOCUMENT

10175 – 101 Street NW
 Edmonton, AB T5J 0H3
Attention: Edward H. Molstad, Q.C.
 Telephone: (780) 423-8500
 Facsimile: (780) 423-2870
File Number: 64203-21/EHM

CONTACT INFORMATION OF ALL
OTHER PARTIES:

Dentons LLP
 2900 Manulife Place
 10180 – 101 Street NW
 Edmonton, AB T5J 3V5
Attention: Doris Bonora & Erin Lafuente
 Telephone: (780) 423-7188
 Facsimile: (780) 423-7276
 Counsel for the Sawridge Trustees

McLennan Ross LLP
 600 McLennan Ross Building
 12220 Stony Plain Road NW
 Edmonton, AB T5N 3Y4
Attention: Karen Platten, Q.C.
 Telephone: (780) 482-9200
 Facsimile: (780) 482-9100
 Counsel for the Sawridge Trustee, Catherine Twinn

Maurice Felix Stoney
 500 4th Street NW
 Slave Lake, AB T0G 2A1

LIST OF OTHER MATERIALS

- Tab A** Court Access Control Order for Maurice Felix Stoney
- Tab B** Transcript from July 28, 2017 Hearing
- Tab C** Affidavit of Roland Twinn sworn September 21, 2016 with Exhibits
- Exhibit "1"** Copy of the Federal Court of Appeal's June 13th, 2000 Decision in Huza v. Canada
- Exhibit "2"** Roland Twinn's Affidavit of June 26, 2012 with Exhibits
- Exhibit "3"** Copy of Justice Barnes' Reasons for Judgment in Federal Court Docket: T-923-12
- Exhibit "4"** Counsel's correspondence and the Certificate of Assessment regarding Federal Court Docket: T-923-12
- Exhibit "5"** Decision of the Deputy Chief Commissioner of the Canadian Human Rights Commission issued April 15, 2015
- Exhibit "6"** Bill of Costs as accepted by the Assessment Officer in Court of Appeal File No: 1603-0033AC filed June 14, 2016

Tab A

COURT FILE NUMBER 1103 114112

COURT Court of Queen's Bench of Alberta

JUDICIAL CENTRE Edmonton

APPLICANT Maurice Felix Stoney

RESPONDENTS Roland Twinn, Catherine Twinn, Walter Felix Twin, Martha L'Hirondelle and Clara Midho, as Trustees for the 1985 Sawridge Trust, the Public Trustee of Alberta, and the Sawridge Band

DOCUMENT **COURT ACCESS CONTROL ORDER FOR MAURICE FELIX STONEY**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF THE PARTY FILING THIS DOCUMENT Justice D.R.G. Thomas,
Alberta Court of Queen's Bench
Judicial District of Edmonton
3rd Floor – Law Courts Building
1A Sir Winston Churchill Square
Edmonton, Alberta T5J 0R2

DATE ON WHICH ORDER WAS PRONOUNCED: September 12, 2017

NAME OF THE JUDGE WHO MADE THIS ORDER: Honourable D.R.G. Thomas



WHEREAS on July 12, 2017 this Court dismissed the Application of Maurice Felix Stoney and "His Brothers and Sisters" to be added to Docket 11103 14112 action, that decision reported as *1985 Sawridge Trust v Alberta (Public Trustee)*, 2017 ABQB 436;

AND WHEREAS on concluding that the Application of Maurice Felix Stoney disclosed indicators of vexatious and abusive litigation;

AND UPON the Court receiving and reviewing written submissions filed on behalf of Maurice Felix Stoney and others concerning whether his access to Alberta courts should be restricted, and if so, the scope of those restrictions;

AND UPON THE COURT'S OWN MOTION;

IT IS HEREBY ORDERED THAT:

1. The Interim Court Filing Restriction Order for Maurice Felix Stoney made and filed July 12, 2017 is vacated.
2. Maurice Felix Stoney is prohibited, under the inherent jurisdiction of the Alberta Court of Queen's Bench, from commencing, or attempting to commence, or continuing any appeal, action, application, or proceeding in the Court of Queen's Bench or the Provincial Court of Alberta, on his own behalf or on behalf of any other person or estate, without an order of the Chief Justice or Associate Chief Justice, or Chief Judge, of the Court in which the proceeding is conducted, or his or her designate, where that litigation involves any one or more of:
 - (i) the Sawridge Band,
 - (ii) the 1985 Sawridge Trust,
 - (iii) the 1986 Sawridge Trust,
 - (iv) the current, former, and future Chief and Council of the Sawridge Band,
 - (v) the current, former, and future Trustees of the 1985 Sawridge Trust and 1986 Sawridge Trust,
 - (vi) the Public Trustee of Alberta,
 - (vii) legal representatives of categories 1-6,
 - (viii) members of the Sawridge Band,
 - (ix) corporate and individual employees of the Sawridge Band, and
 - (x) the Canadian federal government.
3. Maurice Felix Stoney is prohibited from commencing, or attempting to commence, or continuing any appeal, action, application, or proceeding in the Court of Queen's Bench or the Provincial Court of Alberta, on his own behalf or on behalf of any other person or estate, until Maurice Felix Stoney pays in full all outstanding costs ordered by any Canadian court.
4. The Chief Justice or Associate Chief Justice, or Chief Judge, or his or her designate, may, at any time, direct that notice of an application to commence or continue an appeal, action, application, or proceeding be given to any other person.
5. Maurice Felix Stoney must describe himself, in the application or document to which this Order applies as "Maurice Felix Stoney", and not by using initials, an alternative name structure, or a pseudonym.

6. Any application to commence or continue any appeal, action, application, or proceeding must be accompanied by an affidavit:

(i) attaching a copy of the Order issued herein, restricting Maurice Felix Stoney's access to the Alberta Court of Queen's Bench and Provincial Court of Alberta;

(ii) attaching a copy of the appeal, pleading, application, or process that Maurice Felix Stoney proposes to issue or file or continue;

(iii) deposing fully and completely to the facts and circumstances surrounding the proposed claim or proceeding, so as to demonstrate that the proceeding is not an abuse of process, and that there are reasonable grounds for it;

(iv) indicating whether Maurice Felix Stoney has ever sued some or all of the defendants or respondents previously in any jurisdiction or Court, and if so providing full particulars;

(v) undertaking that, if leave is granted, the authorized appeal, pleading, application or process, the Order granting leave to proceed, and the affidavit in support of the Order will promptly be served on the defendants or respondents;

(vi) undertaking to diligently prosecute the proceeding; and

(vii) providing evidence of payment in full of all outstanding costs ordered by any Canadian court.

7. Any application referenced herein shall be made in writing.

8. The Chief Justice or Associate Chief Justice, or Chief Judge, or his or her designate, may:

(i) give notice of the proposed claim or proceeding and the opportunity to make submissions on the proposed claim or proceeding, if they so choose, to:

a) the involved potential parties;

b) other relevant persons identified by the Court; and

c) the Attorney Generals of Alberta and Canada.

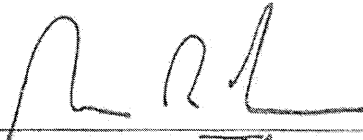
(ii) respond to the leave application in writing; and

(iii) hold the application in open Court where it shall be recorded.

9. Leave to commence or continue proceedings may be given on conditions, including the posting of security for costs.

10. An application that is dismissed may not be made again.

11. An application to vary or set aside this Order must be made on notice to any person as directed by the Court.
12. The exception granted in the Order made by Associate Chief Justice Rooke on July 20, 2017 in the matter of *Nussbaum v Stoney*, Alberta Court of Queen's Bench docket 1603 03761 shall apply to this Court Access Control Order.



D.R.G. Thomas *Thomas*
JUSTICE OF QUEEN'S BENCH OF ALBERTA

ENTERED this 12 day of Sept, A.D. 2017

CLERK OF THE COURT

Tab B

Action No.: 1103 14112
E-File No.: EVQ17SAWRIDGEBAND
Appeal No.: _____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE OF EDMONTON

IN THE MATTER OF THE SAWRIDGE BAND INTER VIVOS SETTLEMENT
CREATED BY CHIEF WALTER PATRICK TWINN, OF THE SAWRIDGE
INDIAN BAND, NO. 19 now known as SAWRIDGE FIRST NATION
ON APRIL 15, 1985

ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN,
BERTHA L'HIRONDELLE, and CLARA MIDBO, as Trustees
for the 1985 Sawridge Trust

Applicants

P R O C E E D I N G S

Edmonton, Alberta
July 28, 2017

Transcript Management Services, Edmonton
1000, 10123 99th Street
Edmonton, Alberta T5J-3H1
Phone: (780) 427-6181 Fax: (780) 422-2826

TABLE OF CONTENTS

Description		Page
July 28, 2017	Afternoon Session	1
Discussion		1
Submissions by Mr. Wilson		2
Submissions by Mr. Molstad		8
Submissions by Ms. Lafuente		16
Submissions by Mr. Wilson		19
Certificate of Record		25
Certificate of Transcript		26

1 Proceedings taken in the Court of Queen's Bench of Alberta, Law Courts, Edmonton, Alberta

2

3 July 28, 2017

Afternoon Session

4

5 The Honourable

Court of Queen's Bench

6 Mr. Justice Thomas

of Alberta

7

8 E.H. Molstad, QC

For the Sawridge Band

9 E.Sopko

For the Sawridge Band

10 D.C.E. Bonora

For the Sawridge Trustees

11 E.M.L. Lafuente

For the Sawridge Trustees

12 D.J. Wilson

For P. Kennedy

13 E. Holmstrom

Court Clerk

14

15

16 Discussion

17

18 THE COURT CLERK:

Order in chambers, all rise.

19

20 THE COURT:

Good afternoon.

21

22 MR. WILSON:

Are you ready, Sir?

23

24 THE COURT:

Actually, I just have a few questions of a case

25 management nature before we get going on your matter. The first question is, I issued that

26 decision, Sawridge number 6 as I call it, and I haven't seen a formal order. And it may be

27 I haven't seen it because I didn't assign responsibility for preparing a formal order on that

28 decision.

29

30 MS. BONORA:

Sir, I think, for me at least, we thought we'd

31 wait until today and then perhaps have final decision about the costs and put it all

32 together. But I will certainly undertake responsibility for putting that together.

33

34 THE COURT:

All right. If you wouldn't mind. I just don't

35 want to lose track.

36

37 MS. BONORA:

Yes.

38

39 THE COURT:

All right. Well we are here today to deal with

40 the question of whether Ms. Kennedy should be made personally liable for solicitor-client

41 costs in respect to the now dismissed application in my case management decision, which

1 I described as Sawridge 6 2017 ABQB 436. What I'd like to do is just begin by having
2 counsel identify themselves for the record and whether or not their clients are present.

3
4 MR. WILSON: My Lord, my name's Don Wilson. I'm a
5 partner at DLA Piper. I'm here speaking on behalf of Ms. Kennedy. I can tell you that
6 Mr. Maurice Stoney is in the courtroom. I met Mr. Stoney for the first time today.

7
8 THE COURT: Okay.

9
10 MR. WILSON: Mr. Molstad, of course you know very well.

11
12 THE COURT: Mr. Molstad.

13
14 MR. WILSON: Ellery Sopko is also here. Erin Lafuente, and
15 Ms. Bonora are here as well.

16
17 MS. BONORA: Sir, I can tell you that our client, Brian
18 (INDISCERNIBLE) as the chair of the trustees is here and Erin Lafuente's going to speak
19 for us this afternoon. My husband's been in hospital so I've been a bit distracted this
20 week. So, I'm here, but Erin Lafuente is going to speak for us this afternoon.

21
22 THE COURT: Okay. All right.

23
24 Let's talk about what we're going -- how we're going to go at this today. I see big piles
25 of books in front of the trustees' counsel. Is that your material?

26
27 MS. BONORA: No. These are all the briefs that had been filed
28 so we just brought them in --

29
30 THE COURT: Oh, just in --

31
32 MS. BONORA: Yes.

33
34 THE COURT: -- in -- okay. All right. Well let's go with you,
35 Mr. Wilson, and then I guess Mr. Molstad can reply and trustees can reply.

36
37 MR. WILSON: I commented to Mr. Molstad as I stepped in,
38 whatever I need I'm sure enough that your office (INDISCERNIBLE) and I'll refer to that
39 in a minute. I should've used Ms. Bonora's approach to bring everything.

40
41 Submissions by Mr. Wilson

1

2 MR. WILSON:

3 Sir, I can tell you that today's application is
4 very serious. It is exceedingly unfortunate that we're here. I can say that the gravity of
5 this application that's been brought to Ms. Kennedy, to Mr. Stoney, and I will say to
6 myself and my partners, I can say that I spent -- I knew nothing about this litigation until
7 sometime last week. Just going to point out you were referring to Sawridge 6, there's a
8 whole bunch of Sawridge that don't have numbers so I've read lots of those as well. By
9 no means am I conversant in the litigation like my friends are. And I can say that more
10 than anything, the Sawridge 5 represents what I consider to be a very clear foreshadowing
11 of how the Court is approaching this and how since the change in our *Alberta Rules of*
12 *Court* 2010, section 1.2, the Parnell and Modelin (phonetic) case, it has truly brought
13 forward the difference with respect to how litigation is to be conducted. It isn't the
14 litigation myself, yourself, Mr. Molstad or Ms. Bonora started with. And the Supreme
15 Court has given us very clear guidance that things have to change.

15

16 When I say foreshadowing, I think of Sawridge 5 where it points out where parties think
17 they're going to get into a trust, and if they're unsuccessful, that the trust is going to pay
18 for the litigation. That is not something that's going to happen moving forward.

19

20 And I can say that reality is also recognized by Ms. Kennedy, myself, and our law firm.
21 And we've had some discussions with Mr. Stoney with respect to that. And we obviously
22 have the vexatious litigation next week that we'll -- or, pardon me, August 4 which will
23 have to be addressed.

24

25 But, with respect, what we're dealing with, Sir, is Ms. Kennedy from our office
26 prosecuting litigation that the Court found to be improper. And I can say, like some of the
27 other lawyers I know, Ms. Kennedy litigates with her heart. I indicated to the Court
28 earlier that I met Mr. Stoney for the first time. I don't do Aboriginal litigation at all. And
29 Mr. Stoney's comment to me was I was born a member of the Sawridge Band, I'm 75
30 years old, and I want to die a member of the Sawridge Band.

31

32 As I told Mr. Stoney, Courts have been heard, subject to whatever appeal you may try to
33 prosecute in this matter, but the Courts have been heard. And I can say that Mr. Molstad
34 in the vexatious litigation, I don't know if you've had a chance to look at his materials, in
35 the recitation of the facts has set out five separate attempts by Mr. Stoney to become a
36 member of the Sawridge Band. We have the long ago 1995 litigation. I have to say I
37 don't have the file, my colleague, Ms. Kennedy, doesn't have the file. And there was an
38 attempt then to get some regress.

39

40 We then have the application that --

41

1 THE COURT:

Sorry, can I just stop you? I think I know that

2 body of litigation as the Hazar or Hajar.

3

4 MR. WILSON:

No, the '95 --

5

6 MR. MOLSTAD:

Huzar.

7

8 MR. WILSON:

Mr. Stoney made an application to be added as

9 a member of the bar after C-31. I will say I think it was 12 years before determination of
10 that application was to be made, an appeal was made to the appeal panel that set up for
11 that exact purpose and then a judicial review was made.

12

13 I do know the Court's familiarity with judicial reviews and it isn't an independent look at
14 the determination. It's to determine whether the body is expert qualified and to apply the
15 appropriate rigor and deference. And in that instance, the federal court made a decision
16 and that decision was not appealed.

17

18 I'd love to say that's the end of the matter, but unfortunately it isn't. Mr. Stoney
19 attempted to utilize a Canadian Human Rights tribunal to effect other remedies. And,
20 again, that was unsuccessful.

21

22 An application was made by my colleague, Ms. Kennedy, to be added to an appeal that
23 went before Mr. Justice Watson. Mr. Watson -- Mr. Justice Watson carefully reviewed the
24 matter and determined that there was no way he was going to add them to that appeal. So,
25 that's four.

26

27 We then have Sawridge 6 and Sawridge 6 is, and I said it's unfortunate, it is unfortunate
28 that we got to the point where the Court said enough. And I have all of the sympathy and
29 empathy for my friends who were attempting to prosecute the complex piece of litigation
30 to determine who is members of the trust, and I have no doubt they have prosecuted that
31 litigation with the appropriate standard as officers of the court.

32

33 I can say, I said earlier, Ms. Kennedy litigates with her heart. She listens to her client.
34 She takes their causes of action to her heart and I suspect many instances, one of which is
35 this instance, takes steps to prosecute their rights sometimes when she ought not to. I can
36 say where we're dealing with someone who -- I will say Mr. Stoney's very powerful
37 comments to me, and that were very brief, being a member of the band goes to the
38 totality of his being. And in these circumstances, I will say that Ms. Kennedy has
39 prosecuted this action on his behalf further than I would've, further than I think she
40 should've. But I can understand as an officer of the court when one is dealing with
41 justice, not just the administration of justice, you attempt to get a remedy for your client.

1
2 I will say that one of the cases that you cited was the *Morin* decision of Mr. Justice
3 Graesser. And I do note that I think all counsel here are commercial litigators. In that
4 instance, and I will say Justice Graesser case managed a very large piece of litigation that
5 is on a long time and I know how careful he is a jurist, Justice Graesser had in front of
6 him a claim that was advanced for dead people. That is people who were not in existence.
7 He had assertions that certain people held title or ought to concede to certain lands and
8 they did not. In that litigation, a notice to admit was served upon the parties. The lawyer
9 involved didn't even respond to the notice to admit and I will say throughout the entirety
10 of my legal career not dealing with a notice to admit has fairly significant consequences.
11 And when the evidence, the only evidence before the Court, these people were dead when
12 they started the action and they didn't control the title to which he was served a claim, the
13 lawyer then filed an appeal. And I will say --

14

15 THE COURT:

This is the lawyer Willier?

16

17 MR. WILSON:

Willier, yes. And the reason I go through this,

18

18 Sir, is I think quite candidly I've conceded that Ms. Kennedy prosecuted this action
19 further than I would've, further than I think she ought to have, but we are not dealing
20 with the circumstance like Willier where there are immutable facts on the record in the
21 action. And in the face of those facts that he participated in creating by not filing a reply
22 to the notice to admit, he filed an appeal. And in that instance, and the reason I go to the
23 Graesser decision, why considered to be the leading member of this bench. He awarded --
24 he had a payment to the court, not to the parties, of \$1,000. And then he indicated
25 payments, and I apologize, one was AltaLink and I don't remember the other entity's
26 name.

27

28 THE COURT:

TransAlta wasn't it?

29

30 MR. WILSON:

Yeah. And I believe it was about \$4,800 each.

31

31 And the reason I use that juxtaposition, Sir, is in that instance the record is absolutely
32 without any foundation. I will say I know very well two of my colleagues on the other
33 table they'll say that's what we're dealing with here. And the difference is, Mr. Stoney is
34 not dead. Mr. Stoney started as a member of the Sawridge Band. By an act of
35 Mr. Stoney's father, he took steps to cease being a member of the Band and has tried
36 repeatedly, sometimes inappropriately, to turn back time and to become a member again.

37

38

38 I say this recognizing how serious this is, but also one of the lines in Stoney 5 was the
39 administration of justice. And what Ms. Kennedy is guilty of, if she's guilty of something,
40 is seeing a wrong and has persistently tried to right that wrong.

41

1 Now, if I'm Mr. Molstad, I can tell you that the Band is the person that gets to determine
2 their membership and that is entirely appropriate. And in Mr. Stoney's case they've done
3 that. Appeals were made on two different levels. An additional attempt was made at the
4 Human Rights tribunal. And Mr. Stoney has been told, and I know he's been told this
5 because I told him this, he is at the end of his rope with respect to the Sawridge Band and
6 the Court system.

7
8 And the reason for that is background and history. It's one of Montgomery's campaigns in
9 World War II, it's a bridge too far. He would've been fine if he'd stopped at bridges, by
10 going for a third bridge the campaign itself stopped. In this instance, had -- if I'd been
11 engaged or consulted, had I read Sawridge 5, saw the foreshadowing, that is setting out
12 section 1.2, Pernell and Modelin, the fact that the Court is not, unlike earlier trust
13 litigation where often the trust ends up paying for part of the litigant's costs, the Court
14 could not have been clearer that is not going forward. And the Court indicated interlope.
15 That is, someone does not have a claim on the trust is coming forward and not only wants
16 to challenge, wants to be a member of the trial, presumably would make the trial more
17 complicated, more time consuming, higher costs for everyone. And it's not that
18 Mr. Stoney's counsel wouldn't be paid, it's that the trust and the trust property would be
19 depleted by however long that is, however the trial is prolonged by the addition of
20 Mr. Stoney.

21
22 Now, I can tell you that in the course of the last week, other than reading way too many
23 Sawridge decisions, I had occasion to speak in depth with Ms. Kennedy. And
24 Ms. Kennedy tried to convince me as to the merits of Mr. Stoney's case. And at a certain
25 point in time, I had to tell her that he has exhausted his remedies in the legal realm with
26 respect to the Sawridges and it's time to move on.

27
28 The reason I referred to the Graesser case is, when I read it, my immediate reaction
29 was --

30
31 THE COURT:

I'm just going to -- Graesser case being the

32 TransAlta v. Morin --

33
34 MR. WILSON:

Yeah. *Morin*, sorry. My apologies.

35
36 THE COURT:

Yeah. It's okay. I just -- because I'll end up
37 getting a transcript of this, it's just easier for me to connect the dots. So, thank you.

38
39 MR. WILSON:

I keep forgetting Mr. Justice Graesser writes a
40 few more than one.

1 THE COURT:

Yes, he's pretty prolific.

3 MR. WILSON:

I know.

5 As a seasoned litigator, I read the *Morin v. TransAlta and AltaLink* case, and I see a
6 lawyer who has no instructions from his client. The client has no entitlement to tie up the
7 land, participates in a legal process that results, that is not filing the notice to admit, so
8 that the record crystalizes and could not be any clearer, and then files an appeal. And I go
9 back to your decision talking about abuse of process, vexatious, et cetera, and that is --
10 that is the Court regulating its process. I think it's Gascon in *Jodoin* said even in the
11 context of a criminal case where we're going to go the extra mile to see that the criminal
12 defendant gets every opportunity to put forward its face, even then the Court will look
13 where there's an abuse of process and sanction it.

15 My submission would be the application that resulted in Sawridge 6 should not have been
16 made. It was ill-advised. But was not done with bad motives, an attempt to abuse the
17 process. It had that effect, I have to say in front of my friends it absolutely had that
18 effect, but it is an advocate putting forward a position she believes in, believes in the
19 remedy that her client is trying to seek. And I can say, having regard to what one of the
20 items you indicated in your decision, was we don't even know if the other Stoney's ever
21 provided instructions. The Stoney's are a little older. Some of them are not in the best of
22 health. And we attempted on numerous occasions to assemble affidavits confirming at the
23 time that they instructed Ms. Kennedy -- or, pardon me, Mr. Maurice Stoney to advance
24 the litigation on their behalf. I can say, Sir, I am aware of the law that says hearsay
25 evidence is no evidence, I also am aware of the decision by Mr. Justice McMahon who
26 says using a hearsay affidavit is some evidence of bad counsel.

28 We assembled the best affidavits we could in a short period of time with people who
29 weren't the easiest to get a hold of. And one brother and one sister of Mr. Stoney
30 confirmed under oath that Ms. Kennedy had the instructions to act on their behalf in
31 advancing this action. And we got a niece who indicated that she was aware of that. I am
32 aware that's a hearsay affidavit, it is -- I will say in the federal courts hearsay affidavits
33 are allowed. I'm not suggesting for a moment they're allowed in this court. I, in fact, use
34 evidence -- I use case law that points out that's not allowed to counsel when they provide
35 me with hearsay affidavits. In this instance, it was the best affidavit we could get having
36 regard to your direction that we come forward on today's date.

38 I put that evidence before the Court in part so that you didn't think we were doing what
39 was done in the *Morin* case that was addressed in the Graesser decision, that is, the
40 people who, at least on the face of the action, saying they were seeking
41 (INDISCERNIBLE) were actually seeking summary (INDISCERNIBLE).

1
2 And, again, I apologize for not having affidavits from all of them but we did the best we
3 could in the time we had.
4

5 Now, Sir, you actually canvassed the various remedies with respect to counsel and you
6 highlight contempt of court, which is the most serious instance; you highlight Law Society
7 and the sanctions there. And then you raise the Court's own ability, and as Mr. Molstad
8 has raised, the *Judicature Act* - ability to sanction counsel. And my only comment would
9 be, with respect to each of those, is what the Court is trying to do, as you properly cite in
10 your decision with respect to sanctions, is to change behaviour. It's the same rationale
11 behind torts which is you're giving a tort award so that some other idiot isn't going to
12 follow and do the same thing. And, with respect, I would submit to you that the
13 seriousness of what Sawridge 6 is has been driven home to Ms. Kennedy. And, with
14 respect, it's been driven home as much as an order of contempt or a referral to the Law
15 Society. The decision is out there, we have a courtroom full of reports here to report on
16 the matter.
17

18 And I'm reminded of someone once asked Warren Buffett when he was testifying at the
19 congress as to what was reasonable, and it was on the context of a company he owned
20 and insider trading. And Mr. Buffett to the U.S. congress testified it meets a very easy
21 standard. And the standard is, if they printed the story in your home town and your
22 mother and your father had an opportunity to read it, would you be embarrassed? And,
23 with respect, Ms. Kennedy and the Sawridge 6 decision has brought home the falling of
24 continuing to prosecute the remedy she's seeking for Mr. Stoney. Which, after meeting
25 Mr. Stoney, I understand. But there's a certain point in time the legal remedies have been
26 exhausted. And, with respect, it'd be my submission to this Court that solicitor-client costs
27 awarded against Ms. Kennedy are unnecessary, although clearly within the purview of this
28 Court's inherent jurisdictions, the *Rules* and the *Judicature Act*. Those are my
29 submissions, Sir.
30

31 THE COURT:

Thank you, Mr. Wilson.

32
33 Mr. Molstad?
34

35 Submissions by Mr. Molstad
36

37 MR. MOLSTAD:

Sir, first of all, we submit that the facts
38 (INDISCERNIBLE) are contained in the findings that you have already made in Sawridge
39 6. And they're also find, we submit, in the affidavit of Chief Walter Twinn, and in the
40 three written submissions that were filed on behalf of the Sawridge First Nation.
41

1 We also suggest and submit, Sir, that you should have reference to the transcript of the
2 questioning of Mr. Maurice Stoney which has been filed.

3
4 THE COURT: Now, sorry, this is in the material that I saw a
5 frontend loader brought a stack of materials into my office. I didn't bring it into court
6 because I thought it was part of the response of Mr. Stoney, if he chooses to make one, to
7 the vexatious litigant issue.

8
9 MR. MOLSTAD: Yeah. I believe our friends on behalf of the
10 trustees in filing a written submission in relation to the vexatious litigant submissions,
11 including a copy of the transcript.

12
13 THE COURT: Okay.

14
15 MR. MOLSTAD: It had been filed in the material.

16
17 THE COURT: Oh, yes, it was in the original one.

18
19 MR. MOLSTAD: It was in the original application that had been
20 filed.

21
22 THE COURT: Okay. Got it.

23
24 MR. MOLSTAD: And, Sir, we submit that Ms. Kennedy
25 participated in a course of conduct advancing an argument with respect to Mr. Stoney that
26 was devoid of merit, vexatious and an abuse of process. We submit, Sir, that this conduct
27 constitutes serious misconduct in accordance with *Rule 10.50* of the *Rules of Court*. This
28 conduct includes preparing and filing an application of a third party who was attempting
29 to insert himself and his siblings into a matter in which he has no legal interest; it
30 includes preparing and filing an application which was a collateral attack attempting to
31 subvert an appealed and crystalized judgment of the federal court which has already
32 addressed and rejected her client's claims and arguments.

33
34 You, Sir, have already found that the application of Maurice Stoney is serious litigation
35 misconduct. It is our submission that Ms. Kennedy participated in this serious litigation
36 misconduct with full knowledge of the history and the previous decisions. Ms. Kennedy's
37 application purported to be an application on behalf of ten persons all to be named as
38 beneficiaries of the Sawridge Trust.

39
40 My friend has referred you to the *Morin* decision. I am intimately familiar with that
41 decision. And that was a case where there were nine plaintiffs that were named, five of

1 whom were deceased, and it appeared obvious that Mr. Willier, counsel who had assumed
2 conduct on behalf of these individuals named, did not have instructions from of course the
3 deceased and all of those others except for the one that continued. And that was the
4 application on behalf of Peter Morin. And the Court recently heard -- Master Smart heard
5 a motion that the claim being advanced by Peter Morin be struck on the basis of a number
6 of arguments including that he had settled with (INDISCERNIBLE), he had agreed in that
7 settlement not to take any legal action as against TransAlta and AltaLink and he was paid
8 compensation for that. But, in any event, it was not a situation where all of the plaintiffs
9 were deceased.

10
11 THE COURT: Had they all been -- I mean, I recognize quite a
12 few of the names because I used to act for the Enoch First Nation, are they mostly -- they
13 were counsel -- they had been councillors. I saw some of the names there had been
14 councillors or --

15
16 MR. MOLSTAD: What happened in the case, Sir, is Mr. Willier
17 represented the Enoch Cree Nation as in-house counsel. And he commenced an action
18 naming a number of parties including TransAlta and AltaLink. And he named the chief
19 and councillors of the day as representative of the Nation and he also named person who
20 he felt I assume were owners of a certificate of possession.

21
22 THE COURT: Okay.

23
24 MR. MOLSTAD: That had been issued many, many years
25 earlier. And, as a result, some of them had passed away and some of them had passed on
26 their certificate of possession. But the bottom line was that at the end of the day, without
27 excepting Peter Morin, it was clear that he had no instructions to represent those people.

28
29 THE COURT: Okay.

30
31 MR. MOLSTAD: And in that decision, in the *Morin* decision, we
32 submit that Justice Graesser stated the obvious. And you've referred to that in paragraph
33 80 of your decision. When he said essentially, counsel cannot commence a lawsuit on
34 behalf of a party without that party's consent. He also stated that instructions must come
35 from the individual themselves. And that's found in paragraph 34 of Justice Graesser's
36 decision in *Morin*.

37
38 He went on to state that the jurisprudence is clear that a solicitor who commences
39 proceedings without proper authority may be liable for costs. And we submit, Sir, that is
40 the natural consequences that should flow when a lawyer commences proceedings in the
41 name of the party, or a party, without instructions and without that party's consent.

1
2 We also submit that consent must be an informed consent. Informed about a potential of a
3 cost award if not successful in the application. We submit, Sir, it would be unjust to hold
4 anyone but the lawyer to be responsible for costs when there is no authority given to
5 commence or continue a proceeding.
6

7 We submit, Sir, that my friend must advise this Court that Ms. Kennedy had instructions
8 directly from each of these nine persons to make this application. It's not enough, in our
9 submission, for Ms. Kennedy to file an affidavit, and I think my friend will agree, of the
10 niece of Mr. Stoney that she heard him talking to his brothers and sisters.
11

12 It's also our submission it's not enough for two affidavits, those of Ms. Gail Stoney and
13 Mr. Bill Stoney, where they say they authorized Maurice Stoney to bring an action. That's
14 not instructing Ms. Kennedy.
15

16 One of the interesting questions that comes up when I look at this, is has anyone given
17 Bill Stoney and Gail Stoney and the brothers and sisters legal advice about the jeopardy
18 that they put themselves in, in coming forward in saying we told our brother to advance
19 this application? Which is the potential to have a cost award. A significant cost award as
20 against them. Or, alternatively, we say is this a situation where they are of limited funds?
21 And Ms. Kennedy in her written submissions in paragraph 6 of the November 15th, 2016
22 submissions, stated that Mr. Stoney and his siblings were of limited funds. So does that
23 mean that a judgment of costs doesn't mean anything?
24

25 The history of this proceeding is not complicated, and my friend touched upon some of
26 the matters in terms of what information Ms. Kennedy had. But we know that in 1995,
27 Maurice Stoney and others commenced an action in federal court where Maurice Stoney
28 sought membership in the Sawridge First Nation. And I refer to that as the 1995 action.
29 Maurice Stoney, in that 1995 action, through his legal counsel, conceded to the Federal
30 Court of Appeal in 2000 that he did not have entitlement to membership in the Sawridge
31 First Nation without the consent of the Sawridge First Nation.
32

33 Ms. Kennedy was not counsel for Mr. Stoney before the Federal Court of Appeal in 2000.
34 However, she was aware of this decision no later than the application for judicial review
35 before Justice Barnes of the federal court which was heard on March 5th, 2013. Because,
36 of course, it was referred to in (INDISCERNIBLE).
37

38 In August of 2011, Mr. Stoney applied for membership in Sawridge. The decision of the
39 chief and council was to deny his application and that decision included the reason that he
40 did not have a specific right to be a member of the Sawridge First Nation. Mr. Stoney
41 appealed the decision of the chief and council to the appeal committee which was the

1 electors of the Sawridge First Nation.
2

3 Ms. Kennedy represented Mr. Stoney at this appeal. Ms. Kennedy made written
4 submissions and appeared and made oral submissions before the appeal committee. And in
5 the written submissions of Ms. Kennedy, which are part of the record, on behalf of
6 Mr. Stoney to this appeal committee which would've been in April of 2012, it was argued
7 that Maurice Stoney was entitled to a membership in Sawridge First Nation pursuant to
8 the *Indian Act*. In other words, an acquired right member. And I refer you to her written
9 argument which is found in the Roland Twinn affidavit, Exhibit 2, tab W, paragraphs 9
10 and 13.
11

12 The appeal committee was unanimous in upholding the decision of Chief and council and
13 dismissed the appeal. Ms. Kennedy, on behalf of Mr. Stoney, applied for judicial review
14 of the appeal committee's decision which denied Mr. Stoney's membership in the
15 Sawridge First Nation. And I refer to that judicial review application as the 2012 action.
16

17 In the 2012 action, Ms. Kennedy advanced a number of grounds. They included, however,
18 that Maurice Stoney was entitled to automatic membership. That is, he was an acquired
19 right individual. Mr. Stoney swore an affidavit as part of the 2012 action and in that
20 affidavit, he alleged that he was entitled to automatic membership in the Sawridge First
21 Nation as a result of Bill C-31. As you know, Sir, Justice Barnes of the federal court
22 dismissed the application for judicial review and confirmed again that Maurice Stoney had
23 no right to automatic membership. He also found that Maurice Stoney was attempting to
24 relitigate matters in issue in the 1995 action and that these arguments were barred under
25 the doctrine of issue estoppel. Costs were awarded to the Sawridge First Nation in the
26 sum of \$2,995.65 and these costs were not paid by Mr. Stoney.
27

28 So if I summarize briefly, the knowledge of Ms. Kennedy in May of 2013 includes the
29 following: she knew in 2000 that counsel for Maurice Stoney conceded to the Federal
30 Court of Appeal that Maurice Stoney did not have entitlement to membership in Sawridge
31 First Nation without their consent; she knew on December 7th, 2011, Mr. Stoney's
32 application for membership was denied by Chief and council on grounds including he did
33 not have a specific right to be a member; she knew the Sawridge appeal committee was
34 unanimous in upholding the decision of Chief and council; and, of course, she knew the
35 federal court on May 15th, of 2013, confirmed again that Maurice Stoney had no right to
36 automatic membership and his argument was barred by virtue of the principle of issue
37 estoppel. This was her knowledge in May of 2013.
38

39 As my friend has stated on her behalf, on January 31st, 2014, Mr. Stoney filed a
40 complaint with the Canadian Human Rights Commission regarding Sawridge's decision to
41 deny him membership. We don't know if Ms. Kennedy assisted Mr. Stoney in relation to

1 that matter. However, she was clearly made aware of the complaint and the decision in
2 this motion as it was included in the Roland Twinn affidavit.

3
4 The CHRC decision is another decision, we submit, that confirms that this issue was dealt
5 with in the 1995 action and in the 2012 action.

6
7 In 2015, Ms. Kennedy applied on behalf of Mr. Stoney to extend time for him to file an
8 appeal of one of your case management decisions - I believe it was Sawridge 3. And in
9 that application, it was asserted that Mr. Maurice Stoney was a member of the Sawridge
10 First Nation. Mr. Justice Watson dismissed the application and awarded costs to the
11 Sawridge First Nation. Costs were assessed at \$898.70 and they have not been paid to the
12 Sawridge First Nation.

13
14 And, of course, Ms. Kennedy represented Mr. Stoney in this matter in the August 12th,
15 2016 motion which I refer to as the Stoney application, which resulted in Sawridge 6. In
16 this matter, Ms. Kennedy refused to allow Sawridge First Nation's legal counsel to
17 question Mr. Stoney on his affidavit. The legal counsel for the Sawridge Trustees did
18 attend and question Mr. Stoney on his affidavit. And we submit, Sir, that Ms. Kennedy,
19 during that questioning, interrupted, obstructed and refused to permit questions addressing
20 the substance of the application and affidavit. And we respectfully request, Sir, that it is
21 important for this Court to read this transcript again in order to observe the questioning of
22 Maurice Stoney and the conduct of Ms. Kennedy during that questioning. We submit, Sir,
23 that conduct should be taken into consideration in relation to your decision as it relates to
24 costs.

25
26 Ms. Kennedy, in her written submissions, asserted on behalf of Mr. Stoney that the federal
27 court issued an order of mandamus in *Sawridge v. Canada* [2003] 4 FCR 748, compelling
28 Sawridge to restore Stoney applicants as members on the basis that they were acquired
29 rights members. This is both incorrect and, we submit, improper.

30
31 Ms. Kennedy, in her written submissions, misstated the status of the Poitras litigation and
32 misapplied decisions arising from that litigation in an attempt to suggest that the Sawridge
33 First Nation has repeatedly failed to comply with Justice Hugessen's order. She also
34 asserted that Sawridge continued to deny Ms. Poitras membership and that Sawridge
35 continues to deny membership to Ms. Poitras today. These submissions, with the greatest
36 of respect, Sir, are false. And I refer you to tab 8 of the November 14th, 2016 Sawridge
37 submissions.

38
39 This Court has awarded to the Sawridge First Nation solicitor and own client indemnity
40 costs in relation to this application. We submit that the Court has not yet decided who
41 should pay those costs. In paragraph 6 of Ms. Kennedy's November 15th, 2016 written

1 response on behalf of Mr. Stoney, it is stated that Maurice Stoney and his brothers and
2 sisters are all elderly and have limited funds. Based upon Mr. Stoney's conduct to date in
3 not paying Sawridge First Nation's costs, and this admission that he and his brothers and
4 sisters have limited funds, we submit that it is unlikely that the Sawridge First Nation and
5 the Sawridge Trustees will recover their costs unless they are paid by Ms. Kennedy.

6
7 This Court has found that Ms. Kennedy has advanced a futile application on behalf of her
8 client and that the application was abusive and vexatious. We submit, Sir, that based on
9 *Jodoin*, Ms. Kennedy has triggered cost award against her by advancing what is described
10 in that decision as an:

11
12 Unfounded, frivolous, dilatory and vexatious proceeding that
13 denotes a serious abuse of the judicial system.
14

15 Sir, if costs are not awarded as against Ms. Kennedy in this proceeding, there will be no
16 consequences. And this is a case where, based upon the history and the conduct that has
17 occurred here, there should be consequences, in our submission.

18
19 We also say, Sir, that if costs are not ordered to be paid by Ms. Kennedy personally, that
20 the award of costs is against Mr. Stoney and Ms. Kennedy on a joint and several basis.

21
22 I'm really not sure how you deal with those siblings who have come forward and put to
23 you and put to this Court the two affidavits as it deals with costs. But one of the question,
24 as I raised it earlier, that comes up is if they're coming forward and saying we're part of
25 this application, should they also be subjected to any cost award that you make should be
26 joint and severally?

27
28 THE COURT:

I thought I'd already let them off the hook --

29
30 MR. MOLSTAD:

Well, I think what you --

31
32 THE COURT:

-- on costs.

33
34 MR. MOLSTAD:

35 application on behalf of Maurice Stoney.

-- said, Sir, is that you're treating this as an

36
37 THE COURT:

Yes. I think --

38
39 MR. MOLSTAD:

It may be that --

40
41 THE COURT:

Yes.

1
2 MR. MOLSTAD: -- you decided that you're not looking at them.
3
4 THE COURT: I've written so much about this, I don't know
5 what I've said anymore.
6
7 MR. MOLSTAD: Well, yeah. And I'd encourage you - - and I
8 stand to be corrected in that regard. In any event, Sir, our submission is that if you're
9 going to look at attaching costs as it relates to Maurice Stoney that you make it joint and
10 several --
11
12 THE COURT: M-hm. Okay.
13
14 MR. MOLSTAD: -- with Ms. Kennedy. Those are our
15 submissions, Sir.
16
17 THE COURT: Okay. Just a sec. I just want to make a note
18 about the other brothers and sisters. You're still saying that to the extent they've now
19 come forward and say --
20
21 MR. MOLSTAD: I don't have an answer to that, Sir.
22
23 THE COURT: You're going to leave it --
24
25 MR. MOLSTAD: But you're going to have to --
26
27 THE COURT: You're going to leave it to me.
28
29 MR. MOLSTAD: You're going to have to deal with it.
30
31 THE COURT: Okay.
32
33 MR. MOLSTAD: And I don't -- I'm not making a submission
34 one way or another. But it's a very difficult issue to deal with.
35
36 And, based upon Justice Graesser's decision in *Morin*, clearly, if you're coming to court
37 and purporting to represent someone, you must respond that you have instructions to
38 represent that person. And if you can't do that, you know, you put yourself in a situation
39 where you can have costs awarded against you personally.
40
41 THE COURT: Yes. We sort of assume that when people put

1 things into statements of claim that --

2

3 MR. MOLSTAD:

Pardon me?

4

5 THE COURT:

Once names go into a statement of claim as a

6 claimant --

7

8 MR. MOLSTAD:

Well --

9

10 THE COURT:

-- you sort of assume that --

11

12 MR. MOLSTAD:

I was involved in that *Morin* matter, Sir, and I

13 can't always make that assumption anymore.

14

15 THE COURT:

Okay.

16

17 MR. MOLSTAD:

Thank you, Sir.

18

19 THE COURT:

All right. Thanks, Mr. Molstad.

20

21 MR. MOLSTAD:

Thank you.

22

23 Submissions by Ms. Lafuente

24

25 MS. LAFUENTE:

Good afternoon, My Lord. As I was introduced

26 earlier, but I will repeat my name for you as I'm the least familiar face at the table, my

27 name is Lafuente, initial E., and I'm with Dentons. And I'm here today on behalf of the

28 Trustees.

29

30 My Lord, we are in agreement with our friend Mr. Molstad's submission and we will
31 keep our additional submissions brief and try to limit any repetition.

32

33 My Lord, in presenting this to you today, we believe it's very important that we consider
34 that there is a significant difference between being a zealous advocate and zealously
35 advancing frivolous litigation. And it's important to understand that in the relationship
36 between Ms. Kennedy and her client, it's quite clear who had the abundance of
37 knowledge and understanding of the consequences of the decisions that had been made to
38 that point. And that was brought home in the cross-examination on Mr. Stoney's affidavit.
39 I was counsel at that examination, My Lord, and there were questions asked about court
40 decisions, specifically about pleadings, and the answer that Ms. Kennedy gave on behalf
41 of her client was, "He won't understand that," or, "He didn't read those." And when I

1 tried to pursue that a little further to find out if in fact he had read certain decisions,
2 Ms. Kennedy objected to the questions in their entirety.

3
4 My friend, Mr. Molstad, has asked today that you go back and look at the transcript and
5 I'm going to repeat that request because I think that it is very important. But I believe that
6 when that transcript is read, it is clear that Ms. Kennedy was the one holding the reins.
7 She was the one who was pursuing this because, as she indicated when giving answers to
8 the questions, he didn't understand what was going on. Ms. Kennedy certainly did and
9 should have understood.

10
11 My friend has indicated today, unfortunately, that even in preparing for this, Ms. Kennedy
12 is still trying to indicate why -- indicate why it should proceed. And that is a concern as it
13 relates to is the decision that you've issued, is Sawridge 6, enough? And we would
14 submit, My Lord, that it is not enough. And it is not enough primarily because the
15 consequence to the community which this trust is supposed to benefit is significant. The
16 costs have been borne by a community and Ms. Kennedy has put forward a position
17 which said right out the shoot, he's of limited means. What I asked -- we sought
18 questions about costs -- previous cost awards that had been unpaid, those were objected
19 to. You can't ignore the risk of costs. You can't try to prevent this Court from knowing
20 that there is unpaid costs in previous litigation, and that is what was done.

21
22 Now, My Lord, this application, as you know it, has been described as another attempt in
23 a long history to try to assert an entitlement to membership. That has been done. It should
24 not have been brought again. But that is even more important in the context of this
25 litigation because, My Lord, as you'll be aware, you issued an order on December 17th,
26 of 2015, where you stated clearly that membership was not an issue to be addressed in
27 this litigation. That was not to be addressed. And yet, when you go back, My Lord, and
28 you look at the transcript you will see numerous references to an entitlement to
29 membership. And there are even parts where we have to redirect both Mr. Stoney and his
30 counsel to that this is not about membership.

31
32 My Lord, we've prepared for you, for your review, a summary of some of the most
33 important places that we would like you to review the transcript. And I'm not going to go
34 through them now today but I will just highlight the different headings. Firstly, pages 4 to
35 6 of the transcript are all of the objections listed in one place and it's a good place to look
36 just to see the number of them. But there was -- there are numerous examples to show
37 that Ms. Kennedy was really directing this litigation. And those are -- there's an inference
38 that the Court decisions were only interpreted by Ms. Kennedy for Mr. Stoney and he was
39 not given the decisions to read, that Mr. Stoney did not understand his own pleadings and
40 could not be asked questions about what claims he had previously made, that
41 Ms. Kennedy would not allow him to answer basic questions, that she refused to allow

1 questions regarding his outstanding costs, that she directed him not to answer questions
2 before they were asked. And there's a reference there, Sir, and I would invite you to look
3 at it, where it was put on the record that no question had yet been asked but an objection
4 had been entered.

5
6 Mr. Stoney asked his counsel at one point if he'd ever seen the statement of claim that he
7 filed and Ms. Kennedy intervened to try to prevent questions on that claim.

8
9 In addition, there was the refusal to answer questions by Mr. Stoney himself. And you
10 will note, Sir, when you read the transcript that by the end of the examination, Mr. Stoney
11 was giving the answers that he wouldn't answer the question and he was not directed by
12 Ms. Kennedy to provide an answer to those questions. And there are further examples,
13 My Lord, of Ms. Kennedy, herself, answering questions.

14
15 My Lord, the most important aspect of this is that this is and has been found to be
16 frivolous litigations -- litigation, sorry. And Ms. Kennedy sought to dissipate the trust
17 property by seeking full indemnity costs for Mr. Stoney in that litigation. So she started
18 out looking for full indemnity costs and now we're looking for our costs back from
19 Ms. Kennedy.

20
21 I want to make sure I'm not repeating what Mr. Molstad has already covered.

22
23 My friend, Mr. Wilson, has indicated that -- has brought up the administration of justice
24 and how strongly that Mr. Stoney feels about the litigation and how strongly that
25 Ms. Kennedy feels about it. And he'd indicated that she was guilty of seeing a wrong and
26 trying to right it. But I would -- I would add to that, that she was also guilty of trying to
27 thwart counsel's ability to show that was a frivolous exercise by refusing to let us ask
28 questions and refusing to have her client answer questions about these immutable facts
29 that this had already been decided time and time again. That this matter, I mean, that
30 there was issue estoppel, it was res judicata, it was an abuse of process.

31
32 I would submit, My Lord, that while I fully understand and I appreciate that Ms. Kennedy
33 is remorseful and I have no doubt about that, that my friend's submission that somehow
34 that's enough of a consequence, it is not enough. Her client was of limited means, there
35 was -- appeared to be limited risk that he would actually have to pay a costs award, but
36 there has been serious harm to the community that this trust was created to benefit. This
37 litigation has had a significant impact on the benefits that can be provided to the
38 beneficiaries. The costs, My Lord, we submit should be borne by Ms. Kennedy
39 personally. And we would agree with my friend Mr. Molstad's suggestion that if any costs
40 are to be borne by Mr. Stoney, that those costs should be jointly and severally owed by
41 Mr. Stoney and Ms. Kennedy. We are seeking full indemnity for our solicitor-client costs.

1
2 THE COURT: Do you have anything to say about the brothers
3 and sisters of Mr. Stoney and whether they should be captured in this should I decide that
4 these costs are to be jointly and severally? Or --
5

6 MS. LAFUENTE: My Lord, I would say I have concern, as
7 Mr. Molstad had indicated earlier, that there is -- whether there is informed consent
8 demonstrated in those affidavits. I don't think the affidavits actually do prove the point
9 that they had instructions -- sorry, given instructions to Ms. Kennedy. But to the extent
10 that you find, My Lord, that they do, I believe there's no option but to include them
11 jointly and severally with Ms. Kennedy.
12

13 MR. MOLSTAD: If I could just add to that, My Lord?
14

15 THE COURT: M-hm.
16

17 MR. MOLSTAD: The problem that we see, with the greatest of
18 respect, is that they have not filed sufficient evidence to show that these two additional
19 people instructed Ms. Kennedy. So, in light of that, I think that you should proceed
20 cautiously as it relates to those two individuals. Until such time as my friend stands up
21 and says we were instructed directly by this person to represent them in relation to this
22 application, it would be unjust to award costs as against them.
23

24 THE COURT: Okay. Thanks.
25

26 Okay. Mr. Wilson, any response?
27

28 **Submissions by Mr. Wilson**
29

30 MR. WILSON: I'm not sure how I'm supposed to assure the
31 Court that I received those instructions. Because, with respect, we received your judgment,
32 we had a tight timeline to turn it around. And, with respect, we got the only two people
33 available at the time. It's my understanding that the cost consequence of their affidavit
34 was explained to them. That is, there is going to be a large cost consequence, and they
35 swore the affidavit. That is my understanding, Sir.
36

37 THE COURT: Okay. I'm going to clean that issue up right
38 now. I'm not going to award --
39

40 MR. WILSON: Yeah. Well I just --
41

1 THE COURT:

Okay.

2

3 MR. WILSON:

-- part of the --

4

5 THE COURT:

Yeah.

6

7 MR. WILSON:

-- part of the problem, Sir, is it's summertime,

8 Albertans like to go away during summertime, and we didn't have a large window. And I

9 apologize, it's just actually the reality.

10

11 Now --

12

13 THE COURT:

Okay. Well, look, I want to finish it off. I

14 mean, we'll do it right here, now. No costs award, solicitor-client or party-party or

15 anything else will be made against the brothers and sister. Period. That takes care of that.

16

17 MR. WILSON:

All right. Sir, I apologize for my lack of

18 comprehensive knowledge of the files. I just do not -- I don't have a copy of any of the

19 '95 pleadings. I have the decision by the Band in '12, the applications made 11 and 12

20 years earlier. Wasn't even 2011 or '12, it was made in 2000. And I have the appeal

21 decision, I have the Court of Appeal's decision, I now have access to the Canada Human

22 Rights decision. My friend says -- my friend, Mr. Molstad, says in paragraph 34 there's a

23 reference to limited funds. That is my understanding and it's my understanding if that was

24 an issue at the time there is provision to apply for security for costs and that application

25 wasn't made.

26

27 MS. BONORA:

It was made.

28

29 MR. WILSON:

Was made?

30

31 MS. BONORA:

Yeah. There was an --

32

33 MR. WILSON:

Good thing I started with I don't have a

34 comprehensive knowledge of the file. And was security ordered, Ms. Bonora?

35

36 MS. BONORA:

It's referenced in Sawridge 6. It wasn't ordered

37 because there was no -- they weren't added as parties.

38

39 MR. WILSON:

Right.

40

41 THE COURT:

Yeah.

1
2 MR. WILSON: With respect to the cross-examination on
3 affidavit, I invite you to read it. It is -- it should be something that you should review
4 with respect to your decision. I will say when Ms. Lafuente handed me for the first time
5 the series of concerns about the cross-examination, I was going to ask her if she ever
6 relitigated with Mr. Redmond (phonetic) because I suspect you could have similar
7 comments.

8
9 Sir --

10
11 THE COURT: You should've been his partner.

12
13 MR. WILSON: Well, I will say discoveries were always
14 interesting and everybody has different styles. I've sat in discovery rooms with
15 Mr. Molstad, sat in discovery rooms with a variety of people. My approach, typically, is
16 not to interfere. Typically. There's a wide range. With respect, we're not dealing with a
17 sophisticated person. During the course of my meeting with Mr. Stoney and my
18 discussion with him, he had no problem following what we were discussing, but when he
19 was talking about the legal process he does not understand the process. He doesn't
20 understand that we have a master, Court of Queen's Bench, Court of Appeal and the
21 Supreme Court, doesn't understand leave. So, with respect, to a series of questions about
22 that, I am not surprised that Mr. Stoney did not have the best -- the best answers or the
23 best understanding.

24
25 With respect to Ms. Lafuente, she indicated that the application that was before the Court
26 was for indemnity. It was for indemnity for Mr. Stoney. It was not for indemnity -- so
27 what my friends are now doing is what they want to do is remove Mr. Stoney who has
28 limited funds, reinsert Ms. Kennedy, and to the extent that costs are out there, they want
29 full indemnity for everything from her personally. With respect, I would suggest that's a
30 stretch. And, with respect, and again, I'm not getting into the merits because I've already
31 told my friend we're not, it's my understanding that what we were dealing -- what was
32 being dealt with by you was whether or not Mr. Stoney would be a beneficiary under the
33 trust. And the trust had a specific date, Sir. I will say, often even in courtrooms, people
34 intermittently use different words. There is no question that Mr. Stoney was not
35 attempting to become a member of the Sawridge Band with respect to the application. He
36 was attempting to become a beneficiary under the trust. In law, there is a difference, Sir.
37 Particularly where the trust is set up in 1985.

38
39 I've made my submissions with respect to costs and have nothing further to add.

40
41 THE COURT: Thank you, Mr. Wilson.

1
2 Okay. That's -- don't have anymore questions coming back to the Trustees or the
3 Sawridge First Nation. I'm going to reserve a decision on this issue - the question of
4 whether or not Ms. Kennedy should be personally liable for solicitor-client costs in favour
5 of the Sawridge First Nation and the Sawridge Trustees.
6

7 As you counsel all know, there is also this other matter of whether the
8 (INDISCERNIBLE) in respect to my declaration that Mr. Stoney is a vexatious litigant,
9 that awaits a response. He has until I think next Friday to respond to that. I see there are
10 already some materials have arrived from the Trustees and from the Sawridge First
11 Nation. So that material is incoming I assume. And while it's somewhat of a separate
12 matter, it's still there's going to be some crossover.
13

14 So I'll reserve on the specific question that's here today. I'll be issuing a written decision
15 on it. It will probably not happen until sometime in mid-September just because of
16 resource allocation issues. I will remind myself that what I will do, I will issue a written
17 decision, but I think I will call you all back to deliver a summary of it. In part, because I
18 see there's some interest from the media. Not quite sure who they are but there's some
19 interest. And it's become my practice when that happens that the media gets the decision
20 on a thumb drive so they've got it electronically right away. And I'll make the same,
21 assuming I can talk the Court of Queen's Bench into buying me some thumb drives, I'll
22 make them available to the counsel involved as well.
23

24 MR. WILSON:

Sir, I have one question, and it's just a practical
25 question on vexation litigant, is that a total -- I do know that designation like a dangerous
26 sexual offender has very broad definitions, is there the possibility that it can be a vexation
27 litigation, that is, I've already made my comments to the Court with Mr. Stoney and the
28 Sawridge Band and the Trust, that is that it's at an end. My concern is a lease dispute, a
29 personal injury. That's my only -- and I don't know because I've not yet looked at the
30 law.
31

32 THE COURT:

Well, I don't know if either the Trustees or
33 Mr. Molstad have taken a position on the scope of the vexatious litigant matter. I just
34 haven't had a chance to read the material.
35

36 MR. MOLSTAD:

And I think your direction is that you would
37 deal with this in terms of written submissions.
38

39 MR. WILSON:

Yeah.

40
41 THE COURT:

Yes.

1
2 MR. MOLSTAD: We've made ours and served our friend, and
3 obviously there are going to be a reply that will be circulated.
4
5 THE COURT: Yes. I mean, I think you make your pitch for
6 narrowing it.
7
8 MR. WILSON: Yeah. I -- because I've never done it, my only
9 concern is I understand my friends wanting protection and I have to say I understand that.
10 I just wouldn't want someone to have to go to court to get permission to do something
11 that might come up in the ordinary course.
12
13 THE COURT: Yes. Well I, you know, should wait until I see
14 all the material --
15
16 MR. WILSON: Absolutely, Sir.
17
18 THE COURT: -- but certainly there's nothing I've seen that
19 Mr. Stoney is a frequent flier in the Court of Queen's Bench.
20
21 MR. WILSON: I don't think he's a frequent --
22
23 THE COURT: Other than his involvement in this particular
24 matter. Off the top --
25
26 MR. MOLSTAD: We've actually addressed --
27
28 THE COURT: -- of my head it's -- oh, sorry.
29
30 MR. MOLSTAD: We have addressed this issue in our written
31 submissions so I encourage my friend --
32
33 THE COURT: Okay. Maybe I'll just leave it at that then. But,
34 you know, I think it's pretty narrow.
35
36 MR. WILSON: Yeah. No, and knowing Mr. Molstad as I do, I
37 have no doubt that it's appropriate in all of the circumstances.
38
39 THE COURT: Yes. As I say, that one will probably be dealt
40 with -- I'll just -- it may just be nothing more than a short memorandum on that one. This
41 one raises -- the solicitor-client cost issue raises far bigger legal and policy issues.

1
2 Anyway, on this particular application heard today, so it's just adjourned sine die.
3 Judgment reserved.
4

5 MR. WILSON: Thank you, Sir.
6

7 THE COURT: All right.
8

9 MR. MOLSTAD: Thank you.
10

11 THE COURT: Thanks, Counsel. Thanks for your help.
12

13 THE COURT CLERK: Order in chambers, all rise.
14

15 THE COURT: Go ahead. I'm organizing things up here.
16

17
18 PROCEEDINGS ADJOURNED
19

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

1 **Certificate of Record**

2
3 I, Erik Holmstrom, certify that this recording is the record made of the evidence in the
4 proceedings in the Court of Queen's Bench, held in courtroom 311, on -- at Edmonton,
5 Alberta, on the 28th day of July, 2017, and that I, Erik Holmstrom, was the court official
6 in charge of the sound-recording machine during the proceedings.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

1 **Certificate of Transcript**

2
3 I, Nicole Carpendale, certify that

4
5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best
6 of my skill and ability and the foregoing pages are a complete and accurate transcript of
7 the contents of the record, and

8
9 (b) the Certificate of Record for these proceedings was included orally on the record and
10 is transcribed in this transcript.
11

12
13 Digitally Certified: 2017-08-09 11:32:03
14 Nicole Carpendale, Transcriber
15 Order No. 71551-17-1
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

34
35 Pages: 28
36 Lines: 1148
37 Characters: 46661

38
39 File Locator: 1020cade7d2611e791670017a4770810
40 Digital Fingerprint: c3cb4e480d90d94a7888b5b1839ea9fc0a4a03c68ef47c27496ef374a7c1fcf7
41

Detailed Transcript Statistics	
Order No. 71551-17-1	
Page Statistics	
Title Pages:	1
ToC Pages:	1
Transcript Pages:	26
Total Pages:	28
Line Statistics	
Title Page Lines:	53
ToC Lines:	8
Transcript Lines:	1087
Total Lines:	1148
Visible Character Count Statistics	
Title Page Characters:	679
ToC Characters:	174
Transcript Characters:	45808
Total Billable Characters:	46661
Multi-Take Adjustment: (-) Duplicated Title Page Characters	45982

Tab C

COURT FILE NUMBER 1103 14112

Clerk's Stamp

COURT: COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE: EDMONTON

IN THE MATTER OF THE TRUSTEE
ACT, RSA 2000, c T-8, AS AMENDED

IN THE MATTER OF THE SAWRIDGE
BAND INTER VIVOS SETTLEMENT
CREATED BY CHIEF WALTER
PATRICK TWINN, OF THE
SAWRIDGE INDIAN BAND, NO 19
now known as SAWRIDGE FIRST
NATION ON APRIL 15, 1985 (the "1985
Sawridge Trust")



APPLICANTS: ROLAND TWINN, CATHERINE
TWINN, WALTER FELIX TWIN,
BERTHA L'HIRONDELLE and CLARA
MIDBO, as Trustees for the 1985
Sawridge Trust (the "Sawridge Trustees")

DOCUMENT

AFFIDAVIT

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

Parlee McLaws LLP
Barristers & Solicitors
1500 Manulife Place
10180 - 101 Street NW
Edmonton, Alberta T5J 4K1
Attention: **Edward H. Molstad, Q.C.**
Telephone: (780) 423-8500
Facsimile: (780) 423-2870
File Number: **64203.7/EHM**

AFFIDAVIT OF ROLAND TWINN

Sworn on September 21, 2016

I, ROLAND TWINN, of the Sawridge Indian Reserve 150G, in the Province of Alberta, MAKE
OATH AND SAY THAT:

1. I have been a member of the Sawridge First Nation ("Sawridge") since my birth in 1965. I was a Councillor of Sawridge from 1997 to 2003, and I have been the Chief of Sawridge since 2003, as such I have personal knowledge of the matters set out in this affidavit except where stated to be based upon information and belief, in which case I do verily believe the same to be true.

Purpose of this Affidavit

2. I swear this affidavit in support of an application for Order granting Sawridge status to intervene in the application filed in this action on August 12, 2016 by Maurice Stoney and his living brothers and sisters (the "Stoney Application"), pursuant to Rule 2.10 of the *Alberta Rules of Court*, Alta Reg 124/2010;
3. I further swear this affidavit in support of an application for the following Orders, if Sawridge is granted status to intervene in the Stoney Application:
 - a. an Order striking some or all of the Stoney Application, pursuant to Rule 3.68 of the *Alberta Rules of Court*, Alta Reg 124/2010;
 - b. an Order dismissing the Stoney Application; and
 - c. an Order that the Stoney Applicants pay Sawridge costs on a solicitor and his own client basis or, alternatively, enhanced costs, forthwith upon dismissal of the Stoney Application, pursuant to Rules 10.29, 10.30, 10.31 and 10.33 of the *Alberta Rules of Court*, Alta Reg 124/2010.

History of Membership Disputes Between Maurice Stoney and Sawridge

4. Maurice Stoney is the son of William Stoney, who is Johnny Stoney's son. Johnny Stoney is a former member of Sawridge who is deceased.
5. William Stoney voluntarily gave up his Indian status and was enfranchised by Order in Council P.C. 40/6000 on August 1, 1944 under section 114 of the *Indian Act* (Canada). As a result, his wife and two sons (Maurice Stoney, born September 24, 1941 and Alvin Stoney, born May 7, 1943) were also enfranchised and ceased to be members of Sawridge, on August 1, 1944.
6. On April 17, 1985, the Federal Government enacted Bill C-31, which gave Maurice Stoney the right to have his Indian status restored, but did not give him anything more than the right to apply for membership in Sawridge pursuant to Sawridge's membership rules. Bill C-31 only provided for an automatic right to membership in select situations, none of which applied to Maurice Stoney, as determined by the Federal Court of Appeal and discussed at paragraph 13, below.
7. On July 8, 1985, Sawridge assumed control of membership in Sawridge in accordance with its membership rules, pursuant to section 10 of the *Indian Act*, RSC, 1985, C I-5.

8. In 1995, Maurice Stoney, along with his cousins, Aline Huzar and June Kolosky, and others, commenced an action in Federal Court against Sawridge (Action No. T-1529-95) seeking damages for lost benefits, economic losses, and the "arrogant and high-handed manner in which [Sawridge Chief and Council] has deliberately, and without cause, denied [them] reinstatement as Band Members".
9. Within that action, Maurice Stoney and the others also sought a court order that their names be added to the Sawridge membership list on the basis that they each had an automatic right of membership in Sawridge.
10. Maurice Stoney was represented by legal counsel during those court proceedings.
11. During those proceedings, Maurice Stoney and the others brought an application seeking to amend their Statement of Claim to add a claim for the following relief: "a declaration that the Band rules are discriminatory and exclusionary, and hence invalid."
12. The Motions Judge allowed the amendment, but Sawridge appealed the matter to the Federal Court of Appeal.
13. On June 13, 2000, the Federal Court of Appeal overturned the Motions Judge and concluded that the declaratory relief could only be sought against Sawridge on an application for judicial review. The Federal Court of Appeal also commented that these individuals, including Maurice Stoney, did not have an automatic right to membership but had only, at most, a right to apply to Sawridge for membership in accordance with the membership rules. Attached hereto and marked as **Exhibit "1"** to this my affidavit is a copy of the Federal Court of Appeal's June 13, 2000 decision.
14. The Federal Court of Appeal ordered that these individuals, including Maurice Stoney, pay costs to Sawridge.
15. Sawridge did not then receive a completed membership application form from Maurice Stoney until August 30, 2011.
16. On or about December 7, 2011, Sawridge Chief and Council denied Maurice Stoney's membership application. Maurice Stoney subsequently appealed that decision.
17. On April 21, 2012, the Appeal Committee of Sawridge convened to hear Maurice Stoney's appeal, and he was represented by legal counsel. The Appeal Committee dismissed his appeal.
18. On May 11, 2012, represented by legal counsel, Maurice Stoney filed an application for judicial review of the Appeal Committee's decision in Federal Court, being Action T-923-12.
19. On June 26, 2012, I swore an affidavit in opposition to Maurice Stoney's judicial review application, being Federal Court No. T-923-12. Attached hereto and marked as **Exhibit**

"2" to this my affidavit, is a true copy of my June 26, 2012 affidavit with exhibits, the contents of which I confirm remain true.

20. On March 5, 2013 Justice Barnes heard Maurice Stoney's judicial review application.
21. On May 15, 2013, Justice Barnes issued his Reasons for Judgment and Judgment. He dismissed Maurice Stoney's applications for judicial review and upheld the decision of the Sawridge Appeal Committee denying him membership in Sawridge. A copy of Justice Barnes' Reasons for Judgment is attached hereto and marked as **Exhibit "3"** to this my affidavit.
22. Justice Barnes ordered that Maurice Stoney pay costs to Sawridge for the judicial review application. This cost award, which was subsequently assessed at \$2,995.65 by the Federal Court Assessment Officer on October 24 2014, remains unpaid despite requests for payment of same by our counsel, Parlee McLaws LLP. Attached hereto and marked as **Exhibit "4"** to this my affidavit are a true copies of our counsel's correspondence and the Certificate of Assessment.
23. Maurice Stoney did not appeal the Reasons for Judgment and Judgment of Justice Barnes to the Federal Court of Appeal.
24. Subsequently, on January 31, 2014, Mr. Stoney filed a complaint with the Canadian Human Right Commission relating to Sawridge's denial of his membership and alleging that Sawridge's membership rules and application process were discriminatory. Sawridge responded to the complaint.
25. On April 15, 2015, the Deputy Chief Commissioner, on behalf of the Canadian Human Rights Commission, issued a decision refusing to deal with Maurice Stoney's complaint, because the matters at issue, namely the denial of Maurice Stoney's membership in Sawridge, had already been addressed as part of the aforementioned Federal Court proceedings. Attached hereto and marked as **Exhibit "5"** to this my affidavit is a true copy of the Deputy Chief Commissioner's decision.
26. Maurice Stoney is not a member of Sawridge, and this fact has been adjudicated and confirmed by the Federal Court.

Unpaid Costs Awards of Maurice Stoney

27. As indicated, costs awards in favour of Sawridge were made against Maurice Stoney in the two previous Federal Court Actions.
28. In addition, on February 26, 2016, the Court of Appeal dismissed Mr. Stoney's application seeking an extension of time to file an appeal of Justice Thomas' Order of December 17, 2015. Sawridge, as a respondent to that particular application was awarded costs by the Court of Appeal. The Assessment Officer subsequently approved Sawridge's Bill of Costs in the amount \$898.70 on June 14, 2016. Attached hereto and marked as

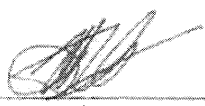
Exhibit "6" to this my affidavit is a true copy of the Bill of Costs as accepted by the Assessment Officer.

29. As at the date of my swearing of this affidavit, Maurice Stoney has not paid any of the aforementioned costs awards made in favour of Sawridge.

The Other Stoney Applicants

30. Maurice Stoney's siblings also are not members of Sawridge as asserted in the Stoney Application.
31. To the best of my knowledge, William Stoney had only two children at the date of his enfranchisement on August 1, 1944, as listed on his application for enfranchisement: Alvin Stoney, and Maurice Stoney.
32. To the best of my knowledge, all of William Stoney's subsequent children were born after his enfranchisement and have therefore never been members of Sawridge.
33. A William C. Stoney applied for membership in Sawridge, on December 6, 2004. Sawridge denied his membership on January 14, 2009, and he did not appeal. William C. Stoney subsequently reapplied for membership in Sawridge on January 25, 2011. On November 22, 2011, Sawridge sent him a letter advising that he had already applied and been denied membership.
34. Sawridge provided Bernie Stoney with a membership application form on November 17, 2004. Sawridge has never received a completed membership application form from Bernie Stoney.
35. Sawridge provided Gail Stoney with a membership application forms on April 3, 2012 and July 19, 2012. Sawridge has never received a completed membership application form from Gail Stoney.
36. Sawridge has no records of any requests for a membership application form from Linda Stoney, Angeline Stoney, Betty Jean Stoney, Alma Stoney, Alva Stoney, or Bryan Stoney. Sawridge has never received a completed membership application form from any of these six persons.

SWORN BEFORE ME at the Town of Slave)
Lake, in the Province of Alberta, this 21st)
day of September, 2016.)



A Commissioner for Oaths in and for the)
Province of Alberta)

MICHAEL R. MCKINNEY Q.C.
BARRISTER & SOLICITOR



ROLAND TWINN

EXHIBIT "1"



Federal Court
of Appeal Cour d'appel
fédérale

Federal Court of Appeal

[Home](#) > [Decisions](#) > [Federal Court of Appeal Decisions](#) > Huzar v. Canada

[Help](#)

Federal Court of Appeal Decisions

Huzar v. Canada

Court (s) Database: Federal Court of Appeal Decisions

Date: 2000-06-13

File numbers: A-326-98

Date: 20000613

Docket: A-326-98

CORAM: DÉCARY, J.A.

SEXTON, J.A.

EVANS, J.A.

BETWEEN:

This is Exhibit "1" referred to in the
Affidavit of

Roland Twinn

Sworn before me this *21st* day
of *September* A.D. *2000*

A Notary Public, A Commissioner for Oaths
in and for the Province of Alberta

MICHAEL H. MCLEOD Q.C.
BARRISTER & SOLICITOR

**HER MAJESTY THE QUEEN, IN RIGHT OF CANADA, DEPARTMENT OF INDIAN AND
NORTHERN AFFAIRS CANADA and WALTER PATRICK TWINN, as Chief of the
Sawridge Indian Band and the SAWRIDGE INDIAN BAND**

Defendants

(Appellants)

- and -

**ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM BARTHOLOMEW
McGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT, JOHN EDWARD
JOSEPH McGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN McDONALD, LORNA
JEAN ELIZABETH McREE, FRANCES MARY TEES, BARBARA VIOLET MILLER (nee
McDONALD)**

Plaintiffs

(Respondents)

Heard at Toronto, Ontario, Tuesday, June 13, 2000

Judgment delivered from the Bench at Toronto, Ontario
on Tuesday, June 13, 2000

REASONS FOR JUDGMENT OF THE COURT BY: EVANS, J.A.

Date: 20000613

Docket: A-326-98

CORAM: DÉCARY J.A.

SEXTON J.A.

EVANS J.A.

BETWEEN:

**HER MAJESTY THE QUEEN, IN RIGHT OF CANADA, DEPARTMENT OF INDIAN AND
NORTHERN AFFAIRS CANADA and WALTER PATRICK TWINN, as Chief of the
Sawridge Indian Band and the SAWRIDGE INDIAN BAND**

Defendants

(Appellants)

- and -

**ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM BARTHOLOMEW
McGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT, JOHN EDWARD
JOSEPH McGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN McDONALD, LORNA
JEAN ELIZABETH McREE, FRANCES MARY TEES, BARBARA VIOLET MILLER (nee
McDONALD)**

Plaintiffs

(Respondents)

REASONS FOR JUDGMENT

*(Delivered from the Bench at Toronto, Ontario
on Tuesday, June 13, 2000)*

EVANS J.A.

[1] This is an appeal against an order of the Trial Division, dated May 6th, 1998, in which the learned Motions Judge granted the respondents' motion to amend their statement of claim by adding paragraphs 38 and 39, and dismissed the motion of the appellants, Walter Patrick Twinn, as Chief of the Sawridge Indian Band, and the Sawridge Indian Band, to strike the statement of claim as disclosing no reasonable cause of action.

[2] In our respectful opinion, the Motions Judge erred in law in permitting the respondents to amend and in not striking out the unamended statement of claim. The paragraphs amending the statement of claim allege that the Sawridge Indian Band rejected the respondents' membership applications by misapplying the Band membership rules (paragraph 38), and claim a declaration that the Band rules are discriminatory and exclusionary, and hence invalid (paragraph 39).

[3] These paragraphs amount to a claim for declaratory or prerogative relief against the Band, which is a federal board, commission or other tribunal within the definition provided by section 2 of the *Federal Court Act*. By virtue of subsection 18(3) of that Act, declaratory or prerogative relief may only be sought against a federal board, commission or other tribunal on an application for judicial review under section 18.1. The claims contained in paragraphs 38 and 39 cannot therefore be included in a statement of claim.

[4] It was conceded by counsel for the respondents that, without the proposed amending paragraphs, the unamended statement of claim discloses no reasonable cause of action in so far as it asserts or assumes that the respondents are entitled to Band membership without the consent of the Band.

[5] It is clear that, until the Band's membership rules are found to be invalid, they govern membership of the Band and that the respondents have, at best, a right to apply to the Band for membership. Accordingly, the statement of claim against the appellants, Walter Patrick Twinn, as Chief of the Sawridge Indian Band, and the Sawridge Indian Band, will be struck as disclosing no reasonable cause of action.

[6] For these reasons, the appeal will be allowed with costs in this Court and in the Trial Division.

"John M. Evans"

J.A.

FEDERAL COURT OF CANADA

Names of Counsel and Solicitors of Record

DOCKET: A-326-98

STYLE OF CAUSE: HER MAJESTY THE QUEEN, IN RIGHT OF CANADA,
DEPARTMENT

OF INDIAN AND NORTHERN AFFAIRS CANADA and WALTER
PATRICK TWINN, as Chief of the Sawridge Indian Band and the
SAWRIDGE INDIAN BAND

- and -

ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM
BARTHOLOMEW MCGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT, JOHN
EDWARD JOSEPH MCGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN McDONALD, LORNA
JEAN ELIZABETH McREE, FRANCES MARY TEES, BARBARA VIOLET MILLER (nee
McDONALD)

DATE OF HEARING: TUESDAY, JUNE 13, 2000

PLACE OF HEARING: TORONTO, ONTARIO

REASONS FOR JUDGMENT BY: EVANS J.A.

Delivered at Toronto, Ontario on

Tuesday, June 13, 2000

APPEARANCES BY: Mr. Philip P. Healey

For the Defendants

(Appellants)

Mr. Peter V. Abrametz

For the Plaintiffs

(Respondents)

SOLICITORS OF RECORD: Aird & Berlis

Barristers & Solicitors

BCE Place, Suite 1800, Box 754

181 Bay Street

Toronto, Ontario

M5J 2T9

For the Defendants

(Appellants)

Eggum, Abrametz & Eggum

Barristers & Solicitors

101-88-13th Street East

Prince Albert, Saskatchewan

S6V 1C6

For the Plaintiffs

(Respondents)

FEDERAL COURT OF APPEAL

Date: 20000613

Docket: A-326-98

BETWEEN:

**HER MAJESTY THE QUEEN, IN RIGHT OF
CANADA, DEPARTMENT OF INDIAN AND
NORTHERN AFFAIRS CANADA and WALTER
PATRICK TWINN, as Chief of the Sawridge Indian
Band and the SAWRIDGE INDIAN BAND**

Defendants

(Appellants)

- and -

**ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM
BARTHOLOMEW MCGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT,
JOHN EDWARD JOSEPH MCGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN
McDONALD, LORNA JEAN ELIZABETH McREE, FRANCES MARY TEES, BARBARA
VIOLET MILLER (nee McDONALD)**

Plaintiffs

(Respondents)

REASONS FOR JUDGMENT

 Recent additions  Mailing List

Decided by Lexis

Date Modified: 2016-09-09

FEDERAL COURT

BETWEEN:

This is Exhibit "2" referred to in the Affidavit of

Roland Twinn

Sworn before me this 21 day
of September A.D., 2016

[Signature]
A Notary Public, A Commissioner for Oaths
in and for the Province of Alberta

MICHAEL R. McKINNEY Q.C.
BARRISTER & SOLICITOR

Maurice Felix Stoney

Applicant

- and -

Sawridge First Nation

Respondent

AFFIDAVIT

I, ROLAND TWINN of the Sawridge Indian Reserve 150G, in the Province of Alberta, businessman, MAKE OATH AND SAY:

1. I have been a member of the Sawridge First Nation since my birth in 1965 and the Chief of the Sawridge First Nation since 2003, as such I have personal knowledge of the matters set out in this affidavit except where stated to be on information and belief.
2. Sawridge First Nation assumed control over its own membership under section 10 of the *Indian Act* on July 8, 1985, the day its membership rules, supporting documentation and by-laws No, 103, 104, 105 and 106 were handed to the Deputy Minister of Indian and Northern Affairs who accepted them on behalf of the Minister. Attached and marked as **Exhibit "A"** to this my affidavit is a copy of a letter dated July 9, 1985 from Gowling & Henderson to the Deputy Minister confirming delivery of the Sawridge First Nation membership rules to the Minister on July 8, 1985 along with notice that Sawridge First Nation was assuming control of its own membership.
3. Sawridge First Nation did not receive a completed membership application form from Maurice Stoney until it received Maurice Stoney's membership application dated August 30, 2011.

4. When Chief and Council considered Maurice Stoney's membership application it had before it:

- A copy of Maurice Stoney's Application Form dated August 30, 2011 attached and marked as **Exhibit "B"** to this my affidavit;
- A copy of the Amended Statement of Claim in Federal Court No. T-1529-95 attached and marked as **Exhibit "C"** to this my affidavit;
- The June 13, 2000 Reasons for Judgment of the Federal Court of Appeal in Appeal No. A-326-98, a copy of which Reasons for Judgment is attached as **Exhibit "D"** to this my affidavit;
- A copy of a May 12, 1944 letter from P. Demers attached and marked as **Exhibit "E"** to this my affidavit;
- A copy of a 1910 paylist attached and marked as **Exhibit "F"** to this my affidavit;
- A copy of a Fifth Estate Transcript attached and marked as **Exhibit "G"** to this my affidavit;.
- A copy of a June 1, 1993 letter from Maurice Stoney attached and marked as **Exhibit "H"** to this my affidavit;
- A copy of a June 16, 1993 Lakeside Leader Article attached and marked as **Exhibit "I"** to this my affidavit;
- A copy of a June 21, 1993 Scope Article attached and marked as **Exhibit "j"** to this my affidavit;
- A copy of a June 13, 1993 Edmonton Journal Article attached and marked as **Exhibit "K"** to this my affidavit;
- A copy of a June 21, 1993 Alberta Report Article attached and marked as **Exhibit "L"** to this my affidavit;
- A copy of an August 18, 1993 Lakeside Leader Article attached and marked as **Exhibit "M"** to this my affidavit;
- A copy of an August 12, 1993 Protest Handout attached and marked as **Exhibit "N"** to this my affidavit;

- A copy of a February 29, 2000 letter from Maurice Stoney attached and marked as **Exhibit "O"** to this my affidavit;
 - A copy of an October 18, 2000 KCFN Declaration attached and marked as **Exhibit "P"** to this my affidavit;
 - A copy of an April 4, 2001 letter from Maurice Stoney attached and marked as **Exhibit "Q"** to this my affidavit; and
 - A copy of a March 21, 2001 letter from Maurice Stoney attached and marked as **Exhibit "R"** to this my affidavit.
5. After considering the membership application of Maurice Stoney, Chief and Council decided that he did not have a specific right to have his name entered on the membership list of the Sawridge First Nation and decided not to exercise its discretion under the Sawridge First Nation membership rules to enter his name on the membership list of the Sawridge First Nation. Attached and marked as **Exhibit "S"** to this my affidavit is a Membership Processing Form for Maurice Felix Stoney prepared after Chief and Council made its decision on his membership application that sets out a "Summary of First Nation Councils Judgment" that was approved by Chief and Council. Chief and Council's decision on his membership application was then communicated to Maurice Stoney on or about December 7, 2011 by registered letter.
6. In a letter dated December 22, 2011 from lawyers in Peace River, Alberta, received by fax by Sawridge First Nation on December 22, 2011 Sawridge was told that three unsuccessful applicants for membership were appealing the Chief and Council's decisions. Attached and marked as **Exhibit "T"** to this my affidavit is a copy of that December 22, 2011 letter with attached letter from Maurice Stoney dated December 19, 2011, attached letter from June Kolosy dated December 20, 2011 and with attached letter from Aline Huzar dated December 19, 2011.
7. The hearing of the applicant's appeal was originally scheduled for February 25, 2012 but, at the request of the applicant was rescheduled for April 21, 2012. In advance, by letter dated March 23, 2012 from Sawridge First Nation's lawyer to the Edmonton lawyer for

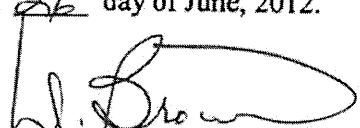
the applicant, the applicant's lawyer was provided with a copy of the Record in relation to each applicant, in particular Exhibits "B" through "T" and also a copy of the Appeal Procedure. Attached and marked as Exhibits "U" and "V" to this my affidavit are copies of the March 23, 2012 letter and the Appeal Procedure.

8. On April 21, 2012 the Appeal Committee of the Sawridge First Nation convened to hear the applicant's appeal.
9. The Appeal Committee is, under sections 12 and 13 of the membership rules (see Exhibit I to the Stoney Affidavit), the electors of the Sawridge First Nation who attend the meeting convened to hear an appeal. Twenty-two electors attended the April 21, 2012 meeting. I was one of them.
10. A motion was made to accept proxy votes from electors of the Sawridge First Nation who were not in attendance. That motion was rejected by the Chair of the Appeal Committee as being contrary to the intent of section 13 of the membership rules and section 7 of the Appeal Procedure.
11. After accepting written submissions and hearing oral submissions from the applicants' lawyer and after questioning the applicants' lawyer the Appeal Committee met in camera. Sawridge First Nation's lawyers were not included in the in camera meeting.
12. Attached and marked as Exhibit "W" to this my affidavit is copy of the written submissions of the applicant before the Appeal Committee.
13. The Appeal Committee met in camera for approximately 3 hours, from about 2:00 P.M. to about 5:00 P.M.
14. Along with Exhibits "B" – "T" the Appeal Committee also had before it in its in camera meeting a legible copy of Exhibit "I". Attached and marked as Exhibit "X" to this my affidavit is a copy of that legible copy..

15. On or about 5:00 P.M. on April 21, 2012 the Appeal Committee came out of its in camera meeting and dismissed the appeals. Attached and marked as **Exhibit "Y"** to this my affidavit is a copy of the Appeal Committee's decision.
16. To my knowledge, from discussions with Elders and review of historical documents over the years, I believe that there has never been a "Lesser Slave Lake Band". There were, instead, several bands located at various points along the shores of the Lesser Slave Lake and that, in 1899, the headmen of those bands appointed Kinodayoo as a spokesman to speak on their behalf as he had the best grasp of the English language. The headman of the Sawridge band was Charles Neesotasis. Charles Neesotasis signed Treaty #8 in 1899 on behalf of the ancestors of the Sawridge First Nation.
17. As set out in the applicant's documents and paragraph 4 of the Stoney Affidavit, Johnny Stoney was a member of the Alexander Band, a band near Edmonton, until his transfer to the Sawridge First Nation on September 14, 1910.
18. Johnny Stoney's son William Stoney was, according to the applicant's documents, born in 1921 when his father was a member of the Sawridge First Nation but, in 1944 William was voluntarily enfranchised along with his wife and his two minor sons, Melvin and Maurice and, effective August 1, 1944, the family voluntarily gave up their Indian status and their membership in Sawridge First Nation.
19. Contrary to paragraph 7 of the Stoney Affidavit, Sawridge has no knowledge of any involvement of Maurice Stoney in the Sawridge First Nation at any time.

20. I make this affidavit in opposition to the judicial review application brought by Maurice Stoney.

SWORN BEFORE ME at the Town of)
Slave Lake, in the Province of Alberta,)
this 26 day of June, 2012.)


A COMMISSIONER FOR OATHS IN AND)
FOR THE PROVINCE OF ALBERTA


ROLAND TWINN

DONNA BROWN
A Commissioner for Oaths
In and for The Province of Alberta
My Appointment Expires December 30, 2012

Tab A

Gowling & Henderson

BARRISTERS & SOLICITORS
PATENT & TRADE MARK AGENTS

160 ELCIN STREET
OTTAWA, CANADA
K1N 8S3

TELEPHONE (613) 232-1781
TELECOPIER (613) 563-9869
TELEX 053-1114 "HERSON-OTT"

2 FIRST CANADIAN PLACE
TORONTO, CANADA
M5X 1A4

102 BLOOR STREET WEST
TORONTO, CANADA
M5S 1M8

HENRY S BROWN

9 July 1985

BY COURIER

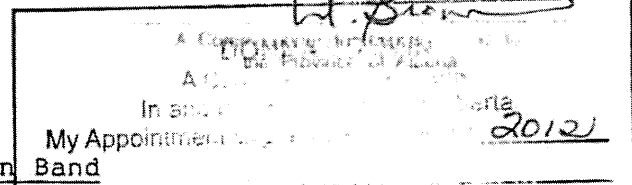
Mr. Bruce Rawson
Deputy Minister of the
Department of Indian and
Northern Affairs Canada
Les Terrasses de la Chaudière
Room 2101
10 Wellington Street
Hull, Quebec
K1A 0H4

Dear Mr. Rawson:

Re: Sawridge Indian Band

This is Exhibit "A" referred to in the
Affidavit of

ROLAND TWINN
Sworn before me this *26* day
of *JUNE* *1985*



This will confirm that I met with you and the Executive Director of the Sawridge Indian Band, Bruce Thom, at your offices at Hull, Quebec on July 8, 1985, at which time Mr. Thom provided to you and you accepted on behalf of the Minister of Indian and Northern Affairs the membership code of the Sawridge Indian Band and supporting documentation, together with copies of the Residency By-law (No. 103), and By-laws 104, 105, and 106 of the Sawridge Indian Band.

This will confirm as well our request at that time that the Sawridge Indian Band be advised as expeditiously as possible whether the membership code, Residency by-law or the other three by-laws are acceptable to the Minister.

This will also confirm our conversation with Mr. Smith, the Registrar under the Indian Act to the effect that no names had been added to the Band List of the Sawridge Indian Band as a consequence of the enactment of Bill C-31 as of the time of that meeting and delivery of the membership codes to you as the Minister's authorized representative in that connection.

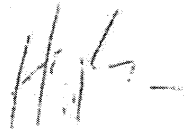
Gowling & Henderson

Mr. Bruce Rawson
9 July 1985

Page 2

Thank you for receiving us. I look forward to having
your response.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'H. S. Brown', with a horizontal line extending to the right.

Henry S. Brown

HSB:dm

c.c. Chief Walter Twinn ✓

Tab B

SAWRIDGE INDIAN BAND MEMBERSHIP APPLICATION FORM

The answers in this membership questionnaire will be kept confidential and shall be disclosed only to those persons involved in the membership determination process as well as appropriate Band employees and advisors unless otherwise necessary in respect of a membership matter before the courts.

This questionnaire has been created to assist the Band Council in assessing applicants who are seeking or surrendering membership in the Band. The data provided will also assist the Band in the planning, including programs and services, required to accommodate members.

INSTRUCTIONS

1. Please print or type.
2. Please answer all questions, or indicate why no answer is provided.
3. If more space is required to fully answer a question, please attach additional sheets and indicate which question it applies to.
4. Please attach a current colour passport photo of yourself.
5. Please attach supporting documents as indicated.
6. Please attach a copy of your treaty "status" card.
7. This application may be followed by an interview. Additional questions may be asked at the interview.

1. APPLICATION FOR (CHECK ONE)									
APPLICATION FOR MEMBERSHIP IN THE BAND BY NON-MEMBER									<input checked="" type="checkbox"/>
APPLICATION BY MEMBER TO SURRENDER MEMBERSHIP IN THE BAND									<input type="checkbox"/>
2. IDENTIFICATION									
A. NAME		FIRST <u>MAURICE</u>		MIDDLE <u>E</u>	LAST <u>STONELEY</u>				
Other Names You Have Used (Maiden/Nicknames/Alias):									
B. ADDRESS									
MAILING ADDRESS (if different): <u>500-4th NW SLAVE LAKE AB T0G2A1</u>									
C. PHONE NUMBERS		HOME <u>780 849 5193</u>		WORK					
D. Sex	MALE <input checked="" type="checkbox"/>	FEMALE <input type="checkbox"/>	E. BIRTHDATE		Month <u>Sept.</u>	Day <u>24</u>	Year <u>1941</u>	Attach Certificate <input checked="" type="checkbox"/>	Birth
F. PLACE OF BIRTH		<u>SLAVE LAKE</u>		G. MARITAL STATUS			<u>Married</u>		
H. YOUR SOCIAL INSURANCE NUMBER									
<u>653 862 620</u>									
I. YOUR DRIVERS LICENSE NUMBER									
<u>47580-147</u>									
J. WHAT IS YOUR HEIGHT					K. WHAT IS YOUR WEIGHT				
<u>5'11"</u>					<u>190 lbs</u>				
L. IF THIS IS AN APPLICATION FOR MEMBERSHIP PLEASE EXPLAIN THE BASIS OF YOUR APPLICATION									
<u>Reapply</u>									
M. HAVE YOU EVER BEEN A MEMBER OF THE SAWRIDGE BAND?									
If yes, <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO									
HOW DID YOU BECOME A MEMBER?									
<u>Born a Band Member</u>									
WHEN DID YOU BECOME A MEMBER?									
<u>1941</u>									
HOW DID YOU CEASE TO BE A MEMBER?									
<u>Forced Out</u>									
WHEN DID YOU CEASE TO BE A MEMBER?									
<u>approx. 1946</u>									
HOW MUCH OF THE BAND'S MONEY DID YOU RECEIVE?									
<u>none</u>									
WHEN DID YOU RECEIVE IT?					HOW MUCH IS LEFT?				

1
I, ROLAND TWINN, do hereby certify that the above is a true and correct copy of the original application form.

Sworn before me this 26 day
of JUNE 2012

[Signature]
Notary Public for Alberta

DONALD TWINN
A.C. [unclear] Oaths
In a [unclear] of Alberta
My Appointment Expires [unclear] 30, 2012

ARE YOU WILLING TO REPAY PRINCIPLE AMOUNT WITH INTEREST OF MONIES RECEIVED WHEN YOU ENFRANCHISED?			
IF YOU DID NOT RECEIVE ANY MONEY PLEASE EXPLAIN		not old enough	
N. HAVE YOU EVER BEEN ADOPTED?		YES	NO <input checked="" type="checkbox"/>
IF YES, PLEASE PROVIDE FULL DETAILS.			
3. RESIDENCE AND STATUS			
A. HAVE YOU EVER RESIDED ON THE SAWRIDGE INDIAN RESERVE?		YES	NO <input checked="" type="checkbox"/>
IF YES, PROVIDE DETAILS		YES 150 G	
DATES FROM	1941	TO	approx 1946
WHO WITH	Parent & Grand Parents		
LOCATION	150 G EAST OF TOWN		
B. WHERE HAVE YOU RESIDED SINCE BIRTH?			
SLAKE LAKE			
DATES FROM	1941	TO	present
ADDRESS	SLAKE LAKE		
ON A RESERVE			
LANGUAGE(S) SPOKEN	CREE		
WITH WHOM (parents, grand siblings, others)			
BIRTH		YES	NO
		YES	NO
		YES	NO
		YES	NO
C. HAVE YOU EVER BEEN OR ARE YOU NOW A MEMBER OF ANY INDIAN BAND OTHER THAN SAWRIDGE?		YES	NO <input checked="" type="checkbox"/>
IF YES PROVIDE DETAILS OF EACH BAND INCLUDING NAME			
DATE OF BEGINNING AND ENDING MEMBERSHIP			
HOW YOU BECAME A MEMBER?			
WHY YOU CEASED TO BE A MEMBER			
D. ARE YOU A STATUS INDIAN?		YES <input checked="" type="checkbox"/>	NO
E. HAVE YOU ALWAYS BEEN A STATUS INDIAN?		YES <input checked="" type="checkbox"/>	NO
F. INDICATE DURING WHAT PERIOD OR PERIODS YOU WERE A STATUS INDIAN		From Birth to Present..	
G. DATE AND REASON FOR THE CHANGE IN STATUS		No change	
4. SPOUSES			
A. LIST ALL SPOUSES' NAMES ATTACH MARRIAGE CERTIFICATE OR IF COMMON-LAW PROVIDE DETAILS OF COHABITATION		#1 ELIZA STOKY	#2
NAME PRIOR TO MARRIAGE		ELIZA OUSKUN	
B. MARRIED OR COMMON-LAW (PRESENT STATUS)		MARRIED <input checked="" type="checkbox"/> COMMON-LAW	MARRIED <input type="checkbox"/> COMMON-LAW
C. DATE OF MARRIAGE		JUNE 1995	
D. PLACE OF MARRIAGE		SLAKE LAKE	
E. SPOUSES' STATUS PRIOR		INDIAN <input checked="" type="checkbox"/> NON-STATUS	INDIAN <input type="checkbox"/> NON-STATUS

TO MARRIAGE		BAND MEMBER		BAND MEMBER		BAND MEMBER	
		NAME OF BAND		NAME OF BAND		NAME OF BAND	
F. NUMBER OF CHILDREN							
G. DATE AND PLACE OF DIVORCE/SEPARATION (PLEASE ATTACH DIVORCE JUDGEMENTS)							
H. CURRENT STATUS OF SPOUSE		INDIAN		INDIAN		INDIAN	
		NON STATUS		NON STATUS		NON STATUS	
		BAND MEMBER		BAND MEMBER		BAND MEMBER	
		NAME OF BAND		NAME OF BAND		NAME OF BAND	
		DECEASED		DECEASED		DECEASED	
		DATE OF DEATH		DATE OF DEATH		DATE OF DEATH	

5. CHILDREN							
LIST NAMES OF ALL YOUR CHILDREN (USE ADDITIONAL SHEETS IF NECESSARY)							
A. NAME							
B. SEX		MALE	FEMALE	MALE	FEMALE	MALE	FEMALE
C. BIRTHPLACE							
D. OTHER PARENT'S NAME							
E. BIRTHDATE							
F. YOUR STATUS AT BIRTH OF CHILD		INDIAN		INDIAN		INDIAN	
		NON STATUS		NON STATUS		NON STATUS	
		BAND MEMBER		BAND MEMBER		BAND MEMBER	
		NAME OF BAND		NAME OF BAND		NAME OF BAND	
G. CHILD'S STATUS AT BIRTH		INDIAN		INDIAN		INDIAN	
		NON STATUS		NON STATUS		NON STATUS	
		BAND MEMBER		BAND MEMBER		BAND MEMBER	
		NAME OF BAND		NAME OF BAND		NAME OF BAND	
H. CHILD'S CURRENT STATUS		INDIAN		INDIAN		INDIAN	
		NON STATUS		NON STATUS		NON STATUS	
		BAND MEMBER		BAND MEMBER		BAND MEMBER	
		NAME OF BAND		NAME OF BAND		NAME OF BAND	
		DECEASED		DECEASED		DECEASED	
		DATE OF DEATH		DATE OF DEATH		DATE OF DEATH	
I. REASON FOR CHANGE IN STATUS							
J. RELATIONSHIP TO CHILD		BIOLOGICAL		BIOLOGICAL		BIOLOGICAL	
		ADOPTED		ADOPTED		ADOPTED	
		NON-ADOPTED STEP CHILD		NON-ADOPTED STEP CHILD		NON-ADOPTED STEP CHILD	
K. HAVE EACH OF YOUR CHILDREN RESIDED WITH YOU SINCE BIRTH, AND HAVE YOU PROVIDED FOR THE CHILD SINCE BIRTH? YES NO							
IF NO, PLEASE PROVIDE DETAILS:							
L. HAVE ANY OF YOUR CHILDREN EVER BEEN APPHREHENDED OR PLACED IN CARE? YES NO							
IF YES, PROVIDE DETAILS							
M. HAVE ANY OF YOUR CHILDREN EVER BEEN THE SUBJECT OF A GUARDIANSHIP ORDER? YES NO							
IF YES, PROVIDE DETAILS:							

N. HAVE ANY OF YOUR CHILDREN EVERY BEEN ADOPTED OR PUT UP FOR ADOPTION?

YES NO

IF YES,

NAME OF CHILD(REN)

BIRTHDATE(S)

REASONS FOR ADOPTION

DATE OF ADOPTION(S)

ADOPTING PARENT A RELATIVE

YES NO

O. NAME OF ADOPTING PARENT(S)
(IF KNOWN)

6. GENEALOGY

FOR EACH OF YOUR PARENTS AND GRANDPARENTS, PLEASE PROVIDE THE INFORMATION SET OUT BELOW OR, IF YOU HAVE A GENEALOGY WHICH CONTAINS THIS INFORMATION, PLEASE PROVIDE A COPY:

- FULL NAME *William + Margaret Stanley #59*
- ANY ALIASES (INCLUDING MAIDEN NAME)
- RELATIONSHIP INCLUDING WHETHER BIOLOGICAL, ADOPTED OR STEP *Father + Mother*
- BIRTHDATE (COPY OF BIRTH CERTIFICATE) *Attached -*
- STATUS AT BIRTH (NON STATUS, INDIAN, BAND MEMBER (NAME OF BAND) OTHER)
- HOW STATUS ATTAINED (NON-STATUS, INDIAN, BAND MEMBER, ETC.) *Father Band Member*
- MARITAL STATUS AT TIME OF YOUR BIRTH *married*
- CURRENT STATUS (NON-STATUS, INDIAN, BAND MEMBER, ETC.) *Indian*
- IF STATUS CHANGED, EXPLAIN
- LANGUAGE SPOKEN *CRÉE*
- LEVEL OF EDUCATION ACHIEVED *Parents - 4 level + Mr. Parents - 11/12/13/14/15*
- CONNECTION OR POSITION HELD IN THE BAND OR COMMUNITY.
- IF DECEASED, DATE OF DEATH

7. SIBLINGS (USE ADDITIONAL SHEETS FOR ADDITIONAL BROTHERS AND SISTERS) *Excl-siblings will fill out B.M. Form*

A. HOW MANY BROTHERS DO YOU HAVE?				
B. NAME OF EACH BROTHER		#1	#2	#3
C. BIRTHDATE				
D. BIRTHPLACE				
E. FULL, HALF BROTHER, OR STEP	FULL		FULL	FULL
	HALF		HALF	HALF
	STEP		STEP	STEP
F. IF HALF OR STEP, WHICH PARENT IS COMMON	FATHER		FATHER	FATHER
	MOTHER		MOTHER	MOTHER
G. HOW MANY SISTERS DO YOU HAVE?				
H. NAME OF EACH SISTER		#1	#2	#3
I. BIRTHDATE				
J. BIRTHPLACE				
K. FULL, HALF SISTER, OR STEP	FULL		FULL	FULL
	HALF		HALF	HALF
	STEP		STEP	STEP
L. IF HALF OR STEP, WHICH PARENT IS COMMON	FATHER		FATHER	FATHER
	MOTHER		MOTHER	MOTHER

8. FINANCIAL

A. WHAT RESOURCES ARE AVAILABLE TO YOU?

B. WHAT ARE YOUR MEANS AND RESOURCES?

C. ARE YOU LIVING WITHIN YOUR MEANS?

D. ARE YOU SELF-SUFFICIENT? (IF NO, PLEASE EXPLAIN)

E. DO YOU HAVE ANY DEPENDANTS? IF SO, HOW MANY?

F. DO YOU OR ANY DEPENDANTS HAVE SPECIAL NEEDS? IF SO, PLEASE EXPLAIN.

9. CRIMINAL AND DRIVERS RECORD

A. LIST THE OFFENCE(S), OFFENCE DATE(S), CONVICTION DATE(S), AND SENTENCE(S). USE ADDITIONAL SHEET IF NECESSARY

B. HAS YOUR DRIVER'S LICENSE EVEN BEEN SUSPENDED?

YES

NO

IF YES, PLEASE PROVIDE DETAILS INCLUDING DURATION, REASON(S), AND DETAIL(S) OF REINSTATEMENT USE ADDITIONAL SHEET IF NECESSARY

10. EMPLOYMENT HISTORY

STARTING WITH YOUR MOST RECENT JOB, LIST EVERY JOB (FULL TIME/YEAR ROUND) WHICH YOU HAVE HAD. (USE ADDITIONAL SHEET IF NECESSARY). HAVE YOU BEEN REGULARLY EMPLOYED? ☒

A. LIST YOUR SIGNIFICANT EMPLOYMENT RELATIONSHIPS, DATES AND REASON FOR LEAVING

B. LIST ANY EXPERTISE AND INTEREST AND ANY EXPERIENCE AND TRAINING IN THESE AREAS

C. WHAT AGE DID YOU ENTER THE WORKPLACE?

11. BACKGROUND & PERSONAL INTERESTS (CAN BE DONE IN WRITING ON SEPARATE SHEET OR ORALLY THROUGH RECORDING DEVICE)

A. WHAT DO YOU KNOW ABOUT THE HISTORY OF THE SAWRIDGE INDIAN BAND (PRE-TREATY AND POST-TREATY)? WHAT ARE THE SOURCES OF YOUR KNOWLEDGE?

B. WHAT ARE YOUR UNDERSTANDINGS OF THE TREATY AND TREATY LAW?

C. WHAT DO YOU KNOW ABOUT THE CUSTOMS, THE LAWS, THE CULTURE, TRADITIONS AND PRACTICES VALUES AND PRINCIPLES OF THE SAWRIDGE INDIAN BAND?

D. WHO DO YOU HAVE A MEANINGFUL RELATIONSHIP WITH SOMEONE WHO IS A MEMBER OF THE SAWRIDGE INDIAN BAND? (PROVIDE NAMES, HOW LONG YOU HAVE KNOWN, AND DESCRIBE YOUR ACTIVITIES AND RELATIONSHIPS WITH EACH PERSON AS WELL AS THE HISTORY OF THAT RELATIONSHIP. ALSO INDICATE IF THAT PERSON IS A RELATIVE AND WHAT RELATION THEY ARE TO YOU).

E. DO ANY CURRENT BAND MEMBERS SUPPORT YOUR BID FOR MEMBERSHIP?

(FOR APPLICATIONS FOR MEMBERSHIP ONLY). IF YES, PLEASE PROVIDE THE NAME OR NAMES OF SUPPORTERS AND A LETTER SETTING OUT THEIR SUPPORT.

YES

NO

F. HOW WOULD YOU DESCRIBE YOUR LIFESTYLE?		<i>Good</i>
G. WHAT IS YOUR CURRENT INVOLVEMENT WITH THE BAND?		<i>E-31</i>
H. WHAT ARE YOUR HOBBIES?		<i>Hunting + Fishing</i>
I. WHAT ARE YOUR OTHER RECREATIONAL ACTIVITIES?		<i>Outdoors</i>
J. WHAT DO YOU HOLD AS MOST IMPORTANT AND VALUABLE? WHY?		<i>Life in general</i>
K. DESCRIBE YOUR ATTITUDE TOWARDS THE BAND, ITS MEMBERS AND THE COUNCIL.		<i>To go along</i>
L. WHAT DO YOU SEE AS YOUR ROLE AND RESPONSIBILITY AS A BAND MEMBER?		<i>undecided?</i>
12. FUTURE PLANS (CAN BE DONE IN WRITING ON SEPARATE SHEETS OR ORALLY THROUGH A RECORDING DEVICE).		
A. WHY DO YOU WISH TO BECOME A MEMBER OF THE SAWRIDGE INDIAN BAND? <i>This is my right</i>		
B. WHAT ARE YOUR PLANS FOR THE FUTURE? (INCLUDING PLANS FOR RESIDENCY, EMPLOYMENT, OCCUPATION, EDUCATION, RETIREMENT, TRAVEL, MARRIAGE, FAMILY, RECREATION, ETC.). <i>Will decide when I am a member</i>		
13. EDUCATION		
A. PROVIDE A DETAILED HISTORY OF YOUR EDUCATION BOTH FORMAL AND TRADITIONAL	<i>High School Gr. 9</i>	
B. ARE YOU WILLING UPON REQUEST TO PROVIDE A TRANSCRIPT OF ALL OF YOUR SECONDARY AND POST-SECONDARY EDUCATION, IF ANY. <i>N/A</i>		
C. HONOURS, AWARDS, DISTINCTIONS, SCHOLARSHIPS, MERITS	<i>N/A</i>	
D. IF YOUR LEARNING WAS INTERRUPTED OR YOU WERE UNABLE TO COMPLETE	EXPLAIN <i>N/A</i>	
E. PLEASE PROVIDE A DETAILED HISTORY OF ALL OF YOUR EXTRA CURRICULAR ACTIVITIES	<i>N/A</i>	
F. WHAT ARE YOUR PLANS FOR FUTURE EDUCATION, IF ANY?	<i>N/A</i>	
14. HEALTH AND WELLNESS (PLEASE NOTE THAT YOUR HEALTH IS IMPORTANT TO THE BAND, BUT IT IS NOT A SINGLY DETERMINATIVE FACTOR IN MAKING A DECISION ON MEMBERSHIP). THESE QUESTIONS CAN HELP DETERMINE WHETHER THE BAND NEEDS TO APPLY FOR FUTURE GRANTS, FUNDING, ETC.		
A. WHAT IS THE CONDITION OF YOUR HEALTH?		<i>Good</i>
B. DO YOU HAVE ANY PROBLEMS?	LIST <i>NO</i>	
C. DO YOU HAVE ANY PHYSICAL OR MENTAL DISABILITIES (INCLUDING EMOTIONAL)?		
		YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
IF YES, EXPLAIN		
D. HAVE YOU EVER HAD ANY ALCOHOL OR DRUG RELATED ADDICTIONS OR ILLNESS? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
IF YES	PLEASE EXPLAIN <i>Not for approx. 30 years</i>	
E. HAVE YOU EVER SUFFERED FROM MENTAL ILLNESS? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
IF YES (PLEASE EXPLAIN)		

F. HOW DO YOU DEFINE YOUR PERSONAL WELLNESS AND HOW CAN YOU CONTRIBUTE TO THE WELLNESS OF THE SAWRIDGE INDIAN BAND?	
Good	
G. WHAT IS YOUR PRESENT CODE OF CONDUCT?	
Good	
15. CONTRIBUTIONS	
PLEASE WRITE A BRIEF STATEMENT OR ORALLY RECORD YOUR ANSWER ON A RECORDING DEVICE ABOUT:	
A. YOUR ROLE, PLACE AND RESPONSIBILITIES IN THE LIFE AND HEALTH OF THE COMMUNITY. <i>Pensioner</i>	
B. WHERE YOU CAN BEST CONTRIBUTE, INCLUDING CONTRIBUTIONS TO THE BAND. <i>Small Town</i>	
C. THE SPIRITUAL VALUES AND PRINCIPLES THAT YOU LIVE BY AND ASPIRE TO IN ALL YOUR RELATIONSHIPS.	
D. WHAT SUPPORT YOU HOPE FOR FROM THE BAND. <i>Membership</i>	
E. DESCRIBE THE RELATIONSHIP AND SUPPORT SYSTEM YOU HAVE WITH OUR FAMILY MEMBERS.	
16. REFERENCES (FOR THOSE SEEKING MEMBERSHIP ONLY)	
PLEASE PROVIDE FOUR LETTERS OF REFERENCE. <i>I am intitled to membership</i>	
17. PROBATIONARY PERIOD (FOR THOSE SEEKING MEMBERSHIP ONLY)	
A. ARE YOU PREPARED TO COME TO THE COMMUNITY TO PARTICIPATE AND/OR ASSIST THE BAND?	
YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
B. WHAT DO YOU FEEL DURING THE PERIOD THIS APPLICATION IS BEING ASSESSED YOU COULD DO TO CONTRIBUTE TO THE BAND AND TO SHOW YOUR COMMITMENT?	<i>Assisting in Band Operations,</i>
C. ARE YOU WILLING TO PARTICIPATE IN A COMMUNITY WELLNESS BUILDING PROCESS AS A CONDITION TO THIS APPLICATION AND/OR THE GRANTING OF MEMBERSHIP?	
YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
D. WHAT IS YOUR UNDERSTANDING OF THE RIGHT, OBLIGATIONS AND RESPONSIBILITIES OF MEMBERSHIP?	
<i>Understand Rules,</i>	
18. FAMILY	
A. HOW OFTEN DO YOU VISIT OR TALK TO FAMILY MEMBERS AND WHAT ACTIVITIES DO YOU SHARE WITH THEM?	<i>N/A ?</i>
19. GENERAL	
A. HOW DO YOU IDENTIFY YOURSELF?	<i>Canadian Citizen</i>
B. DID YOU HAVE ANY ASSISTANCE IN COMPLETING THIS APPLICATION?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
IF YES, WHO ASSISTED YOU?	
20. DO YOU HAVE ANY QUESTIONS, CONCERNS, OR COMMENTS?	
<i>N/A</i>	

CERTIFICATION

I certify that all of the information provided in this application is complete and true. I understand that if any of the information provided is found to be false or misleading then this shall be sufficient grounds for the denial of my application, or if the application has been approved then it shall be sufficient grounds for the reversal of my application at the option of the Band at any time in the future. Such denial or reversal shall be final; there shall be no right of appeal and no right to reapply after any such denial or reversal. I hereby authorize Sawridge Indian Band to obtain any and all factual information regarding me from other persons, organizations, institutions, or government agencies. I hereby authorize any person, organization, institution, or government agency who has any information regarding me to release that information regarding me in confidence to the Sawridge Indian Band.

Dated at Slave Lake, this 30 day of Aug., 2011

Maurice Stoney
Applicant Name

Maurice Stoney
Applicant Signature

I was present and did see _____, the applicant herein sign above.
(PLEASE PRINT)

Witness

Witness

(Print Name)

(Print Name)

Treaty # 4540011401
Sawridge Band

m/s.

PARISH :

Anglican-Archbishop's Residence
11 St. Michael, Adelaide
Tel. 324-3002 1011 210

Anglican-Archbishop's Residence
Ang 341 m

Baptism Certificate

According to the Acts of the Anglican Catholic Church

Presented to the

Born on the 24th day of September 1941

at Adelaide

Child of William Strong and Margaret Rowley

was Baptized

in the name of the Father, Son and Holy Spirit

By the Rev. Canon Alexander Smith

In the presence of the following

Witnesses

On the 24th day of September 1941

at Adelaide

Witnesses

I have as my duty and faithfulness done what and what of all

DATE: Nov. 12, 1993

SIGNED BY: *Anglican-Archbishop's Residence*

Marriage Certificate

District
of
Saskatchewan



The
Anglican Church
of Canada

On the 30th day of June 1908

At St. Peter's Ecumenical Church, Slave Lake, Alberta

Here Married Eliza Marie Loyie

of the Town of Slave Lake

And Maurice Stoner

of the Town of Slave Lake

By the Pastor, Allen Jorgensen

Rector of St. Peter's Ecumenical Church

Slave Lake, Alberta

Town, Province

This Marriage was solemnized between us

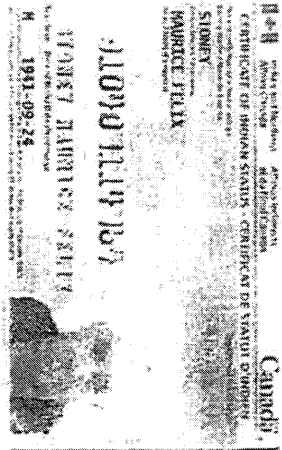
Minister

Allen Jorgensen

Eliza Marie Loyie
Bride

I certify that the above certificate has been recorded in the Register
of Marriages kept in St. Peter's Ecumenical Church,
Slave Lake, Alberta, this 30 day of June 1908

Allen Jorgensen



2009 2010
1/1/10

11/25/2017

310407114764

Registry Group - Ground Up Investment
454 - Saver Edge

2017-08-24

2010-01-20

Monica S. Sweeney

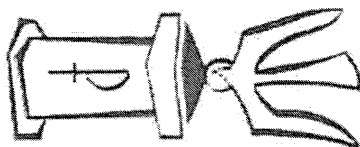
CERTIFICATE of BIRTH and BAPTISM

Church of St. Peter Celestine

..... Stone Lake, Alberta

This is to Certify that Jany Willy Stony

Child of Johnny Stony and Henriette Sincelate



born in on the 13th day of April
was Baptized on the 13th day of May, 1921, according to

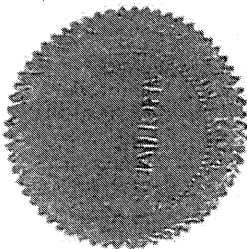
the Rite of the Roman Catholic Church by the Rev. E. DeLoe, O.M.I.

the Sponsors being: Emilie Sincelate & Emilie Mijnsloot

Confirmed on the day of at

as appears from the Baptismal Register of this Church

Dated October 1st, 2008 Secretary PRONK



Father's Birth Cert.

049.3%

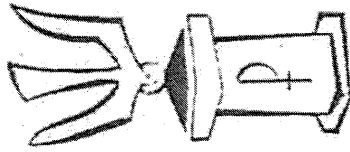
24.1

34
page 14

Alberta CANADA		CERTIFICATE OF DEATH		LD362759
VITAL STATISTICS				
Name of Deceased	Stoney, William			
Sex	Male			
Age	62 Years			
Date of Death	Dec 18 1983			
Place of Death	Stupe Lake			
Marital Status	Married			
Usual Residence	Alberta			
Registration Date	Dec 22 1983	Registration Number	1983-08-012118	
Date Issued	Dec 08 2005			
Certified extract from REGISTRATION OF DEATH Filed at Edmonton, Alberta, Canada				
DEC 31/51 (2003/11/09)				

Father's Death Cert.
Band # 59 Sawridge Band,

CERTIFICATE of BIRTH and BAPTISM



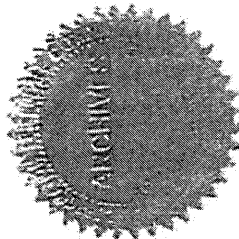
Church of St. Charles
..... Duvergato, Albert

This is to Certify that Jean-Baptiste Assinibolika
Child of Assinibolika and
(Baptized at the age of six months)

born in on the day of
was Baptized on the 2nd day of June 1877 according to
the Rite of the Roman Catholic Church by the Rev. C. Tiesler, O.M.I.
the Sponsors being Christine Court'oreille
Confirmed on the day of at

as appears from the Baptismal Register of this Church

Dated January 6th, 2009 Secretary: J. DeLand



This is my Grandfather's name at
Birth, his Treaty 18 sawridge Band,

FILE NO. 8131-38 DORMANT

VOLUME

INDIAN AFFAIRS BRANCH

DEPARTMENT OF CITIZENSHIP AND IMMIGRATION

SUBJECT ENFRANCHISEMENT

WM. J. STONEY

(NAME)

Treaty # 59

DORMANT

(BAND NUMBER)

LESSER SLAVE LAKE

(AGENCY)

(BAND) SAW Ridge

REFERENCE

DISPOSAL

REFERRED TO	BY	REMARKS	DATE	PA OR RP	BY	DATE	For Record
SAZ	f	046129	29/6/60	PA	SAZ	29/6/60	
T-1	SAZ	046129	29/6/60	PA	T-1	21-9-60	
SAZ	4	001539	22/9/60	PA	SAZ	22/9/60	
T-1	4	1 PER BE 213	22/9/60	PA	T-1	23-9-60	

7291

② Marriage Certificate ?
in filePUBLIC ARCHIVES
RECORDS CENTRE

2189

DO NOT WRITE BELOW THIS LINE

8/31 - 08

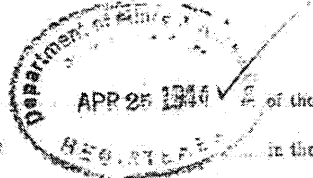
APPLICATION FOR ENFRANCHISEMENT

UNDER THE PROVISIONS OF SECTION 114 OF THE INDIAN ACT BEING CHAPTER
98, R.S.C., 1927

I, William J. Stoney,

of Slave Lake

Province of Alberta,



hereby make application to the Superintendent General of Indian Affairs for enfranchisement under the provisions of section 114, Chap. 98, R.S.C., 1927, and I hereby declare as follows:

1. That I am a member of the Sawridge Band of Indians situate in the County of Edmonton in the Province of Alberta;

2. That I hold no land on any Indian Reserve, do not reside on any Indian Reserve and do not follow the Indian mode of life;

3. That I am at present employed at Hitoe

Northern Alberta Railways

and that I am self supporting and consider that I am fit to be enfranchised and to exercise all the rights and privileges of citizenship: — ?

4. That I am prepared to comply with all the requirements for enfranchisement as provided by said Section 114: ?

5. That attached hereto is a certificate under oath as to my fitness for enfranchisement;

6. That my wife and unmarried minor children consist of the following persons, namely:

My wife

Margaret Stoney

(Name in full)

(over)

Names

(Names in full)

Dates of birth

Wm Joseph Stoney

May 7th 1843

Maurice Felix Stoney

Sept 24th 1841

Signatures

(Names in full)

Dates of birth

DATED at Slave Lake Alberta

this nineteenth

day

of April

19 44

WITNESS

W. J. Stoney

William J. Stoney
SIGNATURE OF APPLICANT

APPROVAL OF APPLICANT'S WIFE

I, Margaret Stoney

do certify that I am the wife

of William J. Stoney,

the above named applicant and that

I approve of this application for enfranchisement.

WITNESS

W. J. Stoney

X *Margaret J. Stoney*
SIGNATURE OF WIFE

CERTIFICATE OF INDIAN AGENT

I certify that I know William J. Stoney,

the above applicant and that his statement of facts is true, to the best of my knowledge and belief, and that I consider him a fit and proper person to become enfranchised, and hereby recommend that the application be granted.

P. J. Demers

INDIAN AGENT


Ottawa, April 29, 1944.

EX'D.
A

P. J. Demers, Esq., Indian Agent, Driftpile, Alberta.

The enfranchisement documents completed by William J. Stoney of the Slave Lake Band have been received.

In order that we may reach a decision on his application, we must have a further report from you indicating if Stoney is the owner of any land or improvements on the Reserve and also if he has resided off the Reserve for a period of at least one year and demonstrated during that time that he is capable of supporting his family in a white community. ?


D. J. Allan,
Superintendent,
Reserves and Trusts.

CERTIFICATE AS TO FITNESS FOR ENFRANCHISEMENT

(Note.—This Certificate must be given by a Clergyman, Justice of the Peace or other well known and responsible person.)

County of { I, Bertram Watkins of the
Hamlet of Slave Lake in the
County of in the
Province of Alberta
To wit: Make oath and say

1. That I am a British Subject, Merchant. residing in the
Hamlet of Slave Lake in the County of
in the Province of Alberta :

2. That I have known William Stoney
an Indian of the Sawridge Reserve in the Province of
Alberta for at least five years;

3. That during the said time I have personally known him, or her, to be a person of good
moral character, temperate in habits and of sufficient intelligence to be qualified to exercise all the
rights and privileges of citizenship, and to the best of my knowledge and belief, self-supporting;

4. That my opportunities for knowing the said William Stoney
have been as follows: (State what business, social or other relations you have had with the said
person to enable you to give this certificate.)

I have done business with William Stoney for the last
eight years

SWORN before me at the Hamlet

of Slave Lake
the County of Alberta

15th day of April

1924

in

this

Bertram Watkins

W. H. Patrick

A Commissioner for taking Affidavits, or
other person authorized to take the Affidavit.

RELEASE AND SURRENDER

By an Indian belonging to a Band
having funds at its credit

(FOR ENFRANCHISEMENT UNDER SECTION 114 OF THE INDIAN ACT BEING CHAPTER 95, R.S.C., 1927)

Know all men by these presents that I, William J. Stoney, 59 Band #

..... is member of the Sawridge Band
of Indians, whose reserve is located in the County of
in the Province of Alberta, for and in consideration of the sum of
Twenty-four Dollars and Twenty-two cents (\$24.22),
each for self, wife and unmarried children, being my share of the funds
at the credit of the said band, including the principal of the annuities of the said band, which I
hereby accept and in pursuance of my application for enfranchisement under the provisions of
section 114, Chapter 95, R.S.C., 1927, do hereby surrender all claims whatsoever to any interest in
the lands or property of the said band, and do hereby remit, release and forever discharge the said
band and His Majesty, as represented by the Superintendent General of Indian Affairs, and his
successors of and from all and all manner of action and actions, cause and causes of actions, suits
debts, dues, sums of money, claims and demands whatsoever which I ever had or now have or
can, shall or may have by reason of any matter, cause or thing whatsoever in respect to the said
band.

My wife and unmarried minor children consist of the following persons, namely:

My Wife

Margaret Stoney

(Name in full)

(OTHER SIDE)



My Sons

(Names in full)

Dates of birth

Alvin Joseph Stoney

May 7th 1943

Maurice Felix Stoney

Sept 24th 1941

My Daughters

(Names in full)

Dates of birth

Slave Lake Alta.

DATED at ~~Slave Lake~~ this 19th day of April 1944

SIGNED, SEALED AND DELIVERED after
having been read over and interpreted
to the Releasee who appeared to fully
understand the contents and effects
of the Instruments in the presence of

William J. Stoney

[Signature]

Comm. for Oaths for Prov. Alberta

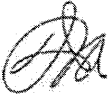
Ottawa, August 24, 1944.

P. J. Demers, Esq., Indian Agent, Driftpile, Alberta.

With reference to the application of William J. Stoney of the Sawridge Band of Indians for enfranchisement, I wish to inform you that by Order in Council dated August 1, 1944, this man was declared enfranchised in pursuance of the provisions of Section 114 of the Indian Act. ← ← (7)

Under separate cover you will receive cheque for the sum of \$777.08, payable to William J. Stoney, being his share of the band funds which you will be good enough to forward to him together with certified copy of the Order in Council above referred to and enfranchisement card, which are herewith enclosed. You should advise Stoney to sign the card.

Please remove the names of this man and his wife and minor children from the membership and pay lists of the Band. (7)


D. J. Allan,
Superintendent,
Reserves and Trusts.

Encls.


[Handwritten notes and signatures at bottom of page]

Ottawa, August 10, 1943.

N. P. L'Heureux, Esq., Indian Agent, Driftpile, Alberta.

An application for enfranchisement has been received from William J. Stoney, No. 58 of the Sawridge Band of Indians, presently residing in Slave Lake, Alberta.

? → If you consider this man possesses the necessary qualifications for release from band membership, please have the enclosed documents completed and return them to this Branch with your report and recommendation.


D. J. Allan,
Superintendent,
Reserves and Trusts.


Encls.



TREASURY OFFICE

Ottawa, August 14th, 1943.

W. Stoney

MEMORANDUM: SUPT. OF RESERVES AND TRUSTS

William D. Stoney

The per capita share payable from Band Funds to a member of the Sawridge Band on enfranchisement is \$94.27. This is composed of capital funds \$78.35 and interest funds \$15.93.

L. M. Curran

Chief Treasury Officer.

for

Ottawa, July 7, 1944.

PRESIS.

59

Enfranchisement of William J. Stoney, a member of
the Sawridge Band of Indians in the Lesser Slave Lake Agency,
Province of Alberta.

The applicant is married and has two minor, unmarried
children.

REQUISITION FOR CHEQUE

TO BE USED FOR ADVANCES OR AUTHORIZED PAYMENTS FOR WHICH THERE ARE NO ACCOUNTS

FORM NO. 2131-59

DEPARTMENT Mines and Resources

BRANCH Indian Affairs

DATE August 12, 1944

APPLICATION IS HEREBY MADE FOR THE ISSUE OF THE FOLLOWING CHEQUE OR CHEQUES

CHEQUE NO.	IN FAVOUR OF	AMOUNT
	William J. Stoney	\$777 08
<p>Cheque to be forwarded to:</p> <p>P. J. Daners, Esq., Indian Agent, Driftpile, Alberta.</p>		

STATE BELOW WITH DETAILS IN EVERY CASE, WHETHER IN STANDING ADVANCE, IN ADVANCE FOR SPECIFIC JOURNEY, ESTIMATING NUMBER OF DAYS, OR OTHER ACCOUNTABLE ADVANCE, OR AN AUTHORIZED PAYMENT.

Share of bond funds (Sawridge) payable to William J. Stoney on
enfrenchisement authorized by Order in Council P.C.40/6000, dated
August 1, 1944.

CHARGE TO: VOTE Trust Acct No. 413 Capital - \$313.40
ALLOTMENT Interest - 63.68
SUS-ALLOTMENT Vote 53-810 - \$400.00

ENC NO.

I CERTIFY THAT THIS APPLICATION IS MADE UNDER THE DEQUISITE AUTHORITY, AND THAT THE EXPENDITURE IS NECESSARY IN THE INTERESTS OF THE PUBLIC SERVICE.

HEAD OF BRANCH

[Signature]

TREASURY OFFICE APPROVAL

[Signature]

DEPUTY HEAD



6131-25

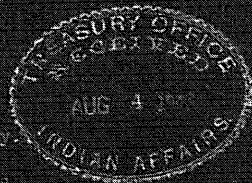
DEPARTMENT OF MINES AND RESOURCES

INDIAN AFFAIRS BRANCH

Ottawa, July 26, 1945.

MEMORANDUM:

- 1. *Re*
- 2. Treasury
- 3. Reserve



Pop 62 (1942 pl)

T.S.

1/2

What amount of band funds would William J. Stacey,
No. 29 of the Sawridge Band of Indians in the Lesser Slave
 Lake Agency, Province of Alberta, be entitled to receive
 in the event of enfranchisement?

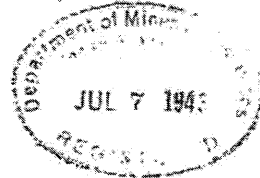
[Signature]

D. F. Allen,
Superintendent,
Reserves and Trusts.

45,483.07	1956.84	
78.35	15.43	+ 94.27
<u>24</u>	<u>24</u>	
313.40	13.72	<i>813</i>

Slave Lake, Alberta
July 2nd 1943

Department of Indian Affairs,
Ottawa, Canada.



Dear Sir:

For the last six months I have applied to Mr L'Heureux
the Agent at Driftoile for permission to become a full citizen
and stop taking treaty altogether.

I have working steadily and have a job on the Northern
Alberta Railway as section men, so that I am fully able to support
my wife and two children as I have proved during the last two
years since I have been married. Indeed for a long time before
that I supported myself.

I don't intend to ask the Department for anything at any
time in the way of help, and I do not see any reason why I should
not have full citizen rights.

If you will send me an application form I would be glad
to fill it out immediately and return it to you. The sooner I
can complete all arrangements and get out of treaty the better
it would please me.

William J. Stoney

William J. Stoney
No. 59
Sawridge Band

Notes

There was never any
mention of Residential school,
the reason he gave up his
treaty rights, was that he
did not want to send his
children there. This is
the way his family was
forced off of the Sawridge
Reserve.

NO. 9121-38

INDIAN AFFAIRS BRANCH

DEPARTMENT OF MINES AND RESOURCES

LESSER SLAVE LAKE

ENLARGEMENT

WM. J. STOREY

Tab C

This is Exhibit "C" referred to in the
Affidavit of ROLAND BROWN
Sworn before me this 26 day
of JUNE A.D., 2012
HL Brown
A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN
A Commissioner for Oaths
In and for The Province of Alberta
My Appointment Expires December 30, 2012

IN THE FEDERAL COURT OF CANADA
TRIAL DIVISION

BETWEEN:

ALINE ELIZABETH HUZAR,
JUNE MARTHA KOLOSKY,
WILLIAM BARTHOLOMEW MCGILLIVRAY
MARGARET HAZEL ANNE BLAIR,
CLARA HERBERT,
JOHN EDWARD JOSEPH MCGILLIVRAY
MAURICE STONEY ,
ALLAN AUSTIN McDONALD ,
LORNA JEAN ELIZABETH McREE,
FRANCES MARY TEES,,
BARBARA VIOLET MILLER (NEE McDONALD)

Plaintiffs

- and -

HER MAJESTY THE QUEEN, IN RIGHT OF CANADA,
DEPARTMENT OF INDIAN AND NORTHERN AFFAIRS
CANADA, and WALTER PATRICK TWINN, as Chief
of the Sawridge Indian Band and the SAWRIDGE
INDIAN BAND,

Defendants

AMENDED STATEMENT OF CLAIM

AMENDED NOVEMBER 28TH, 1997

STATEMENT OF CLAIM

FILED on the 20th day of July, 1995.
TO THE HONOURABLE THE FEDERAL COURT OF CANADA:

1. The Plaintiffs, ALINE ELIZABETH HUZAR, WILLIAM BARTHOLOMEW MCGILLIVRAY, JOHN EDWARD JOSEPH MCGILLIVRAY and MARGARET HAZEL ANNE BLAIR are ALL residents of Prince George, in the Province of British Columbia.
2. The Plaintiff, JUNE MARTHA KOLOSKY is a resident of Chetwynd, in the Province of British Columbia.
3. The Plaintiff, CLARA HEBERT is a resident of Leduc, in the Province of Alberta.
4. The Plaintiff, ALLAN AUSTIN McDONALD is a resident of Slave Lake, in the Province of Alberta.
5. The Plaintiffs, MAURICE STONEY, LORNA JEAN ELIZABETH McREE and FRANCES MARY TEES are residents of Slave Lake, in the Province of Alberta, and the Plaintiff, BARBARA VIOLET MILLER (NEE McDONALD) is a resident of Slave Lake, in the Province of Alberta.
6. The Defendant, HER MAJESTY THE QUEEN, IN THE RIGHT OF CANADA, by way of the Department of Indian and Northern Affairs Canada is duly constituted to administer aboriginal affairs in Canada.
7. The Defendant, WALTER PATRICK TWINN is the Chief of the Sawridge Indian Band and the Defendant, the SAWRIDGE INDIAN BAND is a part of the group of Indian Bands known as Treaty 8 Group of Indians whose reserve lands are located in the Province of Alberta. At various dates commencing on June 21st, 1899 representatives of the Sawridge Indian Band or their predecessors signed or executed instruments of adhesion to Treaty No. 8 made with Her Majesty The Queen.

8. At the time of the signing of adhesion to Treaty No. 8 the predecessors and forebearers of the Plaintiffs named herein were members of the Sawridge Indian Band, or alternatively, were duly constituted Band members after the adhesion to Treaty No. 8..

9. The Plaintiffs are all Treaty Indians by virtue of the operations of Sections 8 to 14.3, both inclusive of The Indian Act as amended by Section 4 of the Act entitled, "an Act to amend The Indian Act, Statutes of Canada, 1985, Chapter 27.

10. The Plaintiffs are aboriginal peoples of Canada within the meaning of Section 35 of the Constitution of Canada.

11. Section 35(1) of The Constitution Act, 1982 constitutionally entrenched the aboriginal rights and treaty rights of the aboriginal peoples of Canada as they existed on April 17th, 1982, the date on which The Constitution Act, 1982 was proclaimed in force. When used herein, The Constitution Act, 1867 to 1982 will be referred to collectively as the "Constitution".

12. The aboriginal rights of the Plaintiffs, including their property rights, customary laws and governmental institutions which were possessed by the aboriginal people at the time of adhesion to Treaty No. 8 on June 21st, 1899 are still retained and possessed by the Plaintiffs herein notwithstanding such adhesion.

13. Treaty rights are the rights conferred or obtained by Indian Tribes or Bands pursuant to Treaties entered into with Her Majesty The Queen. These rights flow to the members of the Band. At no time were the rights of the Plaintiffs, their ancestors and forebearers, to membership in the Sawridge Indian Band affected by the signing of the Treaty.

14. Membership to the Sawridge Indian Band was ascertained by a physical presence within the Band and at all material times, the ancestors and predecessors to the Plaintiffs were historically

members of the Sawridge Indian Band. These membership rights of the predecessors and ancestors of the Plaintiffs have not been abrogated, neither by the signing of the Treaty nor by The Constitution Act, 1982.

15. The predecessors and ancestors of the Plaintiffs herein were historically members of the Sawridge Indian Band when Treaty No. 8 was signed, and as a result of such membership, the Sawridge Indian Band obtained such rights and benefits as would normally accrue to the Band from Canada as a result of its membership, which membership included the predecessors and ancestors of the Plaintiffs herein, inter alia as follows:

- (i) The right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered.
- (ii) One square mile for each family of five for such number of families as may elect to reside on Reserves.
- (iii) Land in severality to the extent of 160 acres to each Indian for those Indians who may prefer to live apart from the Band Reserves.
- (iv) A treaty payment of \$5.00 annually to each and every Indian.
- (v) The salaries of teachers to instruct children.
- (vi) Agricultural and economic incentives.
- (vii) The bounty and benevolence of Her Majesty The Queen.

16. The Sawridge Band, at no time possessed the right to strip members of its Band, to take away Band membership, though from time to time, Band members formally lost their membership in the Band by way of operation of The Indian Act until the discrimination

inherent in such loss was legislatively abolished pursuant to "An Act to amend The Indian Act", Statutes of Canada, 1985, Chapter 27.

17. Statutes of the Parliament of Canada enforced from time to time prior to the entrenchment of the existing aboriginal and treaty rights of the aboriginal peoples of Canada in The Constitution Act governed and controlled who would be members of Indian Bands, in that all members were entitled to membership unless their membership rights were lost through operation of law.

18. The enactment of an Act entitled "An Act to amend The Indian Act", Statutes of Canada, 1985, Chapter 27 (The 1985 amendment), removed those discriminatory sections of The Indian Act which had unilaterally caused Band members to formally lose their membership rights and Indian status in a discriminatory fashion and thus nunc pro tunc, re-establishes existing Bands as they should have been had it not been for the indiscriminate and wanton intervention of the provisions of The Indian Act, terminating membership of Band members who were truly entitled to the same, in general, and to the Plaintiffs in particular.

19. Section 4 of the 1985 amendment adds new Sections 8, 9, 10, 11 and 12 to The Indian Act, which may be summarized as follows:

- (a) A Band List must be maintained for each band in which shall be entered the name of every person who is a member of that Band. (Section 8)
- (b) Commencing on April 17, 1985, certain persons who were not prior to that date members of a band became entitled to have their names entered in a Band List for that Band maintained in the Department. These include persons whose names were omitted or deleted from the Indian Register, or from a Band List prior to September 4th, 1951, under certain prescribed provisions of The Indian Act as they read immediately prior to April

17th, 1985, or under any former provision of The Indian Act relating to the same subject matter as any of those provisions. The disqualifying provisions included the marriage by an Indian woman to a man who was not registered as an Indian and included any children of that woman born prior to that marriage and illegitimate children of Indian women whose membership in the band was protested under Section 12(2) of the 1951 Act. (Subsection 11(1))

(c) Commencing on June 28th, 1987 large numbers of additional persons who were not prior to April 17th, 1985 members of a band will become entitled to have their names entered in a Band List for that Band maintained in the Department. These include Indian men and their families who voluntarily gave up their Indian status; first generation descendants of persons whose names were omitted or deleted from the Indian Register or from a Band List by virtue of the disqualifying provisions referred to in paragraph(b); first generation descendants of Indian men who voluntarily gave up their Indian status; and first generation descendants of the members of the families of such men who were alive at the time that the men voluntarily gave up their Indian status. (Subsection 11(2))

(d) A Band may assume control of its own membership if a majority of the electors of the Band consent to its so doing and consent to the establishment by the Band of membership rules. (Section 10)

(e) Membership rules established by the Band may not disqualify from membership in the Band any of the persons described in paragraphs (b) and (c) above by reason only of a situation that existed or an action that was taken before the rules came into force. (Subsections 10(4) and (5))

20. Pursuant to the Sections hereinbefore set forth, the Plaintiffs are entitled to membership in the Sawridge Indian Band, and in pursuance thereof, the Department of Indian Affairs and Northern Development has caused to be issued to the Plaintiffs, status cards, identifying them as members of the said, Sawridge Indian Band.

21. The Plaintiffs hereinbefore set forth, have, inter alia, applied for, petitioned or requested their reinstatement as members of the Sawridge Indian Band, however, the Defendants, Walter Patrick Twinn and the Sawridge Indian Band, has neglected and failed to reinstate the Plaintiffs as members of the Sawridge Indian Band in accordance with the legislation hereinbefore set forth.

22. The Plaintiffs, ALINE ELIZABETH HUZAR (DOB August 7th, 1941), JUNE MARTHA KOLOSKY (DOB June 6th, 1937), WILLIAM BARTHOLOMEW MCGILLIVRAY (DOB October 28th, 1932), MARGARET HAZEL ANNE BLAIR (DOB November 5th, 1928), JOHN EDWARD JOSEPH MCGILLIVRAY (DOB September 7th, 1923) and CLARA HEBERT (DOB February 24th, 1927) are all entitled to be reinstated as members of the Sawridge Indian Band by virtue of the following facts:

(a) Each of the above mentioned Plaintiffs are the children of Caroline Mary McGillivray (nee Assiniboine) (Stoney) Treaty #29, the child of Johnny Assiniboine (Stoney) and Henriette Calder (Sinclair) Treaty #18, all of whom were treaty Indians and members of the Sawridge Indian Band.

(b) Caroline Mary McGillivray married Simon Mountrose McGillivray the 21st day of June, A.D. 1921, a man of Metis ancestry.

(c) As a result of not having married a treaty Indian and as a result of the discriminatory provisions of The Indian Act, she lost her status as a band member of the Sawridge Indian Band.

(d) Consequential to the discriminatory provisions of The Indian Act, the Plaintiffs hereinbefore set forth, being the children of Caroline Mary McGillivray, lost their entitlement to band membership, as did their children.

(e) Pursuant to the 1985 amendments to The Indian Act, the Plaintiffs hereinbefore set forth, have applied for their treaty status and have regained their entitlement to be registered as members of the Sawridge Indian Band.

(f) The Plaintiffs hereinbefore set forth have applied for reinstatement in the Sawridge Band of Indians, but their application has been neglected and denied by the Defendants, Walter Patrick Twinn and the Sawridge Indian Band.

23. The Plaintiff, MAURICE STONEY is entitled to membership in the Sawridge Band of Indians by virtue of the following facts:

(a) Maurice Stoney was born September 24th, 1941 at Slave Lake, Alberta. He was the son of William J. Stoney, Treaty Number 59 and Margaret M. Stoney, Treaty Number 59 and is the grandson of Johnny Stoney, founder of the Sawridge Reserve, Treaty #18 .

(b) The Defendants, Walter Patrick Twinn and the Sawridge Indian Band have discriminated against Maurice Stoney by failing to recognize his Band membership or entitlement to Band membership, arising out of his progenitory.

(c) That pursuant to the 1985 amendments to The Indian Act, Maurice Stoney has regained his Indian status, and his entitlement to membership in the Sawridge Band of Indians.

(d) The Plaintiff, Maurice Stoney has applied for re-instatement in the Sawridge Band of Indians, but his application has been denied by the Defendants, Walter Patrick Twinn and the Sawridge Band of Indians.

24. The Plaintiffs, ALLAN AUSTIN McDONALD (date of birth January 13th, 1938), LORNA JEAN ELIZABETH McREE (date of birth October 6th, 1935), FRANCES MARY TEES (date of birth August 20th, 1948) and BARBARA VIOLET MILLER (date of birth August 22nd, 1950) are all entitled to membership in the Sawridge Band of Indians by virtue of the following facts:

(a) Each of the preceding Plaintiffs are the children of Annie McDonald (nee Stoney) Treaty #53, the child of Henrietta and Johnny Stoney Treaty #18, Treaty Indians and members of the Sawridge Indian Band.

(b) Annie Stoney married William McDonald, a non-treaty Indian, March 4th, 1935 and due to the discriminatory provisions of The Indian Act, was stripped of her status, and lost her membership in the Sawridge Indian Band December 3rd, 1936 and consequently, her children were born without membership in the Sawridge Band of Indians.

(c) That pursuant to the 1985 amendments to The Indian Act, the Plaintiffs hereinbefore set forth have regained their Indian status, and their entitlement to membership in the Sawridge Band of Indians.

(d) The Plaintiffs herein have applied for re-instatement in the Sawridge Band of Indians, but their applications for re-instatement has been refused by Walter Patrick Twinn and the Sawridge Band of Indians.

25. The Plaintiffs claim that as a result of their loss of membership in the Sawridge Band, due to the discriminatory operation of The Indian Act, and that as a result of the operation of the 1985 amendments to The Indian Act, the Plaintiffs are entitled to membership in the Sawridge Band of Indians, along with all rights and benefits accruing thereto and therewith, along with damages for the economic loss arising out of the lost benefits and entitlements consistent with membership in the Sawridge Band of Indians, inter alia as follows:

- (i) Education costs.
- (ii) Medical Care Benefits.
- (iii) On reserve housing.
- (iv) Tax exemption.

26. The Plaintiffs are entitled to reinstatement of Band membership in the Sawridge Indian Band, and each claims damages against the Defendants in excess of \$1,000,000.00 , and in totality, damages in excess of \$11,000,000.00 for lost benefits and entitlements as more fully set forth in paragraph 25..

27. In the alternative, as a result of the failure of the Sawridge Band of Indians to grant unto the Plaintiffs herein membership in the Band as required by Law, each of the Plaintiffs are entitled to damages as against the Defendants herein for their:

- (i) pro rata share of the economic value of the reserve, in excess of \$1,000,000.00 or in totality, damages in excess of \$11,000,000.00, plus
- (ii) the value of lost economic benefits consequential to the loss of membership status as is more fully hereinbefore set forth in paragraph 25, in an amount in excess of \$1,000,000.00 per Plaintiff, or in totality, a sum in excess of \$11,000,000.00.

28. The Plaintiffs further claim as a result of the discriminatory provisions of The Indian Act hereinbefore set forth and as a result of the failure of the Sawridge Band of Indians to allow the Plaintiffs to be reinstated as members of the Band, the progeny and the next-of-kin of the Plaintiffs has suffered economic loss and each of the Plaintiffs hereto claim damages in excess of \$1,000,000.00 for economic loss for and on behalf of their progeny, and in totality, general damages for all Plaintiffs in excess of \$11,000,000.00.

29. The Plaintiffs claim as against the Defendants punitive damages and exemplary damages in excess of \$11,000,000.00 as a result of the arrogant and high-handed manner in which Walter Patrick Twinn and Sawridge Band of Indians has deliberately, and without cause, denied the Plaintiffs reinstatement as Band Members of the Sawridge Band, which denial is unwarranted and unjustified, and has been only out of malice, spite and the selfish desire of Walter Patrick Twinn and the Sawridge Band of Indians to deprive the Plaintiffs of their just rights and dues, so that the Band and the Chief may be enriched, at the expense of the Plaintiffs.

30. The effect of the legislation prior to 1985 was to discriminate against aboriginal people in general and the Plaintiffs, their forefathers and forebearers in particular, thereby depriving the Plaintiffs of their Indian Heritage, ancestry, entitlements and benefits, all of which was as a consequence of discriminatory legislation passed by the Parliament of Canada, and administered by the Department of Indian Affairs, Northern Development, all of which resulted in a loss to the Plaintiffs as hereinbefore set forth in paragraphs 26, 27, 28 and 29.

31. In the alternative, the Plaintiffs claim that loss of their membership in the Sawridge Band of Indians was due to the operation of Law and the administration of that Law by Her Majesty The Queen, In the Right of Canada, through the Department of Indian Affairs and Northern Development and as a result of the discriminatory legislation so passed, the Plaintiffs are entitled to damages as against Her Majesty The Queen, In the Right of Canada, and the Department of Indian Affairs, Northern Development, as hereinbefore set forth more fully in paragraphs 26, 27, 28 and 29..

32. The Plaintiffs further claim as against the Sawridge band of Indians and Walter Twinn, a pro rata share of the assets of the Sawridge Band, including a pro rata share of the value of the holdings, savings, and any other entitlements or benefits which may accrue to the Plaintiffs as a result of their Indian status and Band membership.

33. The ancestors and forebearers of the Plaintiffs, either signed or were a party to Treaty No. 8, wherein Her Majesty The Queen, In The Right of Canada, inter alia, undertook certain obligations toward the aboriginal people of Canada in general and the Plaintiffs in particular. The Government of Canada breached its fiduciary duty to the Plaintiffs in particular by being a party to and originator of inherently discriminatory legislation by which the Plaintiffs were deprived by Law of their membership status in the Sawridge Indian Band. Her Majesty The Queen, In The Right of Canada is a guardian and trustee of the Plaintiffs and holds a portion of the goods, assets and chattels of the Sawridge Band for and on behalf of the Plaintiffs hereinbefore set forth, as a resulting trust, or alternatively, as a constructive trust, against which the Plaintiffs hereinbefore set forth, claim in accordance with paragraphs 26, 27, 28 and 29.

Amended
Nov. 28th
1997

34. "The Plaintiffs plead Sections 1 and 2 of the Canadian Bill of Rights 8-9 Elizabeth The Second, Chapter 44 (Canada) R.S.C. 1970, Appendix III and state as the fact is that they have suffered discrimination, by reason of race, national origin and sex and as a consequence of such discrimination, have been deprived of their fundamental human rights and fundamental freedoms, namely:

(a) life, liberty and security of the person and enjoyment of property on a reserve which they have been deprived of due to discrimination.

(b) due to discrimination, have been deprived of the right to equality before the law, and protection of the law,

the said discrimination being the automatic loss of Indian Status by female treaty Indian and her progeny, when she married a non-treaty Indian, while a treaty male, who married a non-treaty woman, did not lose his Indian Status.

35. The Plaintiffs are owed a fiduciary duty by the Defendants, Walter Patrick Twinn and the Sawridge Indian Band, wherein they are charged with a trustee pursuant to the provisions of The Indian Act and who hold the assets of the Sawridge Indian Band for and on behalf of the Plaintiffs. The said Defendants hold those goods, assets and chattels of the Sawridge Band for and on behalf of the Plaintiffs as a resulting trust, or alternatively, as a constructive trust against which the Plaintiffs claim in accordance with paragraphs 26, 27, 28 and 29.

36. The Plaintiffs plead the Doctrine of Unjust Enrichment and state as the fact is that as a result of the discrimination against the Plaintiffs by the Defendant, Walter Patrick Twinn and the Sawridge Band of Indians that Walter Patrick Twinn and the Sawridge Band is enriched, all of which is at the expense and detriment of the Plaintiffs.

37. The Plaintiffs further claim that the Defendants, Walter Patrick Twinn and the Sawridge Indian Band are committing waste upon the Sawridge Reserve and are in the process of dissipating and squandering the assets of the Reserve to which the Plaintiffs herein have a vested interest. The Plaintiffs pray to this Court for an Order by way of injunction, restraining and prohibiting the said named Defendants from dissipating and wasting the assets of the Sawridge Band.

CLAIM

The Plaintiffs therefore claim as follows:

- (a) For a declaration pursuant to Section 8 to 14.3 of The Indian Act as amended by Section 4 of the Act entitled "an Act to amend The Indian Act", Statutes of Canada, 1985, Chapter 27, the Plaintiffs herein are entitled to membership in their historical Band, the Sawridge Band.

- (b) For a declaration in the nature of a mandamus, that pursuant to the 1985 amendments of The Indian Act, that an Order be given directing the Department of Indian Affairs and the Sawridge Band include the names of the Plaintiffs on the Band List for the Sawridge Band.
- (c) For a declaration that the Plaintiffs herein are members of the Sawridge Band and entitled to all rights and benefits of such members.
- (d) Alternatively, the Plaintiffs claim damages as against the Sawridge Band of Indians, Walter Twinn and Her Majesty the Queen, In The Right of Canada for the value of their membership benefits, which may be proven at trial.
- (e) For a declaration that the Defendants hold on behalf of the Plaintiffs, the assets of the Sawridge Band as a resulting trust or alternately, a constructive trust.
- (f) The Plaintiffs claim damages as against the Defendants, each in excess of \$11,000,000.00.
- (g) The Plaintiffs further claim exemplary and punitive damages as the said Defendants, in excess of \$11,000,000.00.
- (h) An Order in the nature of an injunction, restraining the Defendants from wasting and dissipating the assets of the Sawridge Band.
- (i) The Plaintiffs further claim costs on a solicitor-client basis.

DATED at Prince Albert, in the Province of
Saskatchewan this 30th day of June, A.D. 1995.

EGGUM, ABRAMETZ & EGGUM
Per: "Peter V. Abrametz"
Solicitors for the Plaintiffs

ADDRESS FOR SERVICE OF THE PLAINTIFF IS THE OFFICE OF:

EGGUM, ABRAMETZ & EGGUM
Barristers and Solicitors
101 - 88 - 13th Street East
PRINCE ALBERT, Saskatchewan
S6V 1C6
Solicitor in charge of file: Peter V. Abrametz
Telephone: (306) 763-7441

IN THE FEDERAL COURT OF CANADA

TRIAL DIVISION

BETWEEN:

ALINE ELIZABETH HUZAR ET AL,

Plaintiffs

- and -

HER MAJESTY THE QUEEN, IN RIGHT OF
CANADA, DEPARTMENT OF INDIAN AND
NORTHERN AFFAIRS CANADA, and WALTER
PATRICK TWINN, as Chief of the
Sawridge Indian Band and the SAWRIDGE
INDIAN BAND,

Defendants

STATEMENT OF CLAIM

Notice to the Defendants

You are required to file in the Registry of the Federal Court of Canada, at the City of Ottawa or at a local office of the Court, your defence to the enclosed Statement of Claim or declaration within 30 days after the day of service hereof in accordance with the Federal Court Rules, if you are served within Canada.

If you are served in the United States of America, the period for filing the statement of defence is 40 days.

If you are served outside Canada and the United States of America, the period for filing the statement of defence is 60 days.

Instead of filing a statement of defence, you may apply to the Court for leave to file a conditional appearance pursuant to Rule 401 of the Federal Court Rules.

If you fail to defend this proceeding, you will be subject to have such judgment given against you as the Court thinks just upon the plaintiff's own showing.

NOTE:

- (1) Copies of the Federal Court Rules, information concerning the local office of the Court, and other necessary information may be obtained upon application to the Registry of the Court at Ottawa - telephone - (613)992-4238 - or at any local office thereof.
- (2) The Statement of Claim is filed by
EGGUM, ABRAMETZ & EGGUM
Solicitors for the Plaintiffs

*** ACTIVITY REPORT ***

TRANSMISSION OK

TX/RX NO.	3607
CONNECTION TEL	14038493446
CONNECTION ID	
START TIME	11/28 16:52
USAGE TIME	06'55
PAGES	17
RESULT	OK

Tab D

Source: http://decisions.fca-caf.gc.ca/en/2000/a-326-98_5195/a-326-98.html

Date: 20000613

Docket: A-326-98

CORAM: DÉCARY, J.A.

SEXTON, J.A.

EVANS, J.A.

This is Exhibit "D" referred to in the
Affidavit of

ROLAND TWINN

Sworn before me this ... day

of JUNE 13, 2000

A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN

A Commissioner for Oaths

In and for The Province of Alberta

My Appointment Expires December 30, 2012

BETWEEN:

HER MAJESTY THE QUEEN, IN RIGHT OF CANADA, DEPARTMENT OF INDIAN AND
NORTHERN AFFAIRS CANADA and WALTER PATRICK TWINN, as Chief of the Sawridge
Indian Band and the SAWRIDGE INDIAN BAND

Defendants

(Appellants)

- and -

ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM BARTHOLOMEW
McGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT, JOHN EDWARD
JOSEPH McGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN McDONALD, LORNA JEAN
ELIZABETH McREE, FRANCES MARY TEES, BARBARA VIOLET MILLER (nee
McDONALD)

Plaintiffs

(Respondents)

Heard at Toronto, Ontario, Tuesday, June 13, 2000

Judgment delivered from the Bench at Toronto, Ontario

on Tuesday, June 13, 2000

REASONS FOR JUDGMENT OF THE COURT BY: EVANS, J.A.

Date: 20000613

Docket: A-326-98

CORAM: DÉCARY J.A.

SEXTON J.A.

EVANS J.A.

BETWEEN:

HER MAJESTY THE QUEEN, IN RIGHT OF CANADA, DEPARTMENT OF INDIAN AND
NORTHERN AFFAIRS CANADA and WALTER PATRICK TWINN, as Chief of the Sawridge
Indian Band and the SAWRIDGE INDIAN BAND

Defendants

(Appellants)

- and -

ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM BARTHOLOMEW
McGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT, JOHN EDWARD
JOSEPH McGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN McDONALD, LORNA JEAN
ELIZABETH McREE, FRANCES MARY TEES, BARBARA VIOLET MILLER (nee
McDONALD)

Plaintiffs

(Respondents)

REASONS FOR JUDGMENT

(Delivered from the Bench at Toronto, Ontario

on Tuesday, June 13, 2000)

EVANS J.A.

[1] This is an appeal against an order of the Trial Division, dated May 6th, 1998, in which the learned Motions Judge granted the respondents' motion to amend their statement of claim by adding paragraphs 38 and 39, and dismissed the motion of the appellants, Walter Patrick Twinn, as Chief of the Sawridge Indian Band, and the Sawridge Indian Band, to strike the statement of claim as disclosing no reasonable cause of action.

[2] In our respectful opinion, the Motions Judge erred in law in permitting the respondents to amend and in not striking out the unamended statement of claim. The paragraphs amending the statement of claim allege that the Sawridge Indian Band rejected the respondents' membership applications by misapplying the Band membership rules (paragraph 38), and claim a declaration that the Band rules are discriminatory and exclusionary, and hence invalid (paragraph 39).

[3] These paragraphs amount to a claim for declaratory or prerogative relief against the Band, which is a federal board, commission or other tribunal within the definition provided by section 2 of the *Federal Court Act*. By virtue of subsection 18(3) of that Act, declaratory or prerogative relief may only be sought against a federal board, commission or other tribunal on an application for judicial review under section 18.1. The claims contained in paragraphs 38 and 39 cannot therefore be included in a statement of claim.

[4] It was conceded by counsel for the respondents that, without the proposed amending paragraphs, the unamended statement of claim discloses no reasonable cause of action in so far as it asserts or assumes that the respondents are entitled to Band membership without the consent of the Band.

[5] It is clear that, until the Band's membership rules are found to be invalid, they govern membership of the Band and that the respondents have, at best, a right to apply to the Band for membership. Accordingly, the statement of claim against the appellants, Walter Patrick Twinn, as Chief of the Sawridge Indian Band, and the Sawridge Indian Band, will be struck as disclosing no reasonable cause of action.

[6] For these reasons, the appeal will be allowed with costs in this Court and in the Trial Division.

"John M. Evans"

J.A.

FEDERAL COURT OF CANADA

Names of Counsel and Solicitors of Record

DOCKET: A-326-98

STYLE OF CAUSE: HER MAJESTY THE QUEEN, IN RIGHT OF CANADA,
DEPARTMENT

OF INDIAN AND NORTHERN AFFAIRS CANADA and WALTER

PATRICK TWINN, as Chief of the Sawridge Indian Band and the

SAWRIDGE INDIAN BAND

- and -

ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM
BARTHOLOMEW MCGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT,
JOHN EDWARD JOSEPH MCGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN McDONALD,
LORNA JEAN ELIZABETH McREE, FRANCES MARY TEES, BARBARA VIOLET MILLER (nee
McDONALD)

DATE OF HEARING: TUESDAY, JUNE 13, 2000

PLACE OF HEARING: TORONTO, ONTARIO

REASONS FOR JUDGMENT BY: EVANS J.A.

Delivered at Toronto, Ontario on

Tuesday, June 13, 2000

APPEARANCES BY: Mr. Philip P. Healey

For the Defendants

(Appellants)

Mr. Peter V. Abrametz

For the Plaintiffs

(Respondents)

SOLICITORS OF RECORD: Aird & Berlis

Barristers & Solicitors

BCE Place, Suite 1800, Box 754

181 Bay Street

Toronto, Ontario

M5J 2T9

For the Defendants

(Appellants)

Eggum, Abrametz & Eggum

Barristers & Solicitors

101-88-13th Street East

Prince Albert, Saskatchewan

S6V 1C6

For the Plaintiffs

(Respondents)

FEDERAL COURT OF APPEAL

Date: 20000613

Docket: A-326-98

BETWEEN:

**HER MAJESTY THE QUEEN, IN RIGHT OF
CANADA, DEPARTMENT OF INDIAN AND
NORTHERN AFFAIRS CANADA and WALTER
PATRICK TWINN, as Chief of the Sawridge Indian
Band and the SAWRIDGE INDIAN BAND**

Defendants

(Appellants)

- and -

ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM
BARTHOLOMEW MCGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT,
JOHN EDWARD JOSEPH MCGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN
McDONALD, LORNA JEAN ELIZABETH McREE, FRANCES MARY TEES, BARBARA
VIOLET MILLER (nee McDONALD)

Plaintiffs

(Respondents)

REASONS FOR JUDGMENT

Tab E

This is Exhibit "E" referred to in the Affidavit of

ROLAND TWINN

Sworn before me this 26 day

of JUNE A.D. 2012

[Signature]
A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN

A Commissioner for Oaths

In and for The Province of Alberta

My Appointment Expires December 30, 2012

114-44-4

114-44-4

Driftville Alberta
May 12th. 1944.

Dept. of Mines & Resources, Indian Affairs Branch, Ottawa, Canada.

I refer to your letter of 29-4-44, your File S131-35, re application for enfranchisement of William J. Stoney, and wish to state the following facts in this case.

This Indian has been living off the Reserve for quite a number of years, and has been employed by the Northern Alberta Railways section worker, and has kept a very good standard of living. From what information I can gather, he is not indebted to anyone, and is generally well spoken of. I feel certain that he can well look after himself and family.

D.J. Peters
Indian Agent.

Tab F

This is Exhibit " F " referred to in the Affidavit of

ROLAND TWINN

sworn before me this 26 day

of JUNE A.D., 20 12

Donna Brown
A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN

A Commissioner for Oaths

In and for The Province of Alberta

My Appointment Expires December 30, 2012

المجلد الثامن

Tab G

OCTOBER 7, 1997

CBC - FIFTH ESTATE "THE GATE KEEPER"
of Walter P. Twinn

MAURICE STONEY

If you are trying to paint a picture of him you would say that if you know the definition of a dictator then you would have your picture.

ANNOUNCER

Maurice Stoney owns a successful taxi business in Slave Lake. He was born and raised on Sawridge but his parents left the reserve to avoid having to send their kids to residential school. They all lost Indian status but Bill C-31 gave it back and Maurice Stoney now believes he is now entitled to return to Sawridge.

MAURICE STONEY

We have every right to be on that Reserve. We were born Band members. He has no business saying to us we don't belong. If we don't belong he doesn't belong

MAURICE STONEY

This questionnaire doesn't even make good ass wipe.

He told me sure you go ahead and fill it out but we won't pass it any way.

ANNOUNCER

You're wasting your time Maurice Stoney, you're wasting your time

This is Exhibit "G" referred to in the
Affidavit of

ROLAND TWINN

Sworn before me this 26 day

of JUNE A.D. 2012

A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN
A Commissioner for Oaths
In and for The Province of Alberta
My Appointment Expires December 30 2012

on Tuesday, June 13, 2000

REASONS FOR JUDGMENT OF THE COURT BY: EVANS, J.A.

Date: 20000613

Docket: A-326-98

CORAM: DÉCARY J.A.

SEXTON J.A.

EVANS J.A.

BETWEEN:

HER MAJESTY THE QUEEN, IN RIGHT OF CANADA, DEPARTMENT OF INDIAN AND
NORTHERN AFFAIRS CANADA and WALTER PATRICK TWINN, as Chief of the Sawridge
Indian Band and the SAWRIDGE INDIAN BAND

Defendants

(Appellants)

- and -

ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM BARTHOLOMEW
McGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT, JOHN EDWARD
JOSEPH McGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN McDONALD, LORNA JEAN
ELIZABETH McREE, FRANCES MARY TEES, BARBARA VIOLET MILLER (nec
McDONALD)

Plaintiffs

(Respondents)

REASONS FOR JUDGMENT

(Delivered from the Bench at Toronto, Ontario

on Tuesday, June 13, 2000)

EVANS J.A.

[1] This is an appeal against an order of the Trial Division, dated May 6th, 1998, in which the learned Motions Judge granted the respondents' motion to amend their statement of claim by adding paragraphs 38 and 39, and dismissed the motion of the appellants, Walter Patrick Twinn, as Chief of the Sawridge Indian Band, and the Sawridge Indian Band, to strike the statement of claim as disclosing no reasonable cause of action.

[2] In our respectful opinion, the Motions Judge erred in law in permitting the respondents to amend and in not striking out the unamended statement of claim. The paragraphs amending the statement of claim allege that the Sawridge Indian Band rejected the respondents' membership applications by misapplying the Band membership rules (paragraph 38), and claim a declaration that the Band rules are discriminatory and exclusionary, and hence invalid (paragraph 39).

[3] These paragraphs amount to a claim for declaratory or prerogative relief against the Band, which is a federal board, commission or other tribunal within the definition provided by section 2 of the *Federal Court Act*. By virtue of subsection 18(3) of that Act, declaratory or prerogative relief may only be sought against a federal board, commission or other tribunal on an application for judicial review under section 18.1. The claims contained in paragraphs 38 and 39 cannot therefore be included in a statement of claim.

[4] It was conceded by counsel for the respondents that, without the proposed amending paragraphs, the unamended statement of claim discloses no reasonable cause of action in so far as it asserts or assumes that the respondents are entitled to Band membership without the consent of the Band.

[5] It is clear that, until the Band's membership rules are found to be invalid, they govern membership of the Band and that the respondents have, at best, a right to apply to the Band for membership. Accordingly, the statement of claim against the appellants, Walter Patrick Twinn, as Chief of the Sawridge Indian Band, and the Sawridge Indian Band, will be struck as disclosing no reasonable cause of action.

[6] For these reasons, the appeal will be allowed with costs in this Court and in the Trial Division.

"John M. Evans"

J.A.

FEDERAL COURT OF CANADA

Names of Counsel and Solicitors of Record

DOCKET: A-326-98

STYLE OF CAUSE: HER MAJESTY THE QUEEN, IN RIGHT OF CANADA,
DEPARTMENT

OF INDIAN AND NORTHERN AFFAIRS CANADA and WALTER

PATRICK TWINN, as Chief of the Sawridge Indian Band and the

SAWRIDGE INDIAN BAND

- and -

ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM
BARTHOLOMEW MCGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT,
JOHN EDWARD JOSEPH MCGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN McDONALD,
LORNA JEAN ELIZABETH McREE, FRANCES MARY TEES, BARBARA VIOLET MILLER (nee
McDONALD)

DATE OF HEARING: TUESDAY, JUNE 13, 2000

PLACE OF HEARING: TORONTO, ONTARIO

REASONS FOR JUDGMENT BY: EVANS J.A.

Delivered at Toronto, Ontario on

Tuesday, June 13, 2000

APPEARANCES BY: Mr. Philip P. Healey

For the Defendants

(Appellants)

Mr. Peter V. Abrametz

For the Plaintiffs

(Respondents)

SOLICITORS OF RECORD: Aird & Berlis
Barristers & Solicitors

BCE Place, Suite 1800, Box 754

181 Bay Street

Toronto, Ontario

M5J 2T9

For the Defendants

(Appellants)

Eggum, Abrametz & Eggum

Barristers & Solicitors

101-88-13th Street East

Prince Albert, Saskatchewan

S6V 1C6

For the Plaintiffs

(Respondents)

FEDERAL COURT OF APPEAL

Date: 20000613

Docket: A-326-98

BETWEEN:

HER MAJESTY THE QUEEN, IN RIGHT OF

CANADA, DEPARTMENT OF INDIAN AND

NORTHERN AFFAIRS CANADA and WALTER

PATRICK TWINN, as Chief of the Sawridge Indian

Band and the SAWRIDGE INDIAN BAND

Defendants

(Appellants)

- and -

**ALINE ELIZABETH HUZAR, JUNE MARTHA KOLOSKY, WILLIAM
BARTHOLOMEW MCGILLIVRAY, MARGARET HAZEL ANNE BLAIR, CLARA HEBERT,
JOHN EDWARD JOSEPH MCGILLIVRAY, MAURICE STONEY, ALLEN AUSTIN
McDONALD, LORNA JEAN ELIZABETH McREE, FRANCES MARY TEES, BARBARA
VIOLET MILLER (nee McDONALD)**

Plaintiffs

(Respondents)

REASONS FOR JUDGMENT

Tab H

June 1-93

copy

attention: Chief Walter Twinn,

RECEIVED
JUN 01 1993
Sawridge

HAND Delivered

Dear Sir,

The purpose of this letter is to inform you of our intended protest rally, we the band members of (C32) the Xosha Band Band of the ~~Slave~~ Slave Lake area, are going to organize and hold a protest rally on the Sawridge Reserve.

We will set up a tent and camper camp to protest housing and land issues. Being ex band members of the Sawridge Band, we feel that we have every right to hold a protest rally. We are looking for possible negotiable route and avenue to get ^{the} said issues settled. We do not wish anyone to say that they were not notified of these matters. Our patience has worn out. We will invite the media and anyone else who wishes to support our cause.

This is Exhibit "H" referred to in the Affidavit of

ROLAND TWINN

Sworn before me this 26 day

of JUNE A.D. 2012

L. Swann
A Commissioner for Oaths in and for the Province of Alberta

DONNA BITOWN
A Commissioner for Oaths
In and for The Province of Alberta
My Appointment Expires December 30, 2012

Tab J

Protesters claim right to Sawridge reserve land

By Walt Rieth

Approximately 20 protesters stepped on land which they claim is rightfully theirs.

The recent demonstration was called to draw attention to the plight of a few hundred disenfranchised members of the Sawridge Indian Band.

The protest was over a band membership dispute which will be heard by Canada's Supreme Court in September.

The group met four kilometers west of Slave Lake on a road in front of reserve land where one of the demonstrators settled many years ago.

Ned Gladue, the old-

est member of the protest group (he says he has been told he was born around 1912), told the gathering that when he and his brother arrived from Sucker Creek, an Indian agent gave them a \$50 voucher for food.

"We were told to move into this place, and the Indian agent gave us the right to use the logs for a cabin," he said.

At that time, he said, there was a chief and band council in Driftpile, and only a councillor in Sucker Creek.

Gladue said he lost his Indian status in 1943 when an agent disputed the fact that the brothers'

father was an Indian.

"We didn't know anything about the law then," he said, "and were kicked out."

✦ Maurice Stoney, one of the demonstration organizers, said the group is not making a grab for the band's money.

"We're not after the money but we need land and a place to live," he said.

"We want help from three levels: the federal government, the province, and the Sawridge band."

✦ Stoney, born and raised in Slave Lake, said his grandfather John Stoney was an original band member.

Another member of the protest group was ✦ Charles Twinn, the cousin of current Sawridge Band Chief Walter Twinn.

Charles said he sold his Indian Status in 1955 for \$700.

"We made mistakes, but he could say we made mistakes and try to help us," he said.

Charles' father, St. Pierre Twinn, was the chief before Paul Twinn, Walter's father.

✦ Frank Ward, currently a Slave Lake resident, said he used to live on the Ward family reserve, what is now the western section of the Sawridge reserve, and was originally in the band.

He was sent to a mission when he was 12 because his parents both had tuberculosis.

✦ June Kolosky, currently living in Chetwynn, British Columbia, said she married a non-treaty Indian, but was reinstated by federal legislation in 1985.

"My sister attempted to meet with the Chief

then but wasn't able to speak with him," she said. ✦ Kolosky had lived on the reserve until she was 15 years old.

The protest organizers say they are now waiting for a ruling by the Su-

preme Court over who has jurisdiction over band membership requirements.

The Sawridge band maintains band membership should be decided by the band councils and not by federal legislation.

This is Exhibit "J" referred to in the Affidavit of

ROLAND TWINN

Sworn before me this *26* d. of *JUNE* A.D. 20*12*

[Signature]
A Commissioner for Oaths in and for the Province of Alberta



DONNA BROWN

A Commissioner for Oaths

In and for the Province of Alberta

My Appointment Expires on *2012*

Tab K

→ TO: Chief Twinn
849-3446

Protesters dare to step on to Sawridge land

JACK DANYLOCHUK
Journal Staff Writer June 13 '93

Slave Lake

In defiance of one of Canada's wealthiest and most powerful Indian leaders, Ned Gladue set foot on land that he lost to the whim of an Indian agent 50 years ago.

"We skidded the logs for the houses with horses right through here," Gladue said, pointing the barely visible trail out to Lance Stewart, an RCMP officer from Slave Lake.

Stewart was there to videotape the peaceful demonstration at the edge of the Sawridge reserve by Gladue and 20 other members of the wealthy band.

The small group represents more than 300 Twinn persons who regained their Indian status and membership in the Sawridge band through a federal law passed in 1985.

Instead of being welcomed home, the reinstated members have become the centre of a legal dispute between Ottawa and Sawridge Chief Walter Twinn, a Conservative senator.

In the case which goes before the Federal Court of Canada in September, Twinn is arguing that only band councils — not Ottawa — can decide who is a band member.

The membership dispute has stalled Twinn's plans to take Sawridge out of the Indian Act and

make it one of the few self-governing Indian bands in Canada.

On learning plans of the demonstration, Twinn wrote organizers they might face criminal trespass charges if they set foot on the reserve.

The Sawridge band acknowledges about 100 members, most of whom work for the various business ventures Twinn has developed with the band's oil and gas royalties.

"We don't want the band's money," said Gladue.

"We don't want a fight. We just want the land that's ours."

Gladue was forced to leave the reserve, located four km west of Slave Lake, in 1943 when an Indian agent decided that his father had not been an Indian.

Charles Twinn, one of the chief's cousins, is also seeking readmission to the band he left when he sold his Indian status for \$700.

"I was young then," said Twinn, whose father St. Pierre Twinn was chief before Walter's father Paul.

"When a guy is young do you blame him for the way everything goes? You think he (Walter) would try and help, or overlook mistakes."

Maurice Stoney, one of the demonstration's organizers and a member of a council named by the exiled Sawridge members, said the group is determined.

"These people are not going to slide away," he said.

The demonstrators were prepared to be arrested for trespass. But when they stepped on the reserve to have their pictures taken, the RCMP were not there to witness the act.



WALTER A. BROWN
Sawridge Band Council for Oaths
to the Province of Alberta
2012
My Appointment Expires December 30, 2012

This is Exhibit "K" referred to in the Affidavit of

ROLAND TWINN

Sworn before me this 26 day

of JUNE 1993 at Slave Lake, Alberta

W. Stoney

A Commissioner for Oaths in and for the Province of Alberta

Tab L

This is Exhibit "L" referred to in the
Affidavit of

ROLAND L. BROWN

Sworn before me this 24 day
of JUNE A.D. 2012

A Commissioner of Oaths in and for
the Province of Alberta

DONNA BROWN
A Commissioner for Oaths
in and for The Province of Alberta (2012)
My Appointment Expires December 30, _____

Who is a real Indian, anyway?

Sawridge Chief Walter Twinn is fighting off an invasion of Bill C-31 natives

Indian activists these days are quick to cry racism over their treatment by non-natives, but intolerance seems to be thriving in the native community as well. A group of Cree Indians claim they are unfairly being denied their ancestral right to live on the Sawridge Indian Reserve by Chief Walter Twinn. But Chief Twinn, who counters that they can't prove they belong to the band, has taken his fight for the right to determine who is a legitimate band member to the courts.

The 300 Indians lobbying for the right to live on the Sawridge reserve, located on the eastern tip

of Lesser Slave Lake, are using the eviction of medicine man Billy Hamelin as a symbol of their struggle. Mr. Hamelin says he was "personally invited" by Chief Twinn last year to live on the reserve and "oversee native spiritual ceremonies." However, he says the chief subsequently became annoyed at his practices and on June 1 gave him eight days to leave the reserve.

Not surprisingly, Chief Twinn, who is a member of the Senate, has a much different version of the events surrounding the eviction. Mr. Hamelin was "destitute," he says, so he offered to let him and his

wife, Cathy, live in a vacant band employee house. The band even paid their bills. "But after a while, band members protested this because he had no legal grounds to be here," says Chief Twinn. He adds that Mr. Hamelin has "dishonoured" the band by organizing other displaced Crees to protest his eviction.

Indeed, Mr. Hamelin is not alone in feeling mistreated by Chief Twinn. Cree Indian Maurice Stoney estimates that the chief has prevented at least 12 families, including some Twinn, from living on the reserve. Most of them live in nearby Slave Lake, and almost all are C-31 Indians. Enacted in 1985, Bill C-31 loosened the restrictions on who could claim native status, creating about 90,000 new Indians. Mr. Stoney maintains that since the bill passed, local C-31 Indians enjoy the same treaty rights as other status natives, and many have ancestors on the original band list. Therefore, they should be welcomed on the reserve.

However, Chief Twinn refuses even to meet with them. The federal Department of



Evicted Indian Hamelin:
Pack your bags, Chief Twinn ordered.

The neighbourhood fights back

Police and residents collaborate to drive out hookers and pushers

On a warm summer evening last week a woman loitered outside the ethnic cafes and grocery stores on Edmonton's 107 Avenue looking dishevelled, stoned and about 20 years older than her age. A late-model gold compact darted out of the busy traffic, angled against the curb and two men, whose fashionably baggy T-shirts concealed bullet-proof vests and automatic pistols, leapt out. In the blink of an eye the woman was handcuffed and on her way to the downtown Edmonton police station where she was held under a liquor control act provision that allows an intoxicated person to be detained without charge.

The arrest was part of a continuing effort by the Edmonton Police Service and community groups to chase the hookers and drug dealers out of the Central McDougall and Queen Mary boroughs of the city. And while no one is willing to declare the war won, after dozens of arrests and at least as many drug house closures, a degree of normalcy has been restored to the neighbourhood.

The problems associated with the sex trade have plagued the area north of the city's downtown since the turn of the century. In recent years the business has become bigger and rougher, as the twin perils of drugs and prostitution feed off each other. According to police, nearly every hooker on 107 Avenue is addicted to some drug, most often cocaine. They turn a \$50 trick, use the money to get "cranked," then repeat the cycle non-stop for up to 48 hours without food or sleep.

John Belanger is vice-president of the Queen Mary Community League, which encompasses the hooker district. Fed up

with being propositioned and tired of seeing his neighbourhood littered with condoms and syringes, he and his fellow community league members met with police late last February to chart a strategy for reclaiming their streets.

Constables Trent Forsberg and Jim Anderson are two of the four officers on the Queen Mary-McDougall beat. Gregarious and outgoing, the two have established a rapport with the ethnically diverse residents on their beat. Const. Anderson even learned to speak and write Cantonese.

They agree that the neighbourhood had reached its nadir last January when as many as 40 prostitutes were working a 10-block strip of 107 Avenue. Police were arresting only those who had made themselves a persistent nuisance. After their



Constables Forsberg and Anderson:
A "zero-tolerance" approach.

Indian and Northern Affairs has also refused to intervene. The ministry's Alberta office refuses even to comment on the dispute, citing Chief Twinn's court challenge against Bill C-31. In 1986, along with Chief Wayne Roan of the Ermineskin band and Chief Bruce Starlight of the Sarcee band, the Sawridge chief launched a court challenge to Bill C-31's constitutionality. The case continues in Edmonton in September.

One Slave Lake resident thinks Chief Twinn's actions are motivated by profit, not principle. "He doesn't say it in so many words," she says, "but he just doesn't want to split the pie." Chief Twinn retorts that many of the Indians claiming to be Sawridge band members can't prove they belong to his band. He also contends that "it's open to question" whether some of them should even have native status. And he believes that a first step towards self-government is a band's ability to determine membership.

Mr. Stoney says many of the disputed Sawridge natives feel powerless to combat Mr. Twinn's legal and political savvy. He also wonders what has happened to co-operation among his people. "It's a sad thing for natives to be fighting amongst themselves in this day and age."

—Patty Fuller

meetings with the community, however, they adopted a different approach: zero tolerance. They arrested hookers for any infraction, however minor—jaywalking, hitchhiking, public drunkenness—in an effort to squeeze the hookers back to their traditional zone known as the "drag" on 96th Street.

It was during one of those petty arrests that one of the girls complained bitterly that police were picking on the prostitutes and ignoring the pushers who were feeding off the skin trade. Deciding she had a point, the constables began following the hookers to the doorsteps of the local drug pusher, who would get a visit from a SWAT team an hour or so later. For a while in March, police were "whacking" one coke house a day.

By last month, the problems had all but dried up. Business people in the area report that in wake of the clean-up, sales have climbed dramatically. But Constables Forsberg and Anderson warn that their work is never over. "It's like weeding a garden," says Const. Forsberg, "you can go in and take out every weed, but if you don't stay on it, first thing you know—you're back where you started."

—Jim Demers

Good news for natural gas

A geological survey says there's lots yet to be found

Surging natural gas prices and improved access to new U.S. markets are sparking an oil patch resurgence, but one other vital factor must be addressed if western Canadian producers are to enjoy lasting prosperity: substantial new reserves must be found. Only time—and significant expenditures on exploration—will tell just how much potential remains within the western Canadian sedimentary basin, but a report released last month by the Geological Survey of Canada suggests abundant reason for optimism. According to the GSC, more than half of the regions' natural gas is likely still undiscovered.

The report, entitled *Devonian Gas Resources of the Western Canada Sedimentary Basin*, is the first in a series analyzing all the major hydrocarbon-bearing formations in the basin. Co-author Jim Barclay says the Devonian stratum, which harbours about 27% of all natural gas reserves discovered in the basin, were assessed first partly because they are the oldest and deepest formations (geologists prefer to work from the bottom up). But another reason for starting there is that Devonian rocks are regarded as having the greatest potential for major new discoveries. Indeed, most of the bigger recent finds, such as the Alberta's Caroline field and the Slave Point reefs of northeastern B.C., have occurred in Devonian formations.

The GSC estimates total Devonian gas reserves at 126 trillion cubic feet (tcf), of which about 40% has so far been discovered. Of the remainder, 16% is estimated to lie in pools associated with known "plays," or large fields, while 44% is thought to be contained in undiscovered plays.

Mr. Barclay figures that about 60% of the gas in the entire sedimentary basin remains undiscovered. While relatively fewer new reserves remain to be discovered in the

shallower and more intensively developed Cretaceous formations, many of the deeper foothills plays, which are believed to hold significant deposits, are still entirely unexplored.

All this means the western Canadian basin retains considerably more exploration promise than most other North American gas basins. According to U.S. Department of the Interior estimates, only about 28% of recoverable U.S. natural gas reserves are undiscovered. The GSC's research also suggests that natural gas, rather than oil, will increasingly be the focus of exploratory activity in western Canada. The organization estimates that only a little more than 20% of the area's oil is still to be found.

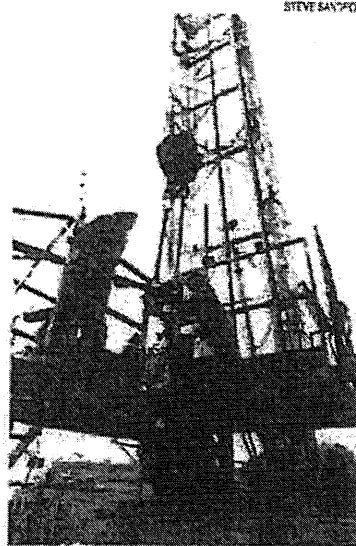
Canadian Hunter Exploration Ltd. president Jim Gray agrees that western

Canada should be an attractive area for gas exploration in the foreseeable future. "In the U.S., there's been very few big discoveries in recent years," he notes. "Our potential is considerably better. We are just a less mature basin."

But how much of that potential is realized largely depends on price. The GSC calculates that only about 16% of remaining Devonian gas reserves would be worth producing at a price of \$1.25 per thousand cubic feet (mcf), while 43% would be economic at a price of \$2.50. After falling as low as 80¢ per mcf last year, prices on the natural gas spot market have risen this year to the \$2 range.

Higher gas prices are already credited as one of the factors fuelling a recent rebound from last year's drilling doldrums. The *Nickle Daily Oil Bulletin* reported last week that 2,462 wells were drilled in western Canada in the first quarter of 1993, the highest total in four years. Last year, only 1,181 were drilled in the same period.

—Tom McFeely



Drilling rig: The rebound has already begun.

STEVE SANTOP

Tab M

This is Exhibit "M" referred to in the
Affidavit of
ROLAND TWINN
Sworn before me this 21 day
of JUNE A.D. 2012
A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN
A Commissioner for Oaths
In and for The Province of Alberta
My Appointment Expires December 30, 2019

LEADER

Edmonton, Alberta

October 22, 1985

Page A-1

Wednesday, October 23, 1985

Protesters demand entry into band

By David Zuberbier

Armed with placards carrying messages like "All we want is acceptance" and "Time for justice, time for action," a group of 25 protesters marched from the Sawridge administration office to the Sawridge Truck Stop Tuesday, demanding to meet Chief Walter Twinn to discuss reinstatement within the Sawridge Band.

The group got to meet Twinn but only briefly when he drove by them as they stood at the entrance to the Truck Stop.

The 25 protesters represent a group of more than 300 trying to regain full band membership and the privileges that go with it.

They became legal band members after an amendment to the Indian Act became law in 1985. Bill C-31 returned Indian status and band membership to those

sands, including women who married non-Indians. Eventually some 10,000 new names were added to the list of who is deemed an Indian, including 9,500 in Alberta.

Chief Twinn, along with Edmonton band chief Wayne Ross and Sarsnet band chief Bruce Starlight, launched a court challenge to the bill in 1986. They say only bands, not the federal government, should decide who is admitted as members and who isn't.

In documents filed with Federal Court Twinn says admitting a large number of reinstated C-31 band members to his band would have "a significant impact on the equilibrium of band social, economic and political structures."

The protesters say they are entitled, based on mailed messages

no Twinn for at least two years, trying to get him to meet with them. No response, they say. Last week the group got their

one of the wealthiest bands in Canada. In the 1960s C-31 was found on one of the band's reserves. Royalties have been used

"We're either forcing the federal government or Walter to start looking at terms and looking at genealogy and showing which



Protesters at the Sawridge Truck Stop Tuesday, October 22, 1985, demanding to meet Chief Walter Twinn to discuss reinstatement within the Sawridge Band. The group of 25 protesters represents a group of more than 300 trying to regain full band membership and the privileges that go with it. They became legal band members after an amendment to the Indian Act became law in 1985. Bill C-31 returned Indian status and band membership to those

"Way out" salary scale forces staff cut in BDC, Futures

By David Zuberbier

The number of staff positions at the Community Futures Development Centre and the Business Development Centre were cut by 10 percent last week, according to a report by the Business Development Centre's board of directors.

Conrad said the decision was made in light of the fact that the re-organization of Community Futures and BDC.

ID 1703 board member Jack Rennie told committee that the new Community Futures board will consist of four members. There will be one appointed representative each from the Town of Slave Lake, Town of High Prairie, Improvement District 17, and the aboriginal community. The new BDC board will consist of seven members, four of which are also Community Futures board members. The three other BDC board members will be positions from the public at large.

Conrad explained that the number of staff with both offices is being cut from six to four positions. Rosemary Higgins with the Town of High Prairie, Ken Jenkins representing the Town of Slave Lake and Conrad serve as the re-organization committee members. It's their responsibility to write the job descriptions for new staff and also advertise for those positions.

The new staff will consist of an executive director, loans officer/business analyst, executive assistant to the executive director and another position not named at this point. Advertisements for the new positions appear in this week's edition of The Lokside Leader.

Another change in the works for both organization is the dates when board meetings will take place. Before the re-organization went into effect meetings had been held separately. The Community Futures meeting was held one day of each month, while the Business Development Centre meeting was held "one or two evenings of a month," said Conrad.

Under the new changes the meetings will be amalgamated on one day of each month. Conrad said the Community Futures board meeting will begin at 3:00 or 4:00 p.m. and continue until 7:30 to 8:00. The Business Development Centre board will then meet immediately after, with the length of the meeting set at two hours.

Conrad said changing the meeting dates was necessary to reduce travel expenses incurred by members of both previous boards.

Minutes from the Business Development Centre meetings will still not be released to the public. Conrad said they can't because of the private nature of the loans handed out.

Minutes of the Community Futures meetings will be mailed out each month.

Conrad concluded by saying that all the recommendations the re-organization committee is coming up with will come up for approval at a Sept. 14 meeting.

to Twinn for at least two years, trying to get him to meet with them. No response, they say. Last week the group got their

one of the wealthiest bands in Canada. In the 1960s C-31 was found on one of the band's reserves. Royalties have been used

"We're either forcing the federal government or Walter to start looking at terms and looking at genealogy and showing which

to Twinn for at least two years, trying to get him to meet with them. No response, they say. Last week the group got their

one of the wealthiest bands in Canada. In the 1960s C-31 was found on one of the band's reserves. Royalties have been used

"We're either forcing the federal government or Walter to start looking at terms and looking at genealogy and showing which

"We're either forcing the federal government or Walter to start looking at terms and looking at genealogy and showing which

to Twinn for at least two years, trying to get him to meet with them. No response, they say. Last week the group got their

one of the wealthiest bands in Canada. In the 1960s C-31 was found on one of the band's reserves. Royalties have been used

"We're either forcing the federal government or Walter to start looking at terms and looking at genealogy and showing which

"We're either forcing the federal government or Walter to start looking at terms and looking at genealogy and showing which

Man dies after falling off truck

By David Zuberbier

An Alberta Transportation employee was killed as he fell out of the back of a pick-up 20 km south of Giff Lake.

High Prairie RCMP say Al-ber LeeRoy Cooper, 49 yrs. of Vermilion, was sitting on the tailgate of a pickup truck when he fell off and struck his head

on the pavement.

He was flown immediately to U of A hospital where he died of head injuries Friday at 10:30 p.m.

The accident occurred south of Giff Lake at a road construction site.

Police say the accident is being investigated by Occupational Health and Safety and RCMP.

**PLEASE
READ
AND
RECYCLE
THIS
NEWSPAPER**



Protesters say they've got proof of membership

Continued from Page A1
without housing and land the
healing of the young people, and
the growth of native spirituality
will continue to suffer.

Our younger generation is

moving to the cities. They have
nothing. Glue bags in their mouth
by the time they're 12 years old.
We want an established home
base where can have a healing
centre, like Poundmakers.

Our native spiritualism is

starting to come out now. That's
not the time to kick us out like
that - we can't grow. We have to
use the Friendship Centre. We
have to pay to rent. Once in
awhile we have elders, we get to
gather with the elders and feed
them and have a round dance.
But we have to pay the Friend-
ship Centre. It's things like that
that are sad. It's a vexation to
what we're trying to start, and it's
a complete shame for our spiritual-
ity."

Sinclair says proof that he and
his fellow protesters are band
members exists now.

"We've got band lists, we've
got genealogy. That's our see in
the hole. We have it and I
wouldn't be out here if I didn't
feel we were justified."

Pauline Johnson says proof
they're band members can be
found on their C-31 cards.

Blair says it's wrong that his
people are suffering while he
keeps everything.

"It would be different if it's a
poor band. But why should be
benefit when his people aren't
getting anything?"

Hamelin says tradition dictates
Twinn is obligated to be kind to-
wards his own people.

"He's got a pipe, he's a pipe-
holder. That means you're hold-
ing your people in your arms, and
you can't let anybody go. That's

the chief's job, that it's supposed
to be in kindness, and he's not
doing that."

Stoony says if Twinn contin-
ues to refuse to meet with them
the group will hold more demon-
strations. Sinclair says the group
will also travel to Edmonton next
month to observe and participate
in the Twinn court case.

Aline McGillivray says the
hearings on the case will begin
Sept. 20 in Edmonton. It's ex-
pected the case could continue
for at least another two years
given the likelihood of appeals.

Chief Walter Twinn was not
available for comment on the
protest Monday.

DURABUILT®

NO NEED TO PAINT OR REPLACE AGAIN

DURABUILT®
WINDOW SYSTEMS INC.
CUSTOM MADE UPVC WINDOWS

- ANY SIZE
- ANY SHAPE
- ANY GLAZING

DURABUILT BRINGS YOU THE TREND OF TODAY
BEAUTY AND VERSATILITY IN 100% VINYL

Your Local Factory Representatives
369-2134
Box 1015, Slave Lake, AB T0G 2A0

Sawridge Plaza

Main Street, Slave Lake
North Central Alberta's Only ENCLOSED MALL

Shop in climate controlled comfort!
Parking for over 400 vehicles

SUPPORT THE 1994 ARCTIC WINTER GAMES!

FARMERS MARKET

Every Sunday

<p>PLAZA FOOD FARE WOOLWORTH FIELDS REITMANS</p>	<p>BANK OF NOVA SCOTIA NRS REALTY WORK WORLD HAIR F/X</p>	<p>FOOD COURT: •BURGERS PLUS •FUZZY ORANGE •SANDWICH GRABBERS •THE DINER'S</p>
---	--	---

For Leasing Information Call 849-2790

High Prairie School Division #48 Notes

By Mary Hewson
For The Lakeside Leader

Mandatory retirement for teachers unconstitutional

High Prairie School Division No. 48 trustees, at their Aug. 11 meeting in High Prairie decided not to develop a mandatory retirement policy for their teachers because such a policy might prove unconstitutional.

Superintendent Verne Evans told trustees that he had contacted lawyers at the Alberta School Board Association regarding a policy of making retirement at age 65 mandatory, and was told "It would be very difficult to justify."

"In light of that, do we develop a policy," Evans asked board members.

Evans said years ago the board had a policy which was legal, but the Constitution and the Charter of Rights have now put mandatory retirement policies into question. Although a challenge by a professor at the University of Alberta was lost last year and universities can now require professors to retire at 65, lawyers at the ASBA told Evans it was unlikely the same would hold true for teachers.

Slave Lake trustee Nicole Gladu felt the board should have a mandatory retirement policy anyway, even if it were challenged in court.

"That's a heck of a generation gap between a 65-year-old and a 15-year-old kid, the communication problems are there," said Gladu.

But other trustees felt the expense of taking a case to court, when in all likelihood the board would lose, did not justify having a policy. Few teachers that age are in the HPSSD said board members, who also felt those that were were regarded as excellent teachers.

"I don't see putting a policy in place if we don't think it will stand up," said trustee Darlene Anderson.

Trustee wants support for student council

Slave Lake trustee Nicole Gladu told trustees that students have told her they feel they have little input into school decisions and that student councils are not as active as they should be.

Gladu asked the board for suggestions as to how they could help the students form active councils.

"It doesn't seem to me they're (councils) active at all," said Gladu. "Maybe they (students) don't know what to do."

Superintendent Verne Evans told Gladu he needed to bring it up at the next administrators meeting with the suggestion principals and vice-principals take an active role in promoting student councils and ensuring students have enough information on the various duties of council officers.

Trustees approve application for day labor scheme

Trustees approved requesting ministerial approval to use the day labor scheme for the construction of the \$464,400 art-draws addition to Roland Michener School in Slave Lake. Government support for the project is \$271,418.

Under the day labor scheme the board will act as its own contractor.

"We find we're able to control costs better under day labor," said Laurie Marston, secretary-treasurer of the HPSSD.

In anticipation of board and ministerial approval, and to expedite construction, Marston said he has already let out tenders, with the closing date of Aug. 16. The board will make its final decision to proceed with the day labor scheme after seeing the results of the tenders, and receiving official approval.

School alarm systems reduce insurance costs

High Prairie School Division School will benefit from having installed intrusion alarm systems, says HPSSD secretary-treasurer Laurie Marston.

Marston told trustees there has been a 36 per cent increase in insurance premiums to schools in general, plus an additional surcharge to schools which don't have intrusion alarm systems. However, Marston said, all schools within the HPSSD have had the systems installed.

"We think they've more than paid for themselves," he said.

Tab N

ALL SUPPORTERS ARE WELCOME TO THIS PEACEFUL DEMONSTRATION
WE DO NOT WANT TO INCONVENIENCE ANYONE.

We were born and raised in Slave Lake, Alberta, regained
our status in 1985, now we are band members of the
Sawridge Band; however, this is not being recognized.
Our grandparents and parents lived on the Sawridge
Reserve and we have inherited the right to belong.

We have written letters to our Chief Walter Twinn, phoned
him, visited his office and his home, and faxed him. All
to no avail. It has all fallen on deaf ears. He has
completely ignored us.

It is time for justice. It is time for action. We want
acceptance as band members.

This is Exhibit 'N' referred to in the
Affidavit of

ROLAND TWINN

Sworn before me this 24 day

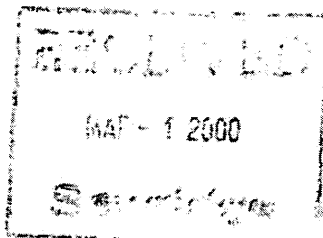
of JUNE A.D. 20 12

A Commissioner for Oaths and for
the Province of Alberta

Aug 12/93
M. Brown
Sawridge Band

DONNA BROWN
A Commissioner for Oaths
In and for The Province of Alberta
My Appointment Expires December 30 2012

Tab 0



Ki-See-Pey-Ga-Mahk (K.C.F.N.)
Cree First Nation,
609-12th Street, S.E.,
Slave Lake, Ab.
T0G 2A3

Feb. 29, 2000

Re: Band Status and New Reserve.
Mr. Bob Nault,
Minister of Indian Affairs.

This is Exhibit "D" referred to in the
Affidavit of

ROLAND TWINN

Sworn before me this 26 day
of JUNE A.D. 20 12

A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN

A Commissioner for Oaths
in and for the Province of Alberta

My Appointment Expires December 30, 2012

Dear Sir:

I am the spokesperson and elected President for the Ki-
See-Pey-Ga-Mahk, Cree First Nation- K.C.F.N.

This follow up states that the members of K.C.F.N. are
all former Sawnidge Band members. Despite our reinstatement
to Indian Status, K.C.F.N. members have been unable to
regain membership in our band of origin. K.C.F.N. was established
for our people, whose heritage can be located in the Sawnidge.

K.C.F.N. members wish to form a new band and reserve pursuant
to S.17 of the Indian Act.

The K.C.F.N. members have waited over fifteen years for
our membership privileges. To date we have been unsuccessful
in obtaining our membership from the band of our ancestors.

K.C.F.N. members believe and respect that the Crown would
be prepared to create a new band and reserve on the north-
east side of Lesser Slave Lake, in the Province of Alberta.

We are willing to negotiate a settlement leading to Band
Status and the creation of a new reserve.

Yours Truly,

Maurice Stoney

(Maurice Stoney)

c.c. - Indian Affairs- Ottawa, Ontario.	Bob Nault
c.c. - Indian Affairs- Edmonton, Alberta.	Jim Sison
c.c. - Sawridge Band- Slave Lake, Alberta.	Chief + Council

Tab P

Ki-Se'e-Pey-Ga-Mahk Cree First Nations
#609 - 12 Street S.E.
Slave Lake, Alberta T0G 2A3

Jan 5/01

Delivered to
Cory
JAN 5/01

October 18/2000

Attn: Catherine Twinn, Sawridge Band First Nations

Dear: Chief and Council

I am the elected spokesperson for the K.C.F.N. Band Council, that we formed. This Band Council is made up of our parents children and former Sawridge Band Members, who also lost their Band Membership. We formed a Band Council to try and get the Indian Affairs Government to recognize our plight.

The Feds maintain that they don't recognize us as a First Nations People. We are asking the Sawridge Band for help with our proposal to create a new Band and Reserve. We are willing to join forces with the Sawridge Band, to sue the Indian Act. We believe it's time for a new approach to be put in place to conquer Indian Affairs. We established a list of names of the people who make up our K.C.F.N. Band Council.

In conclusion, we are willing to participate and do what is necessary to achieve the challenge put forth to the Feds.

Band Council Members Signatures/Names - K.C.F.N

1. Maurice Stoney -
2. Dicky Twin²
3. Frank Ward -
4. Paul Potskin -
5. Henry Sawa -
6. Wilfred Cardinal -
7. Others Pending -

Yours truly,

Maurice Stoney

Maurice Stoney
Dickie (Ronald) Twinn
Frank Ward
← FOR *Karen Potskin*
Henry Sawa

This is Exhibit "P" referred to in the Affidavit of

RONALD TWINN
Sworn before me this 26 day
of JUNE A.D. 2012
[Signature]
A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN
A Commissioner for Oaths
In and for The Province of Alberta
2012

Tab Q

RECEIVED

APR - 5 2001

Sawridge

Ki-see-pey-ga-mahk Cree First Nation
609 - 12 Street S.E.
Slave Lake, AB
T0G 2A3

Delivered Personally
By M. Stoney

April 4, 2001

This is Exhibit "a" referred to in the
Affidavit of

ROLAND TWINN
Sworn before me this 26 day
at JUNE A.D. 20 12

A Commissioner for Oaths in and for
the Province of Alberta

ap 15/01
For
Sawridge Band
Chief & Council
m/d

Indian Affairs
Ottawa, ON

Fax: (819)953-4941

Attention: Daniel Charbonneau

Dear Daniel:

DONNA BROWN
A Commissioner for Oaths
in and for the Province of Alberta
M. Stoney 2012

This letter is to confirm our telephone discussion this morning.

I would like to know if it is possible for your department to assist us in our plight to establish a new reserve for our members. This new band would consist of off-reserve, Bill C-31 Sawridge band members.

A tentative date for a meeting is being scheduled for April 27, 2001, in Slave Lake. I am requesting your attendance to help us through the process. Please let me know if it is possible for you to attend this meeting. I may be reached at (780) 849-5173. If an alternate date is desired, please let me know what is more convenient for you.

I look forward to hearing from you soon.

Yours truly,

Maurice Stoney

Maurice Stoney
(Spokesperson)

Tab R

March 21, 2001

Ki-Sec-Pey-Ga-Mahk
Cree First Nations
609-12 Street SE
Slave Lake, AB
T0G-2A3
ATTN: Cheryl L. Goodswimmer &
Executive Board of Directors - Treaty 8

Dear Cheryl:

I am writing in regards to our conversation we had on the phone. I would like to know if it is possible for Treaty 8 to assist in our plight to establish a new reserve for our members. These Bill C-31 members are from the Sawridge Band First Nations in Slave Lake. The Federal Government says that they don't recognize us as First Nations People. We understand that the Sawridge Band would participate if a meeting was to be put forth in Slave Lake.

Thanks for taking the time to read this request, and I look forward to hearing from you.

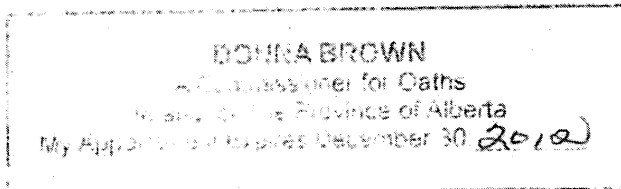
Sincerely,

Maurice stoney

This is Exhibit "R" referred to in the
Affidavit of

ROLAND TWINN
Sworn before me this 21 day
of JUNE A.D. 2001

A Commissioner for Oaths in and for
the Province of Alberta



Maurice Stoney

For
Apr 5/01
Sawridge Band
Chief & Council
M.L.

Tab S

MEMBERSHIP PROCESSING FORM

APPLICANT: MAURICE FELIX STONEY

ADDRESS: 500 - 4TH Street N.W., Slave Lake, AB T0G 2A1

PHONE: 780-849-5193

APPLICABLE MEMBERSHIP SECTION #2

APPLICATION REQUIRED? Yes

SPECIFIC RIGHT? No

BECAUSE: Applicant was enfranchised with his Father when applicant was 2 years old. Applicant would have regained status under subsection 6(2) of the Indian Act.

This is Exhibit "S" returned to it, the
Attorney General
ROLAND TWINN
Sworn before me this 21 day
of JUNE A.D., 2012
A Commissioner for Oaths in and for
the Province of Alberta

APPLICATION

Application satisfactorily completed? Yes

Applicant interviewed by both Councilors? No

Applicant interviewed by Chief? No

DONNA BROWN
A Commissioner for Oaths
in and for the Province of Alberta
My Appointment Expires December 30 2012

SUMMARY OF FIRST NATION COUNCILS JUDGMENTS

CONNECTION TO FIRST NATION

- No family in the First Nation for generations. As of 1956 none of the Stoney Family were part of the First Nation.
- Applicant claims that he was forced out, while documents indicate that Father voluntarily enfranchised with his family (including applicant) for the benefit of all. Claims he did not receive any money upon enfranchisement, but father would have been given his share.
- Claims to have resided on reserve with parent and grandparents until enfranchisement, while enfranchisement documents indicate that father had lived off of reserve for quite a number of years (in May 1944). Application also indicates that he lived in Slave Lake since birth (1941).
- Claims Johnny Stony had a role in the creation of the Sawridge Reserve in 1896. Records indicate that Grandfather was part of Alexander Band and could not be counted for land at Sawridge. Grandfather was transferred without land or money from Alexander Band in 1910.
- Applicant claims connection through relationship with Grandfather who was a member until Applicant was 15 years old.
- Claims Chief and Council support his bid for Membership.
- Does not show any relationship with any members

SIGNIFICANT COMMITMENT TO FIRST NATION (and its History, Customs, Traditions, Culture and Communal Life).

- Applicant participated in action commenced in 1995 against the First Nation seeking:
 - Firstly in excess of \$1M for damages in lost benefits for Education Costs, Medical Care Benefits, Housing and Tax Exemption, or alternatively, in excess of \$1M as a pro rata share of the economic value of the reserve plus the lost benefits in excess of \$1M; and
 - Secondly in excess of \$1M for economic loss for and on behalf of her progeny; and

- Thirdly, in excess of \$1M in punitive damages for "the arrogant and high-handed manner in which Walter Patrick Twinn and the Sawridge Band of Indians has deliberately, and without cause, denied the Plaintiffs reinstatement as Band Members of the Sawridge Band, which denial is unwarranted and unjustified, and has been only out of malice, spite and the selfish desire of Walter Patrick Twinn and the Sawridge Band of Indians to deprive the Plaintiffs of their just rights and dues, so that the Band and the Chief may be enriched, at the expense of the Plaintiffs."
- Fourthly, a pro rata share of the value of the holdings, savings, and any other entitlements or benefits which may accrue to the Plaintiffs as a result of their Indian status and Band Membership.
- Applicant was ordered to pay costs to the First Nation and did not do so.
- Applicant sees his role and responsibility as a Member as undecided.
- Applicant states desire to become a member because this is his right.
- Applicant claims to have always been a Status Indian (3F & 3G) but indicates that he is a C31 (11G). Records indicate that Applicant was enfranchised with his Father in 1944.
- Applicant states that he can best contribute to the band through small business and assisting in Band Operations.
- Applicant states, in relation to references, that 'I am intitled to membership'. No references are attached.
- In 1996 Applicant appeared on television show "The Fifth Estate" in a segment called "the Gatekeeper" and made disparaging remarks about the First Nation and the Chief. In that appearance the Applicant made a remark that the application form of the First Nation was good for toilet paper.
- Applicant was involved with others in petitioning to start another First Nation.
- Applicant led a protest against the First Nation.

SIGNIFICANT KNOWLEDGE OF FIRST NATION

(History, Customs, Traditions, Culture and Communal Life)

- Applicant claims to have read the Sawridge bylaws and codes.

CHARACTER AND LIFESTYLE

(Not a Detriment)

- Applicant advises that he entered the work force at age 15.
- Applicant states that he is Self Sufficient, living off of Pension.
- Has no Reference Letters

OTHER CONSIDERATIONS

Children No.

If yes, how many and ages.

Spouse Yes - Bigstone. No Dependents.

If yes, what is current situation. - Married.

Physical Condition

Good.

Decision

Membership Denied based on

- 1) Did not have any specific "right" to have name entered in the Membership List of the Sawridge First Nation.
- 2) The Council was not compelled to exercise its discretion to add name to the Membership List as it did not feel, in its judgment, that admission into Membership of the First Nation would be in the best interests and welfare of the First Nation.

Attachments

- Application
- Statement of Claim
- Federal Court of Appeal Decision
- May 12, 1944 Letter from P.J. Demers
- 1910 Pay List
- Fifth Estate Transcript
- June 1, 1993 Letter from Maurice Stoney
- June 16, 1993 Lakeside Leader Article
- June 21, 1993 Scope Article
- June 13, 1993 Edmonton Journal Article
- June 21, 1993 Alberta Report Article
- August 18, 1993 Lakeside Leader Article
- August 12, 1993 Protest Handout
- February 29, 2000 Letter from Maurice Stoney
- October 18, 2000 KCFN Declaration
- April 4, 2001 Letter from Maurice Stoney
- March 21, 2001 Letter from Maurice Stoney

Tab T

MANN & ROBINSON

Barristers • Solicitors • Notary Publics • Mediator • Collaborative Law

LORNE G. MANN, B.A., LL.B.

MONICA A. ROBINSON, B.A., LL.B.*

December 22, 2011

SAWRIDGE FIRST NATION
806 Caribou Trail NE
Box 326
Slave Lake, AB
T0G 2A0

VIA FAX - 780-849-3446 and
REGISTERED MAIL

Dear Sir/Madam:

RE: Sawridge First Nation Applications
Our File: 27484

Thank you for your correspondence dated December 7, 2011 wherein you advise that three of our clients have been denied membership into the Sawridge First Nation. Enclosed herewith please find a signed document from each of June Kolosky, Maurice Stoney and Aline Huzar wherein they exercise their rights under Section 12 of the Membership Rules to have the refusal decision reviewed.

I trust the above and enclosed to be in order and look forward to receipt of information concerning when each of the appeals shall take place.

Yours truly,

MANN & ROBINSON

Per:



MONICA A. ROBINSON
MAR/pm
Encs.

This is Exhibit 'T' referred to in the
Affidavit of

ROLAND TIDIN

Sworn before me this 26 day

of JUNE 26 A.D. 2012

[Signature]
A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN

A Commissioner for Oaths

9902 - 97 Avenue, Peace River, Alberta T8S 6A5 for The Province of Alberta
Phone: 780-624-4860 Fax: 780-624-4135 Toll Free: 1-888-624-4860
email: law@mannrobinson.ca

*Denotes Professional Corporation

December 30, 2012

12-22-'11 16:46 FROM- mann robinson

7806244135

T-095 P0002/0006 F-217

12-19-'11 13:00 FROM- mann robinson

7806244136

T-095 P0002/0002 F-144

December 19, 2011

SAWRIDGE FIRST NATION
806 Cariboo Trail NE
Box 326
SLAVE LAKE, AB
T0G 2A0

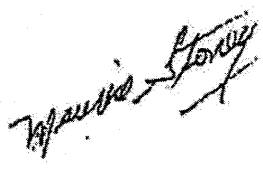
Dear Chief and Council Members:

RE: Appeal of Decision

Further to the correspondence recently received from you wherein you advise that my application for membership in the Sawridge First Nation has been declined, this is notice of my request to have that decision appealed pursuant to Section 12 of the Membership Rules.

Yours truly,

MAURICE STONEY
900-4 St.
SLAVE LAKE, AB
T0G 2A1



June Kolosky
Box 25
Chetwynd, BC T0C 1J0

December 20, 2011

SAWRIDGE FIRST NATION
806 Cariboo Trail NE - Sawridge I.R. 150G
Box 326
Slave Lake, Alberta T0G 2A0

Dear Chief Roland Twinn and Council:

I am writing to you regarding your December 07, 2011 letter in which you denied my application for membership in the Sawridge First Nation. The grounds on which I wish to appeal are:

- (1) I do have "specific" rights to have my name entered in the Membership List of the Sawridge First Nation, and
- (2) I believe it would be in the best interests and welfare of the Sawridge First Nation to include me as a member.

My Grandfather, Johnny Stoney, band member #18, was a contributing member of the Sawridge First Nation for 60 years. My Grandfather was a hardworking and industrious man. He ran a business at his home along the Slave River. It was a stopping place for travelers and freight haulers.

My mother, Mary McGillivray (nee) Stoney, band member #29, was born into the Sawridge First Nation on September 01, 1902. She was a residential school survivor. I believe I do have "specific" rights to have my name entered in the Membership List of the Sawridge First Nation. It is my roots and my heritage.

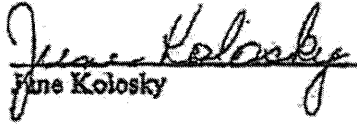
I am involved with my Aboriginal community as the president of our local Friendship Centre. I am a member and an elder of the Chetwynd Community Committee who work with Nenah Dane Zaa Zana. I am an active member of our local community association where my husband and I work towards building and maintaining a strong community spirit. I was bookkeeper/payroll for Kolosky Farming and Logging for 30 years. I owned and operated a flower shop and I have excellent organizational and

...page two

leadership skills. I am actively involved with my church and I am president of The Two Leaved Gates Ministries. I believe I would be a contributing member of the Sawridge First Nation and that it would be in their best interests and welfare to include me as a member.

Therefore, I am requesting your reconsideration of this issue. You may contact me at (250) 788-2673. Thank you for your time and consideration of this important matter.

Sincerely,


Jane Kolosky

Aline Huzar
3953 Weisbrod Road
Prince George, BC V2K 2S4

December 19, 2011

SAWRIDGE FIRST NATION
806 Cariboo Trail NE - Sawridge I.R. 150G
Box 326
Slave Lake, Alberta T0G 2A0

Dear Chief Roland Twinn and Council:

I am writing to you regarding your December 07, 2011 letter in which you denied my application for membership in the Sawridge First Nation. The grounds on which I wish to appeal are:

- (1) I do have "specific" rights to have my name entered in the Membership List of the Sawridge First Nation, and
- (2) I believe it would be in the best interests and welfare of the Sawridge First Nation to include me as a member.

My Grandfather, Johnny Stoney, band member #18, was a contributing member of the Sawridge First Nation for 60 years. My Grandfather was a hardworking and industrious man. He ran a business at his home along the Slave River. It was a stopping place for travelers and freight haulers.

My mother, Mary McGillivray (nee) Stoney, band member #29, was born into the Sawridge First Nation on September 01, 1902. She was a residential school survivor. I believe I do indeed have "specific" rights to have my name entered in the Membership List of the Sawridge First Nation. My roots are here. It is my heritage.

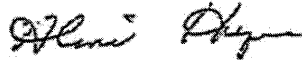
I worked hard for my diploma in Business Administration and I took numerous management courses. During my working years I served as a cashier, retail clerk, customer service person and I was the program coordinator for the Prince George Metis Elders Society. I gained valuable experience in working with the elders. I thoroughly enjoyed my position as we were all of the Cree Nation.

...page two

At the present time I am focusing on writing a book about my oldest son Michael. My son passed away on June 24, 2009. He was a very brave and courageous person. I also have twin sons who are very successful in their career choices. I believe I would be a contributing member of the Sawridge First Nation and that it would be in their best interests and welfare to include me as a member.

Therefore, I am requesting your reconsideration of this issue. Please feel free to contact me at (250) 962-2161. Thank you for your time and consideration of this important matter.

Sincerely,



Aline Huzar

Tab U



PARLEE McLAWS ^{LLP}
BARRISTERS & SOLICITORS | PATENT & TRADE-MARK AGENTS

March 23, 2012

EDWARD H. MOLSTAD, Q.C.
DIRECT DIAL: 780.423.8506
DIRECT FAX: 780.423.2870
EMAIL: emolstad@parlee.com
OUR FILE #: 64203-1/EHM

Davis LLP
1201 Scotia Tower 2, Scotia Place
10060 - Jasper Avenue
Edmonton, Alberta
T5J 4E5

VIA E-MAIL ONLY

Attention: Ms Priscilla Kennedy

Dear Madam:

**Re: Appeals of Maurice Felix Stoney, June Martha Kolosky and
Aline Elizabeth Huzar**

We would advise that we will be representing the Sawridge First Nation in relation to the above described appeals which are scheduled to be heard on April 21, 2012.

We have been advised that your offices will be representing the Appellants.

We are enclosing a copy of the Record in relation to each of the above matters which includes the Application for Membership and the Decision of the First Nation Council.

We are also enclosing copies of the Notices of Appeal enclosed with the letter from Mann & Robinson dated December 22, 2011 in relation to each one of the above individuals.

The appeal procedure which will be followed is enclosed.

Should you have any questions, please do not hesitate to contact our offices.

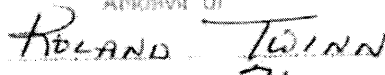
Yours truly,

PARLEE McLAWS LLP


EDWARD H. MOLSTAD, Q.C.

EHM/ulk
Encl.

This is Exhibit "4" referred to in the
Affidavit of


Sworn before me this 26 day
of JUNE A.D. 2012


A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN
A Commissioner for Oaths
In and for The Province of Alberta
My Appointment Expires December 30, 2012

Tab V

APPEAL PROCEDURE

This procedure shall apply to the appeal of any person (herein called the "Appellant"), whose application for membership in the Sawridge First Nation (herein called the "First Nation") has been denied pursuant to Sawridge Membership Rules.

COMMENCEMENT OF APPEAL

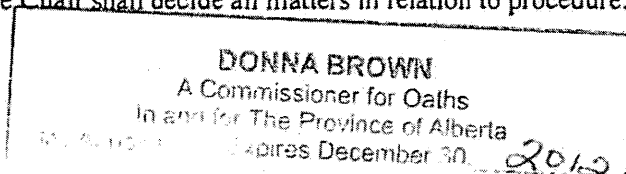
1. The Appeal shall be commenced by the Appellant serving a Notice of Appeal in writing to the First Nation Council at the Office of the First Nation within 15 days after the First Nation has communicated to the Appellant the Decision of the First Nation Council.
2. The Appeal shall be heard by the Electors of the First Nation in attendance (herein called the "Appeal Committee") at a meeting convened by First Nation Council for the purposes of hearing the Appeal.
3. The Appellant shall be given notice of the date, time and place of the hearing before the Appeal Committee.

APPEAL COMMITTEE

4. The Appeal Committee shall consist of the Electors of the First Nation in attendance at the Meeting convened by the First Nation Council for the purpose of hearing the Appeal.
5. The Appeal hearing shall be scheduled to be heard within 60 days of receipt of a Notice of Appeal subject to the right of the Appeal Committee to adjourn the hearing from time to time. Prior to the Appeal hearing commencing, the Appeal hearing may be postponed to a later date, that is more than 60 days after receipt of the Notice of Appeal, at the request of the Appellant.
6. The Chair of the Appeal Committee shall be the Speaker of the Assembly or if the Speaker is unable or unwilling to chair, a Member of the Appeal Committee elected by the Members of the Appeal Committee in attendance.
7. There shall be no quorum requirement for the Appeal Committee however, if the Appeal Committee is of the view that the number of Electors of the First Nation in attendance are not sufficient to conduct business, they may adjourn the hearing to such time as they decide in order to allow more Electors to attend.

HEARING PROCEDURE

8. The Appeal Hearing shall be conducted by the Chair.
9. The Chair shall decide all matters in relation to procedure.



This is Exhibit "V" referred to in the
Affidavit of
ROSE AND TWINN
Sworn before me this 26 day
JUNE 2012
[Signature]
Notary Public for the Province of Alberta

10. The Appellant may be represented by Legal Counsel.
11. The Appeal Committee may retain Legal Counsel to assist in the conduct of the Appeal.
12. If the Appellant or the Appellant's representative does not attend at the commencement of the Appeal, the Appeal Committee may adjourn the Hearing for a reasonable period of time in order to allow the attendance of the Appellant or the Appellant's representative and after the expiration of a reasonable period of time, the Appeal Committee may proceed to hear the Appeal in the absence of the Appellant or the Appellant's representative.
13. The Chair of the Appeal Committee shall provide the Appellant and the Appeal Committee with a copy of the Application for Membership, the Decision of First Nation Council and the Notice of Appeal.
14. The Appeal Hearing procedure shall be as follows:
 - (a) The Chair shall introduce himself or herself;
 - (b) The Chair shall request the Appellant, and if represented, his/her Legal Counsel to introduce themselves;
 - (c) The Chair shall request that the Appeal Committee, and if represented, its Legal Counsel to introduce themselves;
 - (d) The Chair shall confirm that the Appellant has received a copy of the Application for Membership and the Decision of First Nation Council.
 - (e) The Chair shall confirm that the Appeal Committee has received a copy of the Application for Membership, the decision of First Nation Council and the Notice of Appeal;
 - (f) The Chair shall confirm that the Appellant, and if represented, his/her Legal Counsel have received a copy of the Appeal Procedure.
 - (g) The Chair shall ask the Appellant to make their submissions with respect to the Appeal;
 - (h) Following the submissions of the Appellant, the Chair shall ask if any Member of the Appeal Committee wishes to make submissions. If any Member of the Appeal Committee wishes to make submissions, they will be allowed an opportunity.
 - (i) The Appellant, and if represented, his/her Legal Counsel will then be asked if they have any submissions they wish to make in response to the submissions made by any Members of the Appeal Committee. If they wish to make submissions in response, they will be allowed an opportunity.
 - (j) When these submissions are concluded, the Appellant will be advised that the submissions shall be considered by the Appeal Committee and a Decision will be made and communicated to him/her within thirty (30) days of the date of the Hearing.
15. All persons shall be given a reasonable amount of time to make submissions, however, the Chair may, in his or her discretion set reasonable time limits in relation to any submissions.

16. The Chair may adjourn the Appeal Committee Hearing at any time he or she deems it necessary.
17. There shall be no transcript or other record of the Appeal Committee Hearing except for the Application for Membership, the Decision of First Nation Council, the Notice of Appeal and any written submissions or other documentation presented to the Appeal Committee.

DELIBERATIONS

18. Immediately following the conclusion of the submissions to the Appeal Committee, the Appeal Committee shall meet in camera to make a decision.
19. The Appellant, and if represented, his/her Legal Counsel, shall be advised that the Appeal Committee may reconvene if they require further submissions and the Appellant and Legal Counsel shall be requested to wait outside of the meeting room of the Appeal Committee for up to a maximum of one hour while the Appeal Committee deliberates in camera to determine if any further submissions are required.
20. If during deliberations it is determined that no further submissions shall be required, the Appellant and if represented, his/her Legal Counsel shall be advised and shall be excused.
21. If during deliberations it is determined that further submissions are required, the Appeal Committee may reconvene and open the meeting for that purpose however the Appellant and if represented, his/her Legal Counsel shall be provided notice and an opportunity to attend.
22. During the deliberations in camera, the only persons who may be present are the Appeal Committee, the Chair and Legal Counsel if retained by the Appeal Committee and any other person the Appeal Committee permits.
23. There shall be no recording or notes taken with respect to the in camera deliberations of the Appeal Committee.

DECISION BASED ON CONSENSUS

24. During the deliberations, any Member of the Appeal Committee may make a proposal either to allow the Appeal and grant Membership to the Appellant or to dismiss the Appeal and uphold the decision to deny the Appellant Membership. Any such proposal shall include reasons for the proposed decision. Once the proposal is made, it shall be discussed by the Appeal Committee and any member of the Appeal Committee may propose amendments or changes. The Appeal Committee will endeavor to reach a consensus decision on the disposition of the Appeal. A consensus will be reached if all of the Members of the Appeal Committee present agree that the decision and the reasons for the decision are acceptable. A consensus may only be considered to be reached if the decision and reasons are written out and every person who is in attendance at the deliberations of the Appeal Committee has indicated their acceptance of the decision. If

a consensus decision is reached, the written decision with the reasons shall be provided to the Appellant and if represented, his/her Legal Counsel.

25. If the deliberations continue for more than two hours and the Appeal Committee has failed to reach a consensus, the Appeal Committee may continue to deliberate however, after this time has expired, the deliberation shall end if any Member of the Appeal Committee makes a motion to end the deliberations and that Motion is passed by a majority of the Appeal Committee in attendance. If the deliberations are ended in this fashion, then the Members of the Appeal Committee in attendance shall vote by way of secret ballot to either allow the Appeal or to dismiss the Appeal. If a vote by secret ballot is held, the decision of the majority shall be the decision of the Appeal Committee however, in the case of a tie, the Appeal shall be dismissed. When a decision is made as a result of a secret ballot, a Notice of Decision shall be provided to the Appellant indicating only that the Appeal Committee allowed or denied the Appeal.

DECISIONS

26. The Appellant shall be provided with Notice of Decision of the Appeal Committee within 30 days of the Appeal Hearing. The Notice of Decision shall be mailed to the mailing address provided by the Appellant on the Application for Membership Form.
27. If the decision of the Appeal Committee is to allow the Appeal in relation to the Application for Membership, the name of the Appellant shall be entered on the First Nation Membership List.
28. If the decision of the Appeal Committee is to dismiss the Appeal, the Appellant shall have no further right to apply for Membership in the First Nation.
29. The decision of the Appeal Committee is final and binding and not subject to review.

Tab W

**IN THE MATTER OF THE APPEAL OF THE MEMBERSHIP APPLICATION OF
MAURICE FELIX STONEY TO THE SAWRIDGE FIRST NATION**

BETWEEN:

MAURICE FELIX STONEY

This is Exhibit "W" referred to in the
Affidavit of

ROLAND TWINN

Appellant

- and -

Sworn before me this *26* day

of *JUNE* A.D. 20*12*

H. Brown
A Commissioner for Oaths in and for
the Province of Alberta

SAWRIDGE FIRST NATION

DONNA BROWN

Respondent

A Commissioner for Oaths
In and for The Province of Alberta

My Appointment Expires December 30, *2012*

Appeal to the Appeal Committee Composed of the Electors of the Sawridge First Nation

DAVIS LLP.

1201 Scotia 2 Tower

10060 Jasper Avenue

Edmonton, AB, T5J 4E5

Attn : Priscilla Kennedy

Tel: (780) 426-5300

Fax: (780) 702-4383

Solicitor for Maurice Felix Stoney

PARLEE McLAWS LLP

1500 Manulife Place

10180 - 101 Street

Edmonton, AB, T5J 4K1

Attn : Edward Molstad, Q.C.

Tel: (780) 423-8500

Fax: (780) 423-2870

Solicitor for Sawridge First Nation

I. FACTS

1. Maurice Felix Stoney has been denied membership in the Sawridge First Nation since Bill C-31 recognized changes to the *Indian Act* effective April 17, 1985. His father died in December, 1983 just prior to section 15 of the *Constitution Act, 1982*, taking effect. There was no resolution for his father, William Stoney before his death. Maurice is 71 years of age.

2. The Federal Court of Appeal has noted that "aging" individuals referred to in its judgments, who have been denied membership, are unlikely to receive the benefit of Band membership before their death: *Sawridge Band v. Canada*, 2004 FCA 16, para. 51. [Tab 1]

3. Johnny Stoney (also known as Johnny Stephens), grandfather of Maurice, was born into the Alexander Band at Riverre Qui Barre in 1872. Like many others in *Treaty No. 6*, following the events of the Northwest Rebellion in 1885, they moved north into the territory where *Treaty No. 8* was signed in 1899. In or about 1895, Johnny Stoney moved to Lesser Slave Lake and married an Indian woman, Henriette Sinclair from Lesser Slave Lake, settling on the Lesser Slave River and becoming a member of the Lesser Slave Lake Band with Chief Kinodayoo.

4. Negotiations of *Treaty No. 8* occurred at Lesser Slave Lake with Chief Kinodayoo signing in 1899 as Chief of the Indians at Lesser Slave Lake, including those who became the Sawridge Band with a Reserve given in 1912/3: Dennis Madill "Treaty Research Report Treaty Eight (1899)" excerpts. [Tab 2]

5. A discussion ensued with Indian Affairs from 1903 until 1910 when Johnny Stoney, along with many other members of Alexander's Band were recognized as having transferred to Kinodayoo's Band: Public Archives [Tab 3] These families that transferred were the Potskin's, Thomasis, Bellerose, Hamelin, Moss Bag, Oskinigue, and Wendigoo's widow.

6. From 1903 until 1920, the issue of Johnny Stoney possessing his lands along the Lesser Slave River in severalty was discussed by Indian Affairs. Lands in severalty is set out in *Treaty No. 8* which provides:

...individual Indians as may prefer to live apart from band reserves, Her Majesty undertakes to provide land in severalty to the extent of 160 acres to each Indian, ...

Correspondence in Indian Affairs regarding Johnny Stoney lands. [Tab 4]

7. Johnny Stoney was advised in 1920 that he could occupy his lands as part of the Sawridge Indian Reserve: [Tab 5]

8. Maurice Stoney, son of William Stoney, grandson of Johnny Stoney, has lived in Slave Lake as have many other members of Sawridge, adjacent to the Sawridge First Nation all of his life. Maurice has a knowledge of Cree culture and history and knows the Sawridge First Nation. He is married to a member of the Bigstone Cree Nation.

9. William Stoney was enfranchised, as was his family, in 1944. Enfranchisement removed him and his family from the payroll of the Sawridge First Nation. Enfranchised Indians were restored to their Bands on April 17, 1985.

II. RIGHT TO MEMBERSHIP

10. On April 17, 1982, the *Constitution* was repatriated and the *Constitution Act, 1982* was passed effective April 17, 1982. [Tab 6]

11. The *Canadian Charter of Rights and Freedoms* was Part I of the *Constitution Act, 1982*. Section 15, came into force on April 17, 1985 (see s. 32(2)) and it prohibits discrimination for every individual in Canada including aboriginals. This has resulted in required amendments to correct discrimination in the *Indian Act* effective April 17, 1985 (Bill C-31) and again in Bill C-3 (January 31, 2011): *Indian Act*, R.S.C. 1985, c. I-5 as am. 2010, c. 18 [Tab 7]

12. On February 8, 2012, the Federal Court of Appeal held in *Poitras v. Sawridge Band*, 2012 FCA 47 [Tab 8], that these amendments to the *Indian Act*, contained in Bill C-31, were constitutional and binding on Sawridge entitling individuals to membership as stated by the case manager to be "automatic membership in the Indian Band with which they were connected": see *Sawridge Band v. Canada*, 2004 FCA 16 [Tab 1].

13. Sawridge is not permitted to determine membership related to persons whose membership was restored by Section 15 of the *Charter* through Bill C-31 (and Bill C-3) since these provisions are constitutional, occurred effective April 15, 1985, and Sawridge is bound by

the Constitution: *Sawridge First Nation v. Canada*, 2009 FCA 123 [Tab 9]. Enfranchisement and its removal effective April 17, 1985 entitles Maurice Stoney to membership under section 6(1)(c.1). The Sawridge Membership Rules only apply to the Band List after July 4, 1985.

14. However as noted by the Federal Court of Appeal at paragraph 51 of *Poitras* [Tab 8] Sawridge has delayed taking the steps legally and constitutionally required:

... the individuals who have been denied membership in the appellant Band are aging and, at the present rate of progress, some are unlikely to ever benefit from amendments that were adopted to redress their discriminatory exclusion from Band membership. ...

15. It is submitted that after 30 years, Maurice is entitled to membership in Sawridge.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 21st day of April, 2012 by Priscilla Kennedy, DAVIS LLP., solicitor for June Martha Kolosky and Aline Elizabeth Huzar.



Priscilla E.S.J. Kennedy
Barrister & Solicitor

Tab 1

**Sawridge Band v. Canada, 2004 FCA 16, [2004] 3 FCR 274**

Date	2004-01-19
Indexed	A-170-03
Cited in	2004 FCA 16 (CanLII); [2004] 2 CNLR 316
URL	http://canlii.ca/t/1g8b9
Case name	Sawridge Band v. Canada, 2004 FCA 16 (CanLII), [2004] 3 FCR 274, < http://canlii.ca/t/1g8b9 > retrieved on 2012-02-02
Case type	▼ View Show
Find	Search for decisions citing this decision
Related	Related decisions, legislation cited and decisions cited

A-170-03

2004 FCA 16

Bertha L'Hirondelle, suing on her own behalf and on behalf of all other members of the Sawridge Band (Plaintiffs) (Appellants)

v.

Her Majesty the Queen (Defendant) (Respondent)

and

Native Council of Canada, Native Council of Canada (Alberta), Native Women's Association of Canada and Non-Status Indian Association of Alberta (Interveners) (Respondents)

Indexed as: Sawridge Band v. Canada (F.C.A.)

Federal Court of Appeal, Rothstein, Noël and Malone JJ.A.--Calgary, December 15 and 16, 2003; Ottawa, January 19, 2004.

Native Peoples -- Registration -- Appellants opposing requirement to enter on Sawridge Band List names of 11 individuals, to accord them rights, privileges attaching to Band membership -- Bill C-31 granting certain persons whose names omitted, deleted from Indian Register prior to April 17, 1985 entitlement to status under Indian Act -- Indian Act, s. 10(4), (5) must be interpreted in accordance with modern approach -- Act, s. 11(1)(c) granting appellants automatic entitlement to

membership in Sawridge Band -- Requiring such acquired rights individuals to comply with Sawridge Band membership code in contravention of Act.

Administrative Law -- Judicial Review -- Injunctions -- Trial Judge granting mandatory interlocutory injunction sought by Crown, requiring appellants to register names of 11 individuals on Sawridge Band List -- Making determination of law as condition precedent to granting of interlocutory injunction -- Such determination appropriate -- Where substantive question of law at issue, applicable standard of review correctness -- Three-part test for granting interlocutory injunction met -- First part, serious issue to be tried, applies to interlocutory injunction applications whether mandatory or prohibitory.

Constitutional Law -- Aboriginal and Treaty Rights -- Appellants submitting provisions of Bill C-31 conferring entitlement to Band membership inconsistent with Constitution Act, 1982, s. 35, therefore of no force, effect -- Legislation must be complied with until found to be unconstitutional -- Clear public interest in seeing legislation obeyed until application stayed by Court order, legislation set aside on final judgment.

Construction of Statutes -- Interpretation of Indian Act, s. 10(4), (5) -- All legislation must be read in context -- Trial Judge correctly interpreted s. 10(4), (5) in accordance with modern approach -- Act creating automatic entitlement to membership unless acquired rights individuals subsequently lose entitlement.

Practice -- Parties -- Standing -- Whether Crown lacked standing, has not met test for seeking interlocutory injunctive relief -- Crown having standing to seek injunctions to ensure public bodies, such as Indian band council, follow law.

This was an appeal from a Trial Judge's order granting a mandatory interlocutory injunction sought by the Crown, requiring the appellants to register the names of 11 individuals on the Sawridge Band List and to accord them all the rights and privileges attaching to Band membership. In an action commenced on January 15, 1986, the appellants sought a declaration that the provisions of Bill C-31 (*An Act to amend the Indian Act*) that confer an entitlement to Band membership are inconsistent with section 35 of the *Constitution Act, 1982*, and are therefore of no force and effect. Bill C-31 granted certain persons whose names were omitted or deleted from the Indian Register by the Minister of Indian and Northern Affairs prior to April 17, 1985, entitlement to status under the *Indian Act*. By notice of motion, the Crown applied for an interlocutory mandatory injunction requiring the Sawridge Band to comply with the provisions of the Act unless and until they are determined to be unconstitutional. By order dated March 27, 2003, Hugessen J. granted the requested injunction. In appealing the order of Hugessen J., the appellants raised two issues: (1) whether the Band's membership application process complied with the requirements of the Act,

and (2) whether the Crown had standing and had met the test for granting interlocutory injunctive relief.

Held, the appeal should be dismissed.

(1) The Crown's notice of motion for a mandatory interlocutory injunction was based on the appellants' refusal to comply with the legislation pending determination of whether the legislation was constitutional. It was agreed that the interpretation of the legislation and whether or not the appellants were in compliance with it was relevant to this litigation. Courts do not normally make determinations of law as a condition precedent to the granting of an interlocutory injunction, but that is what occurred here. It was appropriate for Hugessen J. to have made a preliminary determination of law that was final and conclusive for purposes of the action, subject to being varied on appeal.

Where a substantive question of law is at issue, even if it is decided by a case management judge, the applicable standard of review will be correctness. Hugessen J. was not satisfied that subsections 10(4) and (5) of the *Indian Act* are as clear and unambiguous as the appellants suggested. He correctly interpreted these provisions in accordance with the modern approach to statutory construction which states that the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament. The term "acquired rights" which appears as a marginal note beside subsection 10(4) is a convenient "shorthand" to identify those individuals who, by reason of paragraph 11(1)(c) of the Act, became entitled to automatic membership in the Indian Band with which they were connected. The instant paragraph 11(1)(c) came into force, i.e. April 17, 1985, these individuals were entitled to have their names entered on the membership list of their Band. The words "by reason only of" in subsection 10(4) could allow a band to create restrictions on continued membership for situations that arose or actions taken after the membership code came into effect. However, the code cannot operate to deny membership to those individuals who come within paragraph 11(1)(c). There is no automatic membership in a band, but there is an automatic entitlement to membership. The words "commencing on April 17, 1985" only indicate that subsection 11(1) was not retroactive to before April 17, 1985. As of that date, the individuals in question acquired an automatic entitlement to membership in the Sawridge Band. For these persons entitled to membership, a simple request to be included in the Band's membership list is all that is required. The fact that the individuals in question did not complete a Sawridge Band membership application is irrelevant. Requiring acquired rights individuals to comply with the Sawridge Band membership code, in which preconditions had been created to membership, was in contravention of the Act.

(2) The Crown was seeking an injunction, not only on behalf of the individuals denied the benefits of a validly enacted legislation, but on behalf of the public interest in

having the laws of Canada obeyed. It has traditionally had standing to seek injunctions to ensure that public bodies, such as an Indian band council, follow the law. Having regard to the Crown's standing at common law, statutory authority is unnecessary. Hugessen J. correctly found that the Crown had standing to seek the injunction. Moreover, the Crown was seeking essentially the same relief on the injunction application as in the main action. Further, section 44 of the *Federal Courts Act* confers a very broad jurisdiction on the Federal Court, even to granting an injunction where it is not being asked to grant final relief. That being so, the Court surely has jurisdiction to grant an injunction where it will itself make a final determination on an interconnected issue. The requested injunction was therefore sufficiently connected to the final relief claimed by the Crown.

The test for granting an interlocutory injunction, as adopted by the Supreme Court of Canada in *Manitoba (Attorney General) v. Metropolitan Stores Ltd.*; and *RJR--MacDonald Inc. v. Canada (Attorney General)*, is threefold. First, there must be a serious question to be tried. Such test should be applied to an interlocutory injunction application, whether it is prohibitory or mandatory. The Crown's argument that Bill C-31 is constitutional was neither frivolous nor vexatious. There was, therefore, a serious question to be tried. Second, it must be determined whether the applicant would suffer irreparable harm if the application were refused. Ordinarily the public interest would only be considered in the third branch of the test, but since the government was the applicant in this motion for interlocutory relief, the public interest had to be considered in the second stage as well. Allowing the appellants to ignore the requirements of the Act would irreparably harm the public interest in seeing that the law is obeyed. Until a law is struck down as unconstitutional or an interim constitutional exemption is granted by a court of competent jurisdiction, citizens and organizations must obey it. Further the individuals who have been denied Band membership are aging and may never benefit from amendments adopted to redress their discriminatory exclusion. The public interest in preventing discrimination by public bodies will be irreparably harmed if the requested injunction is denied and the appellants are able to continue to ignore their obligations under Bill C-31, pending a determination of its constitutionality. The appellants argued that there could not be irreparable harm because the Crown would not have waited 16 years after the commencement of the action to seek an injunction. The question of whether delay in bringing an injunction application is fatal is a matter of discretion for the motions judge. There was no suggestion that Hugessen J. did not act judicially in the exercise of his discretion. The third branch of the test is the balance of convenience. In the *Metropolitan Stores* case, it was held that interlocutory injunctions should not be granted in public law cases, "unless, in the balance of convenience, the public interest is taken into consideration and given the weight it should carry". In this case, the public interest in seeing that laws are obeyed and that prior discrimination is remedied weighs in favour of granting the injunction requested by the Crown. There is a clear public interest in seeing that legislation is obeyed until its application is stayed by court order or the legislation is set aside on final judgment. On the other hand, the Sawridge Band will suffer little or

no damage by admitting nine elderly ladies and one gentleman to membership. Therefore, the balance of convenience favoured granting the injunction.

statutes and regulations judicially

considered

An Act to amend the Indian Act, R.S.C., 1985 (1st Supp.), c. 32.

Canadian Charter of Rights and Freedoms, being Part I of the *Constitution Act, 1982*, Schedule B, *Canada Act 1982*, 1982, c. 11 (U.K.) [R.S.C., 1985, Appendix II, No. 44], s. 15.

Constitution Act, 1982, Schedule B, *Canada Act 1982*, 1982, c. 11 (U.K.) [R.S.C., 1985, Appendix II, No. 44], s. 35.

Federal Courts Act, R.S.C., 1985, c. F-7, ss. 1 (as am. by S.C. 2002, c. 8, s. 14), 44 (as am. *idem*, s. 41).

Federal Court Rules, 1998, SOR/98-106, rr. 220, 369.

Indian Act, R.S.C., 1985, c. I-5, ss. 6 (as am. by R.S.C., 1985 (1st Supp.), c. 32, s. 4), 10(4) (as am. *idem*), (5) (as am. *idem*), 11(1)(c) (as am. *idem*), 12.

Interpretation Act, R.S.C., 1985, c. I-21, s. 14.

cases judicially considered

applied:

Manitoba (Attorney General) v. Metropolitan Stores Ltd., 1987 CanLII 79 (SCC), [1987] 1 S.C.R. 110; (1987), 38 D.L.R. (4th) 321; [1987] 3 W.W.R. 1; 46 Man. R. (2d) 241; 25 Admin. L.R. 20; 87 CLLC 14,015; 18 C.P.C. (2d) 273; 73 N.R. 341; *RJR -- MacDonald Inc. v. Canada (Attorney General)*, 1994 CanLII 117 (SCC), [1994] 1 S.C.R. 311; (1994), 111 D.L.R. (4th) 385; 54 C.P.R. (3d) 114; 164 N.R. 1; 60 Q.A.C. 241.

considered:

Canada (Human Rights Commission) v. Canadian Liberty Net, 1998 CanLII 818 (SCC), [1998] 1 S.C.R. 626; (1998), 157 D.L.R. (4th) 385; 6 Admin. L.R. (3d) 1; 22 C.P.C. (4th) 1; 50 C.R.R. (2d) 189; 224 N.R. 241; *Relais Nordik Inc. v. Secunda Marine Services Ltd.* reflex, (1988), 24 F.T.R. 256 (F.C.T.D.); *Ansa International Rent-a-Car (Canada) Ltd. v. American International Rent-a-Car Corp.* reflex, (1990), 32 C.P.R. (3d) 340; 36 F.T.R. 98 (F.C.T.D.); *Patriquen v. Canada (Correctional Services)* 2003 FC 927 (CanLII), (2003), 238 F.T.R. 153 (F.C.).

referred to:

Sawridge Band v. Canada, 2001 FCA 338 (CanLII), [2002] 2 F.C. 346; (2001), 213 F.T.R. 57; 283 N.R. 107 (C.A.); *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC), [1998] 1 S.C.R. 27; (1998), 36 O.R. (3d) 418; 154 D.L.R. (4th) 193; 50 C.B.R. (3d) 163; 33 C.C.E.L. (2d) 173; 221 N.R. 241; 106 O.A.C. 1; *Ontario (Attorney General) v. Ontario Teachers' Federation* 1997 CanLII 12182 (ON SC), (1997), 36 O.R. (3d) 367; 44 O.T.C. 274 (Gen. Div.); *American Cyanamid Co. v. Ethicon Ltd.*, [1975] A.C. 396 (H.L.); *Breen v. Farlow*, [1995] O.J. No. 2971 (Gen. Div.) (QL); 493680 *Ontario Ltd. v. Morgan*, [1996] O.J. No. 4776 (Gen. Div.) (QL); *Samoila v. Prudential of America General Insurance Co. (Canada)*, [1999] O.J. No. 2317 (Sup. Ct.) (QL); *Morgentaler et al. v. Ackroyd et al. rellex*, (1983), 42 O.R. (2d) 659; 150 D.L.R. (3d) 59 (H.C.); *Consorzio del Prosciutto di Parma v. Maple Leaf Meats Inc.*, 2002 FCA 417 (CanLII), [2003] 2 F.C. 451; (2002), 22 C.P.R. (4th) 177; 297 N.R. 135 (C.A.).

authors cited

Driedger, Elmer A. *Construction of Statutes*, 2nd ed. Toronto: Butterworths, 1983.

Sharpe, Robert J. *Injunctions and Specific Performance*, looseleaf ed., Aurora, Ont.: Canada Law Book, 1998.

APPEAL from a Trial Division decision (*Sawridge Band v. Canada*, 2003 FCT 347 (CanLII), [2003] 4 F.C. 748; [2003] 3 C.N.L.R. 344; (2003), 232 F.T.R. 54) granting a mandatory interlocutory injunction sought by the Crown, requiring the appellants to enter on the Sawridge Band List the names of 11 individuals and to accord them all the rights and privileges attaching to Band membership. Appeal dismissed.

appearances:

Martin J. Henderson and *Catherine M. Twinn* for plaintiffs (appellants).

E. James Kindrake and *Kathleen Kohlman* for defendant (respondent).

Kenneth S. Purchase for intervener Native Council of Canada.

P. Jonathan Faulds, Q.C. for intervener Native Council of Canada (Alberta).

Mary Eberts for intervener Native Women's Association of Canada.

Michael J. Donaldson for intervener Non-Status Indian Association of Alberta.

solicitors of record:

Aird & Berlis LLP, Toronto and *Twinn Barristers and Solicitors*, Slave Lake, Alberta, for plaintiffs (appellants).

Deputy Attorney General of Canada for defendant (respondent).

Lang Michener LLP, Ottawa, for intervener Native Council of Canada.

Field LLP, Edmonton, for intervener Native Council of Canada (Alberta).

Eberts Symes Street Pinto & Jull, Toronto, for intervener Native Women's Association of Canada.

Burnet, Duckworth & Palmer LLP, Calgary, for intervener Non-Status Indian Association of Alberta.

The following are the reasons for judgment rendered in English by

[1] Rothstein J.A.: By order dated March 27, 2003 [2003 FCT 347 (CanLII), [2003] 4 F.C. 748], Hugessen J. of the Trial Division (as it then was) granted a mandatory interlocutory injunction sought by the Crown, requiring the appellants to enter or register on the Sawridge Band List the names of 11 individuals who, he found, had acquired the right to be members of the Sawridge Band before it took control of its Band List on July 8, 1985, and to accord the 11 individuals all the rights and privileges attaching to Band membership. The appellants now appeal that order.

HISTORY

[2] The background to this appeal may be briefly stated. *An Act to amend the Indian Act*, R.S.C., 1985, (1st Supp.), c. 32 (Bill C-31), was given Royal Assent on June 28, 1985. However, the relevant provisions of Bill C-31 were made retroactive to April 17, 1985, the date on which section 15, the equality guarantee, of the *Canadian Charter of Rights and Freedoms* [being Part I of the *Constitution Act, 1982*, Schedule B, *Canada Act 1982*, 1982, c. 11 (U.K.) [R.S.C., 1985, Appendix II, No. 44]] (the Charter) came into force.

[3] Among other things, Bill C-31 granted certain persons an entitlement to status under the *Indian Act*, R.S.C., 1985, c. 1-5 (the Act), and, arguably, entitlement to membership in an Indian Band. These persons included those whose names were omitted or deleted from the Indian Register by the Minister of Indian and Northern Affairs prior to April 17, 1985, in accordance with certain provisions of the Act as they read prior to that date. The disqualified persons included an Indian woman who married a man who was not registered as an Indian as well as certain other persons disqualified by provisions that Parliament considered to be discriminatory on account of gender. The former provisions read [section 12]:

an interlocutory stage (*RJR--MacDonald*, at page 337), I think he was correct to do so. However, the fact that the Crown is asking the Court to require the appellants' to take positive action will have to be considered in assessing the balance of convenience.

[47] In this case, the Crown's argument that Bill C-31 is constitutional is neither frivolous nor vexatious. There is, therefore, a serious question to be tried.

Irreparable Harm

[48] Ordinarily, the public interest is considered only in the third branch of the test. However, where, as here, the government is the applicant in a motion for interlocutory relief, the public interest must also be considered in the second stage (*RJR--MacDonald*, *supra*, at page 349).

[49] Validly enacted legislation is assumed to be in the public interest. Courts are not to investigate whether the legislation actually has such an effect (*RJR--MacDonald*, at pages 348-349).

[50] Allowing the appellants to ignore the requirements of the Act would irreparably harm the public interest in seeing that the law is obeyed. Until a law is struck down as unconstitutional or an interim constitutional exemption is granted by a court of competent jurisdiction, citizens and organizations must obey it (*Metropolitan Stores*, *supra*, at page 143, quoting *Morgentaler et al. v. Ackroyd et al.* (1983), 42 O.R. (2d) 659 (H.C.), at pages 666-668).

[51] Further, the individuals who have been denied membership in the appellant Band are aging and, at the present rate of progress, some are unlikely ever to benefit from amendments that were adopted to redress their discriminatory exclusion from Band membership. The public interest in preventing discrimination by public bodies will be irreparably harmed if the requested injunction is denied and the appellants are able to continue to ignore their obligations under Bill C-31, pending a determination of its constitutionality.

[52] The appellants argue that there cannot be irreparable harm because, if there was, the Crown would not have waited 16 years after the commencement of the action to seek an injunction. The Crown submits that it explained to Hugessen J. the reasons for the delay and stated that the very length of the proceedings had in fact contributed to the irreparable harm as the individuals in question were growing older and, in some cases, falling ill.

[53] The question of whether delay in bringing an injunction application is fatal is a matter of discretion for the motions judge. There is no indication that Hugessen J. did not act judicially in exercising his discretion to grant the injunction despite the timing of the motion.

Tab 2

**TREATY RESEARCH REPORT
TREATY EIGHT
(1899)**

**by
Dennis F.K. Madill
Treaties and Historical Research Centre
Indian and Northern Affairs Canada
1986**

The opinions expressed by the author in this report are not necessarily those of the Department of Indian and Northern Affairs Canada.

Les opinions présentées par l'auteur de ce rapport ne sont pas forcément ceux du Ministère des Affaires indiennes et du Nord Canada.

TABLE OF CONTENTS

Preface

Historical Background

Terms and Conditions

Treaty Implications

Summary

Bibliography

PREFACE

With the advent of prospectors and settlers to the Lake Athabasca, Great Slave Lake, and parts of the Peace River region during the Klondike gold rush of 1897-98, the federal government prepared to extend the Indian treaty system to the unceded area north of Treaty Six and south of Great Slave Lake. The negotiations for Treaty Eight were conducted during the summer of 1899 with Cree, Beaver and Chipewyan bands and subsequent adhesions were signed between 1900 and 1914. It was estimated that Treaty Eight negotiations would encompass 2700 Indians and 1700 mixed bloods or Métis, whose rights also had to be considered. Hence, two commissions were established: a treaty commission to draft the treaty and secure adhesion of the various tribes and a separate half-breed commission to deal with Métis claims concurrently and in close consultation with the treaty commissioner.

When Treaty Eight was negotiated in 1899, the federal government found Indians of two major language groups residing in the treaty area. They were Crees and Athapaskans (or Dené), including Chipewyan, Beavers, Slaveys, Dogribs and Yellowknives. Cree-speaking people lived in various locations throughout what is now northern Alberta. Chipewyans inhabited the eastern section of the treaty area, mainly in the vicinity of Lake Athabasca. Beaver Indians occupied the western part of the treaty area in what is now British Columbia and along the Peace River in Alberta. Slaveys, Dogribs and Yellowknives lived in the northern parts.

The federal government's desire for substantially uniform treaties, with variations dependent upon local conditions or Indian demands, was evident during the Treaty Eight negotiations. The treaty commissioners were ultimately given considerable latitude in determining the precise terms of the treaty and the region to be encompassed and did consider altering treaty provisions. But, in the final analysis, despite the fact that the Indian Affairs Department had received advice that the Prairie treaties could not be applied to the north, the written terms of the treaty were based essentially on Treaty Seven, with some changes reflecting local conditions. In the aftermath of the negotiations, the terms of Treaty Eight were subject to different interpretations regarding the nature and fulfilment of the obligations incurred by the federal government.

council P.C. 2749, dated 6 December 1898, represented a dramatic change from the province's previous policy of thwarting treaties.³² After entering Confederation in 1871, B.C. made no real effort to secure a surrender of Indian title and, in contrast to Dominion policy, seldom granted Indians more than 20 acres per family rather than the 640 acres standard instituted in the Northwest Territories under the "numbered" treaties.³³ Before the terms and conditions of Treaty Eight could be extended in B.C., however, the commissioners had to request that the province "formally acquiesce in the action." In 1876, an agreement between the federal government and the province of B.C. established the Joint Allotment Commission and stipulated that the province would be responsible for negotiating with the Indians for title to their land and allocating reserves.³⁴ Hence, the province's participation in fulfilling the land provisions of Treaty Eight would be limited. Nevertheless, Sifton reported on 30 November 1898 the importance of B.C. being included in the treaty:

As it is in the interest of the Province of British Columbia, as well as that of the Dominion, that the country to be treated for should be thrown open to development and the lives and property of those who may enter therein safeguarded by the making of provision which will remove all hostile feeling from the minds of the Indians and lead them to peacefully acquiesce in the changing conditions, the undersigned would suggest that the Government of British Columbia be apprised of the intention to negotiate the proposed treaty; and as it is of utmost importance that the Commissioner should have full power to give such guarantees as may be found necessary in regard to the setting apart of land for reserves, the undersigned would further recommend that the Government of British Columbia be asked to formally acquiesce in the action taken by Your Excellency's Government in the matter and to intimate its readiness to confirm any reserves which it may be found necessary to set apart.³⁵

A month later, Commissioner McKenna indicated that a dispatch had been forwarded to the government of British Columbia asking it to confirm any reserves in that section of the province which would be included in the treaty.³⁶

Treaty Negotiations

The first treaty negotiations were scheduled for 8 June 1899 near the present site of

Grouard on Lesser Slave Lake, but because of poor weather and transportation problems the first meeting was not arranged until 20 June. However, Commissioner Ross arrived on 6 June and in the interim explained the purpose of the treaty and requested the assembled Indians to elect a chief and headmen to represent them.³⁷ Kinodayoo was chosen chief, and the four headmen were Moostoos, Felix Giroux, Weecheeways and Charles Neesuetasis. The negotiations with the Lesser Slave Lake Indians have been documented extensively. Charles Mair published his notes of the discussions as part of a book on the treaty expeditions, an *Edmonton Bulletin* correspondent reported on the meetings, and Bishop Grouard included a chapter of the proceedings in a book on his life in the north.³⁸ Also there are several reports by the commissioners which provide summaries of the agreements from a government perspective.

Generally, the negotiations at Lesser Slave Lake reflect the commissioners' lack of knowledge of the northern Indians and the Indians' concern for their hunting, fishing and trapping rights and their confinement on reserves. James K. Cornwall ("Peace River Jim"), active in several northern developments, was present at the negotiations and in 1937 signed affidavits concerning Treaty Eight.³⁹ He reported that "the Commissioners had unfavourably impressed the Indians, due to lack of knowledge of the bush Indians' mode of life, by quoting Indian conditions on the Prairies."⁴⁰ Furthermore, he suggested that during the negotiations the Indians emphasized that they would not sign treaty unless there were assurances that their hunting, fishing and trapping rights were guaranteed.⁴¹ Kinodayoo and Moostoos finally agreed to the terms, but there were several concerns. The report of the commissioners indicated the promises made to persuade the Indians to accept treaty:

Our chief difficulty was the apprehension that the hunting and fishing privileges were to be curtailed. The provision in the treaty under which ammunition and twine is to be furnished went far in the direction of quieting the fears of the Indians, for they admitted that it would be unreasonable to furnish the means of hunting and fishing if laws were to be enacted which would make hunting and fishing so restricted as to render it impossible to make a livelihood by such pursuits. But over and above the provision, we had to solemnly assure them that

only such laws as to hunting and fishing as were in the interest of the Indians and were found necessary in order to protect the fish and fur-bearing animals would be made, and that they would be as free to hunt and fish after the treaty as they would be if they never entered into it ... the Indians were generally averse to being placed on reserves. It would have been impossible to have made a treaty if we had not assured them that there was no intention of confining them to reserves. We had to very clearly explain to them that the provisions for reserves and allotments of land were made for their protection, and to secure to them in perpetuity a fair portion of the land ceded, in the event of settlement advancing.⁴²

The Half-breed Scrip Commission, whose mandate it was to work in close relationship with the treaty commission and to investigate the Métis claims and determine their acceptability, also encountered serious problems. The large Métis population at Lesser Slave Lake objected to the type of scrip offered. Rather than being made payable to the bearer on demand, it was to be non-transferable and non-negotiable except by a proper legal assignment. To protect the Métis against speculators, the federal government had issued this type of scrip for the 1899 negotiations. Father Lacombe urged the Métis to protect their interests by accepting the scrip, but they refused. Members of both commissions met and agreed that they would have to comply with Métis demands for transferable scrip, lest the continuation of the treaty negotiations be affected.⁴³ Thus, scrip was issued for either \$240 or 240 acres of land to half-breed heads of families and their children. Sifton was attacked by the opposition for consenting to Métis demands and conceded that the commissioners had "really exceeded their instructions" but the pacification of the half-breeds was critical in his decision:

It must be remembered that the financial benefit to the half-breeds is not the primary object the Government had in view in making this arrangement. I say that is not the primary object. It is desirable that the provision which we make for this scrip being given to the half-breeds should be as great a benefit to the half-breeds as possible. That would commend itself to the common sense of any member of this committee. But the main reason for making this arrangement is to pacify and keep pacified the North-West Territories, to settle a claim which must be settled before the people of Canada can make a treaty with the Indians of that district – and the Indians of that district must have a treaty made with them, otherwise we should be in danger of having an Indian trouble on our hands, the very slightest of which would cost us two or three times the amount of scrip we issue.⁴⁴

The report of the Half-breed Commission for 30 September 1899 indicated that 1,195 scrip certificates for money, representing a value of \$286,800, and 48 land scrip certificates, covering an area of 11,520 acres, were issued. About half of the scrips issued in 1899 were at Lesser Slave Lake, but there were also several scrips distributed at Fort Vermilion, Fort Chipewyan, Peace River Landing and other points.⁴⁵ Moreover, the commissioners stated that, excepting the small population of half-breeds in the vicinity of White Fish and Sturgeon Lakes, who refused to meet the commissioners at Lesser Slave Lake, the entire Métis population in the Treaty Eight area had been dealt with satisfactorily.⁴⁶ The report, however, failed to point out which Métis had actually joined treaty.

Treaty Adhesions and Admissions

The written terms and conditions of Treaty Eight were finalized during the negotiations at Lesser Slave Lake, and the treaty commissioners decided to make adhesions at all of the other trading posts rather than negotiate several treaties.⁴⁷ The commissioners expected that once the Lesser Slave Lake Indians signed treaty there would be less difficulty in obtaining adhesions of the others. Therefore, there is little documentation available regarding the nine meetings in 1899, the four meetings in 1900 that occurred from Fort St. John to Fond du Lac and from Fort Resolution to Wabasca, and the meetings at Fort Nelson in 1910. In 1914, the Saulteaux and Hudson's Hope Bands were merely admitted to treaty. Moreover, several Indians were admitted to treaty in the isolated communities during the period following treaty negotiations.

There were some interesting developments during the 1899 meetings that should be noted. Since the commissioners were behind schedule after the Lesser Slave Lake negotiations, they divided the treaty party in two so that all the designated points could be reached before the end of the summer. Four of the locations, however, had to be left until the following summer: Fort St. John, Sturgeon Lake, Upper Hay River (Slavey Band) and Fort Resolution. David Laird led one of the treaty parties to Peace River Landing, where a Cree band led by Duncan Tustawits indicated some concern that if

¹ D.J. Hall, "Clifford Sifton and Canadian Indian Administration 1869-1905" in *As Long as the Sun Shines and Water Flows*, edited by Ian A.L. Getty and A.S. Lussier (Vancouver, 1983), p. 123.

² D.J. Hall, *Clifford Sifton: Volume 1: The Young Napoleon, 1861-1900* (Vancouver, 1981), p. 271.

³ PAC, RG10, vol. 3848, file 75, 236-1, Herchmer to Comptroller NWMP, 2 December 1897.

⁴ *Ibid.*, Forget to McKenna, 16 April 1898..

⁵ *Ibid.*, Sifton to Governor General in Council, 18 June 1898; Order-in-Council P.C. 1703, 27 June 1898.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*, Forget to Secretary, Indian Affairs, 12 January 1898.

⁹ *Ibid.*, 25 April 1898.

¹⁰ *Ibid.*, Laird, Memorandum Respecting Proposed Treaty No. 8 and Half-breed Claims, 7 January 1899.

¹¹ *Ibid.*, Sifton to Laird, McKenna, and Ross, 12 May 1899.

¹² PAC, RG10, vol. 4006, file 241, 209-1, Laird to Secretary Indian Affairs, 29 April 1904.

¹³ PAC, RG10, vol. 3848, file 75, 236-1, Sifton to His Excellency the Governor General in Council, 30 November 1898.

¹⁴ René Fumoleau, *As Long As This Land Shall Last: A History of Treaty 8 and Treaty 11, 1870-1939* (Toronto, 1975), p. 59.

¹⁵ Canada, Privy Council, O.C. No. 2749, 6 December 1898; Department of Indian Affairs and Northern Development (DIAND), *Treaty No. 8, Made June 21, 1899 and Adhesions, Reports, Etc.* (Ottawa, 1966).

¹⁶ PAC, RG10, file 366, 877, W.E. Ditchburn to Duncan Scott, 19 November 1920; *Ibid.*, Scott to Ditchburn, 4 December 1920; *ibid.*, file 1/11-5, Vol 4, George Brown to D.F. Pearson, 17 May 1974; Wilson Duff, *The Indian History of British Columbia. Anthropology in B.C. memoir No. 5* (Victoria, 1964), p. 70; J. Bruce Melville, *Report: Indian Reserves and Indian Treaty Problems in Northeastern B.C.*, Prepared for B.C. Hydro and Power Authority (Vancouver, 1981), pp. 13-21.

¹⁷ K.S. Coates, "Best Left as Indians: The Federal Government and the Indians of the Yukon, 1894-1950." Unpublished paper presented to the Canadian Historical Association, Vancouver, June 1983, p. 3; H. Reed to Charles Constantine, RG10, Vol. 1115, Deputy Superintendent's Letter-book, 29 May 1894.

¹⁸ William R. Morrison, "A Survey of the History and Claims of the Native Peoples of Northern Canada" (Ottawa: INAC, 1983), p.33.

¹⁹ William R. Morrison, "Under the Flag: Canadian Sovereignty and the Native People in Northern Canada" (Ottawa: INAC, 1984), p. 52; Coates, "Best Left as Indians," p. 13.

²⁰ Fumoleau, *As Long As This Land Shall Last*, p. 60.

²¹ PAC, RG10, Vol. 3848, file 75, 236-1, Sifton to Governor General in Council, 17 February 1899; Canada Privy Council, O.C. 330, 2 March 1899.

- ²² PAC, RG10, Vol. 3848, file 75, 236-1, Macrae to McKenna, 3 December 1898.
- ²³ *Ibid.*, McKenna to Sifton, 17 April 1899.
- ²⁴ *Ibid.*, Sifton to Laird, McKenna, and Ross, 12 May 1899.
- ²⁵ *Ibid.*
- ²⁶ Fumoleau, *As Long As This Land Shall Last*, pp. 65-66.
- ²⁷ James G.E. Smith, "Western Woods Cree," in *Handbook of North America Indians*, vol. 6, Subartic, edited by June Helm (Washington, 1981), pp. 258-259.
- ²⁸ PAC, RG10, vol. 3848, File 75, 236-1, McKenna to Sifton, 17 April 1899.
- ²⁹ Canada, Privy Council, O.C. No. 1703, 27 June 1898.
- ³⁰ PAC, RG10, vol. 3848, file 75, 236-1, McKenna to Sifton, 17 April 1899.
- ³¹ PAC, RG 10, Sifton to Laird, McKenna and Ross, 12 May 1899.
- ³² For a discussion of treaty policy in British Columbia, see Dennis Madill, "British Columbia Indian Treaties in Historical Perspective" (Ottawa: INAC, 1981).
- ³³ *Ibid.*
- ³⁴ Canada, Privy Council, O.C. No. 2749, 6 December 1898.
- ³⁵ PAC, RG10, Vol. 3848, file 75, 236-1, Sifton to His Excellency the Governor General in Council, 30 November 1898.
- ³⁶ *Ibid.*, McKenna to David Laird, 5 December 1898.
- ³⁷ Canada, *Treaty No. 8*, p. 5; PAC, RG10, Vol. 3848, file 75, 236-1, *Edmonton Bulletin*, 10 July 1899; Emile Jean-Baptiste Marie Grouard, *Souvenirs de mes soixante ans d'apostolat dans l'Athabasca-Mackenzie* (Lyons-Paris, 1923), p. 368.
- ³⁸ Charles Mair, *Through the Mackenzie Basin: A Narrative of the Athabasca and Peace River Expedition of 1899* (Toronto, 1908); Grouard, *Souvenirs de mes soixante ans d'apostolat dans l'Athabasca-Mackenzie* (Lyons-Paris, 1923).
- ³⁹ Fumoleau, *As Long As This Land Shall Last*, pp. 74-75.
- ⁴⁰ *Ibid.*, p. 74.
- ⁴¹ *Ibid.*, p. 75.
- ⁴² Canada, *Treaty No. 8*, pp. 6-7.
- ⁴³ Canada, Parliament, Department of Interior, *Sessional Papers*, No. 13, 1900, Part 8, "Report of the Half-Breed Commissioners," 30 September 1899, p. 3.
- ⁴⁴ Canada, Parliament, House of Commons *Debates*, 14 July 1899, p. 7513.

¹⁵ Canada, Parliament, Department of the Interior, *Sessional Papers*, No. 13, 1900, Part 8, "Report of the Half-Breed Commissioners," 30 September 1899, p. 3.

¹⁶ *Ibid.* The inadequacy of the government scrip program under Treaty 8 left many of the half-breeds without land. Since most scrip was taken as cash to finance immediate needs, there were no recurring benefits to support them during the depression of the thirties. Moreover, with the transfer of lands from the federal government to the Prairie provinces and B.C. in 1930, the Métis of Alberta anticipated that settlers would move into those areas in which they had been residing as homesteaders. After conveying their concerns to the Alberta government, the Ewing Commission was established in 1934 to enquire into the condition of the Métis of Alberta regarding health, education and general welfare. Its recommendations led to the enactment of the Métis Population Betterment Act five years later. The Act provided a land base for Métis people to become self-sufficient through agriculture by the creation of ten settlements or colonies.

¹⁷ Canada, *Treaty No. 8*, pp. 6-7.

¹⁸ *Ibid.*, p. 5.

¹⁹ *Ibid.*, pp. 7-8.

²⁰ G. Breynat, *Cinquante Ans au Pays des Neiges*, Vol. 1 (Montreal, 1945), pp. 186-187.

²¹ Canada, Privy Council, O.C. No. 460, 2 March 1900.

²² Canada, *Treaty No. 8*, p. 20.

²³ *Ibid.*

²⁴ *Ibid.*, p. 21.

²⁵ *Ibid.*

²⁶ PAC, RG15, vol. 771, file 518158, McKenna to Sifton, 16 March 1901.

²⁷ PAC, RG15, Vol. 782, file 555680, McKenna to Sifton, 19 January 1901.

²⁸ See Joe Sawchuk, Patricia Sawchuk, and Theresa Ferguson, *Métis Land Rights in Alberta: A Political History* (Edmonton, 1981), pp. 125-127.

²⁹ Canada, *Treaty No. 8*, pp. 20-21.

³⁰ Richard Daniel, "Land Rights of the Isolated Communities of Northern Alberta." Unpublished paper prepared for the Isolated Communities Advisory Board and Lubicon Lake Band, January 1975, p. 22; Joe Sawchuk et al., *Métis Land Rights in Alberta*, p. 127.

³¹ See PAC, RG10, vol. 4006, file 241,109-1; William R. Morrison and K.S. Coates, "Treaty Research Report: Treaty Ten" (Ottawa: INAC, 1985).

³² DIAND, *Annual Report*, 1915; p. 83, "Report of Henry A. Conroy, Inspector for Treaty No. 8"; William R. Morrison and K.S. Coates, "Treaty Research Report: Treaty Eleven" (Ottawa: INAC, forthcoming).

³³ Treaties 10 and 11 were signed in 1905-1906 and 1921, respectively.

³⁴ See Wilson Duff, *The Indian History of British Columbia* (Victoria, 1964), p. 71.

- ¹⁴ DIAND, *Annual Report*, 1903, p. 235, H.A. Conroy to Superintendent General of Indian Affairs, 5 October 1903.
- ¹⁵ DIAND, *Annual Report*, 1907, p. 183, Conroy to Frank Pedley, 5 February 1907.
- ¹⁶ DIAND, *Annual Report*, 1909, p. 202, Conroy to Frank Pedley, 19 February 1909. [Note: the editor could not find references to the Indian Act and the role of priests in this reference.]
- ¹⁷ PAC, RG10, file 1/1-11-5-1, Vol. 1, "Certified Extract from the Minutes of a Meeting of the Treasury Board," 18 December 1909; *Ibid.*, Conroy to Superintendent General of Indian Affairs, 20 October 1910.
- ¹⁸ PAC, RG 10, Privy Council, O.C. 8/2534, 18 December 1909.
- ¹⁹ *Ibid.*, Conroy to Superintendent General of Indian Affairs, 29 October 1910.
- ²⁰ PAC, RG10, Vol. 1852, Copy of Fort Nelson Adhesion, 15 August 1910; DIAND, *Annual Report*, 1911, p. 191, Conroy to Pedley, 14 November 1910.
- ²¹ DIAND, *Annual Report*, 1911, p. 191, Conroy to Pedley, 14 November 1910.
- ²² Canada, Parliament, *Sessional Papers*, No. 28 (Appendix Q), Annual Report of the Royal Northwest Mounted Police for 1912, Sergeant R. Field's Patrol, Fort Chipewyan to Fort Nelson, B.C., and Return, 10 October 1910, p. 172.
- ²³ *Ibid.*
- ²⁴ *Ibid.*
- ²⁵ PAC, RG10, vol. 3979, file 156, 710-31, J.D. McLean to Harold Laird, 10 May 1911.
- ²⁶ PAC, RG 10, vol. 8598, file 1/1-11-5-1, vol. 1, David Laird, "Memorandum for the Deputy Minister," 11 January 1910; PAC, RG 10, file 355,726, Vol. 1, "Fort Nelson Adhesion to Treaty 8," n.d.
- ²⁷ *Ibid.*, Conroy to Duncan Scott, 29 December 1913.
- ²⁸ DIAND, *Annual Report*, 1915, p. 84, "Report of Henry A. Conroy, Inspector for Treaty No. 8."
- ²⁹ Originally, some Cree and Saulteaux Indians entered the Northwest in the early 1800s with the westward expansion of the fur trade. There is evidence that some families of the Saulteau Band were involved in the Frog Lake Massacre during the North-West rebellion in 1885. After the rebellion they drifted further west for fear of reprisals from the North West Mounted Police and the federal government. Eventually, the families split into two groups with one settling near Moberly Lake.
- ³⁰ DIAND, *Annual Report*, 1915, p. 84, "Report of Henry A. Conroy, Inspector for Treaty No. 8."
- ³¹ Daniel, "Land Rights of the Isolated Communities of Northern Alberta," p. 6.
- ³² *Ibid.*, p. 7.
- ³³ *Ibid.*, p.8.
- ³⁴ David M. Smith, *Moose-Deer Island House People: A History of the Native People of Fort Resolution* (Ottawa, 1982), p. 114; Fumoleau, *As Long As This Land Shall Last*, p. 273.
- ³⁵ Smith, *Moose-Deer Island House People*, p. 114.

⁹⁷ *Ibid.*

⁹⁸ Fumoleau, *As Long As This Land Shall Last*, p. 273.

⁹⁹ PAC, RG10, vol. 4092, file 567.205, C.W. Jackson to R.A. Hoey, 12 August 1943. In 1936, the Department of Indian Affairs was made a branch of the Department of Mines and Resources. In 1949, the Indian Affairs Branch was transferred to the Department of Citizenship and Immigration and in 1965, it was transferred to the Department of Northern Affairs and Natural Resources. A year later, the Department of Indian Affairs and Northern Development was established.

¹⁰⁰ PAC, RG 10, file 1/1-11-5, Vol. 1, W.C. Bethune to Indian Commissioner for B.C., 14 April 1960.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*, C.I. Fairholm to I.F. Kirby, 10 May 1972.

¹⁰³ *Ibid.*

¹⁰⁴ In 1982, the McLeod Lake Band expressed some interest in adhering to Treaty 8. See letter of 13 October 1982 from Clovis Demers, Assistant Deputy Minister, Office of Native Claims, to J.C. Tair, Assistant Deputy Minister, Corporate Policy.

¹⁰⁵ Canada, *Treaty No. 8*, p. 5.

¹⁰⁶ R. Daniel, "The Spirit and Terms of Treaty Eight." In *The Spirit of the Alberta Indian Treaties*, edited by Richard Price (Montreal, 1979), p. 69.

¹⁰⁷ PAC, RG10, Vol. 3848, file 75, 236-1, Sifton to Governor-General, 18 June 1898.

¹⁰⁸ R. Daniel, "Treaties to the Northwest, 1871-1930." In *A History of Native Claims Processes in Canada, 1867-1979*. (Ottawa, 1980), p. 9.

¹⁰⁹ Daniel, "The Spirit and Terms of Treaty Eight," p. 80.

¹¹⁰ Canada, *Treaty No. 8*, p. 12.

¹¹¹ *Ibid.*, pp. 12-13.

¹¹² *Ibid.*, p. 6.

¹¹³ *Ibid.*, pp. 13-14.

¹¹⁴ *Ibid.*, pp. 5-6.

various treaty functions such as paying annuities, admitting Indians to treaty, instructing them in the art of farming, providing medical assistance and aiding Indians generally in the transition from a nomadic to a more settled life style. These duties were all accomplished in one yearly visit at each post.

The annual visits by the Indian agents to the various posts are well documented. Early Indian Affairs correspondence for the Lesser Slave Lake agency, for example, has revealed that the Indian agents did not always fulfill their responsibilities regarding treaty obligations. There were complaints from the Indians that they were not being taught how to farm, and it was not until 1929 that a farm instructor was appointed for the Lesser Slave Lake agency. Furthermore, there were reports, particularly from bands located in the more isolated areas of the agency, that they were not receiving medical assistance.²⁶ The Fort Smith agency was successful in increasing the government's presence in the north and performing several public services, but the farming experiments failed. The bands of the Fort McKay, Fort Chipewyan and Fond du Lac areas were not interested in agriculture because of the scarcity of arable farm land in the region.²⁷

To improve the level of assistance and to provide more contact with the more distant bands, the Great Slave Lake agency was established in 1923 and included the Fort Resolution, Snowdrift and Hay River Bands. Also, in 1924, an agency was opened at Fort McMurray to replace the Fort Smith agency and was responsible for the Treaty Eight bands in northern Alberta, the Fond du Lac Band in Saskatchewan, and the Fort Smith Band in the Northwest Territories.²⁸ Finally, the Fort St. John agency was inaugurated in 1934 and comprised those bands located in the Peace River block.

Reserve Land Entitlement

The allotment of reserves in the Alberta portion of the Treaty Eight area occurred as early as 1900, when Chief Kinoyayoo of the Lesser Slave Lake Band requested reserve surveys and farming provisions. Moostoos, a band councillor, indicated the reason that

treaty was accepted in 1899 was "that we saw we had to change our way of living, that furs were getting scarce and also moose, and that if we had cattle... we would better off."²⁹ Although the federal government did not wish Indians to give up hunting immediately, the possibility of conflicting claims between settlers and Indians prompted the early reserve allocations.³⁰ It became apparent with the first surveys that the treaty clauses regarding reserve land had been misunderstood. Kinosayoo and Moostoos asked for " ... all the land lying for many miles back of the whole southern shore of Lesser Slave Lake" – an area greater than their treaty entitlement.³¹ Treaty Commissioner J.A. Macrae explained to them that they could not receive any more land than they were entitled to under Treaty. The Indians complied and selected two reserves at Driftpile and Sucker Creek and several parcels of land in severalty.³² (See chart for reference to reserves for Kinosayoo's band).

There is further evidence that the selection of reserves conflicted with settler interests. When the Sawridge Band requested a reserve in 1911, area settlers protested the allocation of good agricultural land because further settlement might be inhibited.³³ They argued, moreover, that the Indians should be allotted a single block of land outside the area already surveyed, leaving the good agricultural land open for settlement.³⁴ Similar conflicts with settlers' rights at Fort McKay and Swan River resulted in the Indians losing sections of reserve land.³⁵

Generally, the Indian Affairs agents and administrators supported Indian rights, while those of the settlers were represented by the Department of the Interior. In some cases, however, the main concern of the Indian Affairs administrators was to reduce survey expenses, and this led to a policy of discouraging Indians from choosing land in severalty.³⁶ Several families, nevertheless, took advantage of the provision for lands in severalty, and several bands split their land entitlement into many smaller reserves, with the result that the reserves of Treaty Eight are larger in number but smaller in size than the reserves in the rest of Alberta.³⁷

The Treaty Eight commissioners expected that the Indians of the Athabasca District

would select reserves only for agricultural purposes.¹⁸ In the immediate post-treaty period, however, hunting, fishing and trapping were more reliable and the level of assistance to Indian farmers was inadequate. Most bands in the Athabasca region, therefore, did not select reserve land because of its agricultural potential but because it was adjacent to good fishing or trapping areas. Those bands which attempted farming generally failed due to lack of assistance from the Indian Affairs Department; in some cases, there was pressure to surrender their lands to settlers who might put it to better use.

Treaty 8 Bands, Reserves and Settlements, Northern Alberta		
Name of Band	Date of First Survey of Reserve	Reserves / Settlements Held, 1985
Driftpile (originally part of Kinosayoo's Band)	1901	#150
Sucker Creek (originally part of Kinosayoo's Band)	1901	#150A
Grouard (originally part of Kinosayoo's Band)	1901	#150B; #150C; #150D
Swan River (originally part of Kinosayoo's Band)	1902	#150E; #150F
Sawridge (originally part of Kinosayoo's Band)	1912	#150G; #150H
Duncan's	1905	#151A; #151K
Beavers of Horse Lake and Clear Hills	1905	#152B; #152C
Sturgeon Lake	1908	#154; #154A; #154B
Utikuma (Whitefish Lake)	1908	#155; #155A; #155B
Little Red River	1912	#162; #215
Tall Cree	1912	#163; #173; #173A
Boyer River (Ambrose Tete Noire)	1912	#164; #164A
Wabasca (Bigstone)	1913	#166; #166A; #166B; #166C; #166D; # 183

would select reserves only for agricultural purposes.¹⁰ In the immediate post-treaty period, however, hunting, fishing and trapping were more reliable and the level of assistance to Indian farmers was inadequate. Most bands in the Athabasca region, therefore, did not select reserve land because of its agricultural potential but because it was adjacent to good fishing or trapping areas. Those bands which attempted farming generally failed due to lack of assistance from the Indian Affairs Department; in some cases, there was pressure to surrender their lands to settlers who might put it to better use.

Treaty 8 Bands, Reserves and Settlements, Northern Alberta		
Name of Band	Date of First Survey of Reserve	Reserves / Settlements Held, 1985
Driftpile (originally part of Kinosayoo's Band)	1901	#150
Sucker Creek (originally part of Kinosayoo's Band)	1901	#150A
Grouard (originally part of Kinosayoo's Band)	1901	#150B; #150C; #150D
Swan River (originally part of Kinosayoo's Band)	1902	#150E; #150F
Sawridge (originally part of Kinosayoo's Band)	1912	#150G; #150H
Duncan's	1905	#151A; #151K
Beavers of Horse Lake and Clear Hills	1905	#152B; #152C
Sturgeon Lake	1908	#154; #154A; #154B
Utikuma (Whitefish Lake)	1908	#155; #155A; #155B
Little Red River	1912	#162; #215
Tall Cree	1912	#163; #173; #173A
Boyer River (Ambrose Tete Noire)	1912	#164; #164A
Wabasca (Bigstone)	1913	#166; #166A; #166B; #166C; #166D; # 183

development of the northern hinterland.¹⁰⁶ During these developments, the rights of settlers and industrialists received more attention. In B.C., for example, provincial involvement in northeastern B.C. has resulted in the establishment of major economic development programs, including the construction of an oil pipeline from the Peace River to supply interior B.C., hydroelectric development, and proposals for the building of the Alaska Highway natural gas pipeline. The Indians have expressed their fears concerning the scale and pace of industrial development in their hunting and trapping lands and have viewed recent developments as a further abrogation of their treaty rights.

Notes

¹ Hugh Brody, *Maps and Dreams: Indians and the British Columbia Frontier* (Vancouver, 1981), p. 68; Michael Jackson, Presentations to the Northern Pipeline Agency Public Hearings, for St. John, Transcript Vol. 17, 13-14 December 1979, pp. 1935-1936; René Fumoleau, *As Long As This Land Shall Last: A History of Treaty 8 and Treaty 11, 1870-1939* (Toronto: 1975).

² Brody, *Maps and Dreams*, p. 68.

³ When B.C. entered Confederation in 1871, it conveyed to the federal government certain public lands, in trust, to further the completion of a railway from the Pacific to the Atlantic Oceans. This arrangement was modified and extended in 1884 by the B.C. Legislature, which granted to the federal government "three and a half million acres of land in that portion of the Peace River district of British Columbia lying east of the Rocky Mountains and adjoining the Northwest Territory of Canada, to be located by the Dominion in one rectangular block."

⁴ See Richard Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," M.A. Thesis, University of Alberta, 1977, Chapter 5.

⁵ William R. Morrison, *A Survey of the History and Claims of the Native Peoples of Northern Canada* (Ottawa, 1983), pp. 64-65; Richard Daniel, "The Spirit and Terms of Treaty Eight." In *The Spirit of the Alberta Indian Treaties*, edited by Richard Price (Montreal, 1979), p. 94.

⁶ Fumoleau, *As Long As This Land Shall Last*, p. 211.

⁷ Daniel, "The Spirit and Terms of Treaty Eight," p. 94; Lynn Hickey, Richard L. Lightning and Gordon Lee, "T.A.R.R. Interview with Elders Program" in Richard Price, ed. *The Spirit of the Alberta Indian Treaties* (Montreal, 1979), pp. 145-160.

⁸ *Ibid.*, p. 95.

⁹ *Ibid.*

¹⁰ *Paulette et al.*, Supreme Court of Northwest Territories (1973), testimony of June Helm, pp. 33-34; Daniel, "The Spirit and Terms of Treaty Eight," p. 95.

- ¹¹ Walter H. Nelson *et al.*, "Report of the Commission Appointed to Investigate the Unfulfilled Provisions of Treaties 8 and 11 as They Apply to the Indians of the Mackenzie District 1959" (Toronto, 1970), pp. 4-5; Daniel, "The Spirit and Terms of Treaty Eight," pp. 95-96.
- ¹² Jackson, Presentations to the Northern Pipeline Agency Public Hearings, p. 1936.
- ¹³ *Ibid.*, p. 1937.
- ¹⁴ *Ibid.*, pp. 1936-1937; Martin O'Malley, *The Past and Future Land: An account of the Berger Inquiry into the Mackenzie Valley pipeline* (Toronto, 1976), pp. 123-124.
- ¹⁵ Jackson, Presentations to the Northern Pipeline Agency Public Hearings, pp. 19-38.
- ¹⁶ *Ibid.*; see also Hickey, Lightning and Lee, "T.A.R.R. Interview with Elders Program," pp. 145-160.
- ¹⁷ Daniel, "The Spirit and Terms of Treaty Eight," p. 96.
- ¹⁸ Canada, *Treaty No. 8*, p. 6.
- ¹⁹ *Ibid.*, p. 5.
- ²⁰ Keith J. Crowe, *A History of the Original Peoples of Northern Canada* (Montreal, 1974), p. 157.
- ²¹ Canada, *Sessional Paper*, 1915, No. 27, "Report of H.A. Conroy, Inspector for Treaty No. 8," pp. 82-83.
- ²² Daniel, "The Spirit and Terms of Treaty Eight," p. 97.
- ²³ *Ibid.*
- ²⁴ See Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," Chapter 5.
- ²⁵ Canada, *Sessional Paper*, 1912, No. 27, Report of the Deputy Superintendent General of Indian Affairs, p. xx.
- ²⁶ See Fumoleau, *As Long As This Land Shall Last*, p. 235.
- ²⁷ Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," pp. 141-144.
- ²⁸ PAC, RG10, File 191/28-3, Vol 1, McLean to the Commissioner of the RCMP, 20 April 1923, and to C. Bourget, 4 May 1923; *Ibid.*, file 779/28/3, Vol 2, Agent's Diary, Annuity Payments, 13 August 1924.
- ²⁹ *Ibid.*, vol. 7777, file 27131-1, Chief and Councillors of Lesser Slave Lake Band to Superintendent General of Indian Affairs, January 1900.
- ³⁰ *Ibid.*, J.A.J. McKenna to Deputy Superintendent General of Indian Affairs, 20 February 1900; David Laird to Secretary of Indian Affairs, 5 February 1900; J. Macrae to Secretary of Indian Affairs, 10 November 1900.
- ³¹ *Ibid.*, J. Macrae to Secretary of Indians Affairs, 10 November 1900.
- ³² *Ibid.*
- ³³ *Ibid.*, vol. 7778, file 27131-6, petition of 5 December 1911.
- ³⁴ *Ibid.*

- ¹⁵ DIAND, file 779/30-10-174, vols. 1 and 2; DIAND, file 779/30-10-174A.
- ¹⁶ Daniel, "Indians Rights and Hinterland Resources: The Case of Northern Alberta", p. 137.
- ¹⁷ Richard Daniel, "Land Rights of the Isolated Communities of Northern Alberta." Paper prepared for the Isolated Communities Advisory Board and the Lubicon Lake Band, January 1975, p. 11.
- ¹⁸ Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," p. 149.
- ¹⁹ PAC, RG 10, vol. 7535, file 26131-1, Arthur Meighen to Brigadier-General, W.A. Greisack, M.P., 7 May 1919.
- ²⁰ PAC, RG 10, Vol. 1-6.
- ²¹ Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," p. 149.
- ²² *Ibid.*, p. 150.
- ²³ *Ibid.*
- ²⁴ *British North America Act*, 1930.
- ²⁵ PAC, RG10, Vol. 7748, file 27001, W.W. Cory, Solicitor, Indian Affairs Branch, to H.W. McGill, Director, Indian Affairs Branch, 25 February 1938.
- ²⁶ See Daniel, "Land Rights of the Isolated Communities of Northern Alberta", and "Indian Rights and Hinterland Resources: The Case of Northern Alberta," pp. 153-158.
- ²⁷ See Canada, Department of Indian Affairs and Northern Development, "Treaty Annuity Paylists."
- ²⁸ PAC, RG10, vol. 7778, file 27131-17, T.R.L. MacInnes, Secretary of Indian Affairs, to H.F. Peters, Surveyor-General of Mines and Resources.
- ²⁹ See J. Sissons, *Judge of the Far North* (Toronto, 1968), pp. 50-51.
- ³⁰ PAC, RG10, Vol. 6811, file 470-3-6, part 2, Report of 7 August 1944 to Hon. T.A. Crerar, Minister of Mines and Resources.
- ³¹ Peter A. Cumming and Neil H. Mickenberg, eds., *Native Rights in Canada* (Toronto, 1972), pp. 202-204; DIAND, file 777/28-3, vol. 9, A.G. Leslie to T.R.L. MacInnes, 11 January 1951.
- ³² Daniel, "Land Rights of the Isolated Communities of Northern Alberta," p. 16.
- ³³ See Indian and Northern Affairs Canada, Office of Native Claims, *Specific Claims in Canada: Status Report*, August 1984, p. 16.
- ³⁴ Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," pp. 159-160.
- ³⁵ Richard T. Price, "Indian Land and Claims Alberta: Politics and Policy-Making (1968-77)," M.A. Thesis, University of Alberta, 1977, pp. 16-17; 217-218.
- ³⁶ Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," p. 159.
- ³⁷ PAC, RG10, file 1/1-11-5-1, vol. 1, Laird to Deputy Minister, 11 January 1910; *ibid.*, D.C. Scott to Deputy Superintendent General, 19 January 1910.

¹⁴ The Peace River block extended west from the Alberta boundary on either side of the Peace River. See report on Peace River block for 1905-06 by J.A. Macdonell in Gordon E. Bowes, ed., *Peace River Chronicles* (Vancouver, 1963), pp. 221-223. In 1930, the Dominion government returned the unalienated portions of the Peace River block to the province (The Railway Belt and Peace River Block Act, Canada, *Statutes*, 1930, 20-21, Geo. 5, C. 37).

¹⁵ DIAND, *Annual Report*, 1915, p. 86, "Survey Report of Donald F. Robertson"; PAC, RG10, Vol. 4065, file 412,786-3, McLean to Robertson, 27 May 1914.

¹⁶ Canada, Privy Council, O.C. NO. 819, 11 April 1916.

¹⁷ Canada, Privy Council, O.C. No. 6506, 16 October 1945.

¹⁸ DIAND, file 975/30-7-204, E.J. Galibois to G.H. Gooderham, 26 September 1951; Canada, Privy Council, O.C. No. 4092, 25 August 1950.

¹⁹ British Columbia, *Report of the Royal Commission on Indian Affairs* (Victoria, 1916), Vol. 1, p. 126 (Interim Report No. 91, 1 February 1916).

²⁰ *Ibid.*

²¹ Canada, Privy Council, O.C. No. 2995, 28 November 1961.

²² Cumming and Mickenberg, *Native Rights in Canada*, p. 126.

²³ Walter H. Nelson *et al.* "Report of the Commission Appointed to Investigate the Unfulfilled Provisions of Treaties 8 and 11 as they Apply to the Indians of the Mackenzie District." 1959 (Minutes of a meeting of the Committee of the Privy Council, P.C. 799, 25 June 1959).

²⁴ *Ibid.*, p. 3.

²⁵ *Ibid.*, p. 2.

²⁶ *Ibid.*, p. 8.

²⁷ See Department of Indian Affairs and Northern Development, Report of the Indian Act Consultation Meeting, Yellowknife, Northwest Territories, 25, 26 and 27 July 1968 (Ottawa, 1968).

²⁸ Ronald Maguire and George Brown, "Indian Treaties in Historical Perspective" (Ottawa, 1979), p. 47.

²⁹ Canada, *Sessional Paper*, 1915, No. 28, Report of Sergeant A.H.L. Mellor attending treaty payments, p. 197.

³⁰ Canada, *House of Commons Debates*, 8 June 1920, p. 3280.

³¹ See Fumoleau, *As Long as This Land Shall Last*, pp. 124-130; 293-296; David M. Smith, *Moose-Deer Island House People: A History of the Native People of Fort Resolution* (Ottawa, 1982), p. 116.

³² DIAND, *Annual Report*, 31 March 1929, pp. 7-8.

³³ Brody, *Maps and Dreams*, p. 95.

³⁴ *Ibid.*, pp. 88-89.

³⁵ *Ibid.*, p. 92.

¹⁰⁰ See, for example, PAC, RG10, vols. 6735 and 6736.

¹⁰¹ *Ibid.*, vol. 7779, file 27143-4, J. Allison Glen, Minister of Mines and Resources, to George T. Kenney, Minister of Lands, B.C., 13 August 1945; Kenney to Glen, 21 February 1946; PABC (Public Archives of British Columbia), GR 1085, T. Van Dyk, Inspector, "D" Game Division, to "D" Divisional Office, Prince George, B.C., 9 February 1946.

¹⁰² PAC, RG10, vol. 6732, file 420-2B, Gerald Card, Indian Agent, to D.C. Scott, Superintendent General, 22 May 1924.

¹⁰³ *Ibid.*, vol. 6731, file 420-1-2.

¹⁰⁴ *Alberta Natural Resources Act*, 1930.

¹⁰⁵ PAC, RG10, vol. 6733, file 420-2, Vol. 5, C.P. Schmidt to Secretary of Indian Affairs, 9 March 1940.

¹⁰⁶ See Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," Chapter 5.

Tab 3

401810
Lower Slave Lake Agency -

- Kinnouago's Band, Sawridge -

Band No.	Name	Men	Women	Boys	Girls	Total
1	Francois Rescoatasis	1	1	5	3	10
2	Isabelle Rescoatasis		1		1	2
3	Laframboise Ward	1	1	5		7
4	Jean Baptiste Ward	1	1	4	2	8
5	John Ward	1	1			2
6	Benjamin Courtoreille	1	1	2	3	7
7	Lion Ward	1	1	1		3
8	Louis Ward	1	1	1	1	4
9	Susan		1			1
10	Albert Rescoatasis	1				1
11	Jean Baptiste Basile		1		2	3
12	Peggy Ward Powder		1			1
13	Mary Ward Potts		1			1
14	Edward Rescoatasis	1	1	3	2	7
15	St. Germain Rescoatasis		1			1
16	St. Pierre Rescoatasis	1				1
17	St. Paul Rescoatasis	1				1
18	Johnny Stony	1	1	1	4	7
19	Benjamin Potokin	1	1		2	4
20	Jos. Wendigo's widow		1		1	2
21	Eustace Ward	1	1	1		3
22	Pierre Giroux	1	1	1		3

79

Lesser Slave Lake Agency -

Creward, April 22nd, 1913

Indians from Alexander's Band, Edmonton Agency,
transferred to Lesser Slave Lake Agency

Name	Band No.	No. in family	Date of transfer
✓ Paul Potekin	55	4	10-11-24 August 8th, 1910
✓ Thomasie	51	6	11-10-36 " " "
✓ Michell Bellerose	49	2	11-30-12 " " "
✓ Marie Hamelin	31	2	3-8-12 " " "
✓ Johnny Stony		5	1-14-36 Sept. 14th, "
✓ Baptiste Zoss Bag	77	5	9-5-30 Dec. 13th, "
✓ Mictahay Oskinigue	39	1	1-9-36 " " "
✓ Benjamin Potekin	130	4	7-6-27 " " "
✓ Jos. Wandigoo's widow	115	2	3-8-12 " " "

- The above all transferred to Kinabayo's Band, Lesser Slave Lake. -

✓ Alexander 7-13-37, 4-7 Jan'y 10th, 1910
Transferred to Ambrose Teto Holx's Band, Fort Vermilion

293,506

Ottawa, July 7th, 1913.

Sir,-

Referring to your letter of the 22nd April inst, I beg to state that the share of the Indians, formerly members of Alexander's Band, who were transferred some years ago to Treaty 8, has been deducted from the Capital funds of Alexander's Band and placed to the credit of the Bands into membership in which they have been admitted, as per Sub-Section 2 of Section 17 of the Indian Act.

The amounts transferred are as follows:-

Credit of Minnosaug's Band ---

32 Indians @ \$191.06 per Capital share.....\$6113.92

Credit of Ambrose & John's Band, Fort Vermilion ---

7 Indians @ \$191.06 per Capital share\$1337.42

The former members of Alexander's Band who have been transferred as above at and have now equal rights in the Reserves they now belong to the original Treaty 8 Indians.

Your obedient servant,

Asst. Deputy Secy.

W. B. L. Donald, Esq., M.P.,

Indian Agent,

Gravel, Alta.

Tab 4

No. 184027/31.

Memorandum

Ottawa, 15th April, 1903.

The Deputy Supt. General,-

With reference to Mr. Ponton's memorandum herounder of the 8th inst., I beg to state that John Stephens being a member of Chief Alexander's band is already provided with land in the reserve of that band, No. 124, at Riviere qui Barre, and holds his land in common with the other members of the band.

It is shown, however, that he has located himself at Lesser Slave Lake, where he has shown considerable energy, is entirely self-supporting, and is filling a necessary public need by providing a good winter stopping place between Athabasca Landing and Lesser Slave Lake. It would appear desirable that he should be encouraged.

If the land on which he^{is} now located is not secured to him as an Indian Reserve it will run continual risk of being taken possession of by white men. There appears to be no objection why the said land should not be surveyed and confirmed as an Indian Reserve with the view of allowing John Stephens to continue in possession of it, or to give him eventually a location ticket covering the said land.

I think, however, that an equal area (100 acres) should be surrendered from the said reserve No. 124 and relinquished to the Crown in exchange for the proposed reserve at Lesser Slave Lake for John Stephens, and would recommend that the Indian Agent be instructed to lay the matter before the Indians of the said reserve, in order to obtain from them their consent to give a surrender of the portion for the purpose mentioned.

Sam L. Gray
Chief Supt.

164,587/11



Ottawa, 16th April, 1903.

Memorandum:

Mr. Pedley, -

164-27
I spoke to Mr. Conroy
about the matter referred to in Mr. Bray's
memo. of the 15th instant. He does not
know anything about the location occupied
by Stephens, but says that he cannot of
course be disturbed in his holding so long
as he is in occupation.

[REDACTED]
[REDACTED] in Treaty
[REDACTED]
[REDACTED]

John L. ...

Secret 27..

7. D. M. L. H. 11/11/11
Ottawa, 17th April, 1903.

Sir :-

I am directed to inform you that John Stephens, who is a member of Chief Alexander's Band, No. 134, at Riviere aux Barres, and who holds land in common with other members of that Band, has located himself at Lesser Slave Lake and is desirous of securing the land he is located upon. Under the terms of Treaty 8 covering this territory land may be provided in [redacted] to the extent of 160 acres to each Indian to be conveyed with the proviso as to non-alienation without the consent of the Governor in Council.

I am to request that you will be good enough to state whether there will be any objection to the land located to him to the extent of 160 acres being set aside for him under the terms of the Treaty.

Your obedient servant,

J. D. McLean

Secretary.

The Secretary

Dept. of the Interior

Ottawa

Looney Bluff Lake Agency -

403612

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

187
m/f
m/b

401612

family, which now consists of himself, wife, 1 boy and 4 girls.

If Section 11, Township No. 75, Range 6, west of the 5th Meridian, is granted to the Sawridge Band as part of their Reserve (as referred to in my letter of the 8th inst.) Stony could not buy there and it would be unnecessary to give him the latter quarter section as before.

Your obedient servant,

AGLE, Indian Affairs

EXP-800

121131-6

EXD

Ottawa, April 18, 1912.

Sir:-

With further reference to letter from your Department dated May 9th last No. 226,4255 and to letter from this Department to the Secretary of the Department of the Interior dated September 27th last, I am sending you plans under separate cover showing the lands selected last season by Mr. J. E. Nelson S. L. S. for the Hawridge Band of Indians on Lesser Slave Lake in Treaty No. 6.

The said lands are in two reserves.

No. 1503 consists of Section 6 Tp. 73, R. 4, T of 6th N.

E. 1/2 Sec. 1, East 1/2 Sec. 2, S. 1/2 Sec. 3, S. 1/2 Sec. 4, and the S. E. 1/4 Sec. 6, all in Tp. 73, R. 5, T. 6th N. and the E. 1/2 Sec. 22, East 1/2 of Sec. 33, S. W. 1/4 and E. 1/2 Sec. 34, all in Tp. 73, R. 5, W. 6th N.

No. 1504 is in Tp. 73, R. 4, T. 6th N. unsurveyed and consists of the E. 1/2 Sec. 3, S. 1/2 Sec. 4, E. 1/2 Sec. 5, Sec. 6, Sec. 9, Prad. Sec. 10, Prad. Sec. 15, Prad. Sec. 17.

* The above were surveyed, and as these Indians are still 500 acres short, application is also made for the E. 1/2 of Sec. 13 and Prad. Sec. 19 in the same township.

I shall feel obliged if you will have the pleasure

H. Daville, Esq.,

Surveyor General,

Indian Affairs. (16 10, Volume 7778, File 27131-6)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES

-2-

necessary action taken to have an Order-in-Council passed
confirming these Reserves.

Your obedient servant,

Ed J. D. [Signature]

Assistant Deputy and Secretary.

Indian Affairs, (at 10, volume 7778, #11- 2711-54)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES

39. 2006

DEPT. OF INDIAN AFFAIRS
SEP 24 1913
SURVEYS.

373506
27131-050254
To Mr. J. H. Thompson, Ottawa, Ont.
Sept 23 1913

With reference to the lands reserved for
the Sisseton Band at the East end of Sisseton
Lake I beg to state that out of the surveyed
Townships the following 1/2 Sections have been
allotted: Tp 72 R 5 N of 5th M - (Sec 32 NW 1/4)
(Sec 33 East 1/2) (Sec 34, SW 1/4 and NE 1/4)
Tp 73 R 5 N of 5th M - (Sec 1 NW 1/4) (Sec 2 NE 1/2)
(Sec 3, SE 1/4) (Sec 4 SE 1/4) (Sec 6 SE 1/4)
Tp 73 R 4 N of 5th M, lands of Sec 6.

As some Indians wish to locate and examine
these lands reserved for the Sisseton Band not farther
it might be well to notify the Department of the
Interior what particular sections have been allotted.
I enclose two plans showing the lands reserved
and those allotted one month with a plan
covering the 1/2 sections. The other marked 1/2 sections
were allotted last after examination closed.

I am at present surveying the Sisseton
Block in Tp 73 R 5 N of 5th M, North of and including
the N 1/2 of Sec 34. A plan will be sent when
completed as it is unsurveyed territory.

This Band also want about 5 sections near
Sisseton River to be shown when I reach there
with my surveyor.

With reference to Sec 6 Tp 73 R 5 N I may
say that Johnny Stony a member of the Sisseton
Band has lived on this section near the Sisseton
on the East end for about 12 years and that
he keeps a chopping place which is very fine.

He is a hard working industrious and energetic
is spoken of as the best and most prosperous
Indian in this section of the country.

Shortly after Henry located here a half breed
named Michel Contrai also located near at
hand in fact both one on legal Subdivision
nine in the 6, the one being on the west half and
the other on the East.

Contrai has 3 log houses and two stables with
a small garden and hay field, both fenced.

He values his improvements at \$250⁰⁰ which
I consider fair and reasonable.

If he can not be paid for his improvements
I do not think he should get more land
than the west 1/2 of the legal subdivision.

He has another house and stables located
on Martin River where he wishes to have
a full spread as soon as surveyed and
has no intention of applying for a free grant
on this 1/2 Sec. I do not think he is entitled to more
than recompense for his improvements.

Regarding the North West 1/4 of Sec one Tp 73 R 5 W
named Joseph Contrai
a white man, French and who speaks no English
located the half of Sec 12 immediately North
by Scrip. and has broken about 20 acres at
the North West corner being East Legal Subdivision
13, Sec one. The land is rough and only fit for hay
and this legal subdivision is higher and suitable
for crop. It required considerable work to break this
20 acres as there must have been quite a lot of
willow scrub on it. He states that it took him
and 3 men five days, but I do not think they
could have done it very hard work. He is a Frenchman.

now I think \$750 an acre or \$1500 would be
a good price for this Breaking. It will
not be of much benefit to the Indians unless
it is formed. He objected to giving it up.
The Joseph Bouchard has no legal claim
as he did not file, but states that he
went on and broke on dining table his
former land agent Tomkins, at Grouse
that he would be allowed to purchase
the fractional area north of the Reservoir
River. However, he made no attempt to purchase
and now that the land is set apart for Indian
Reserve purposes offers to purchase the
breaking at the last legal subdivision
at \$5.00 per acre cash, including the 5% in L.S. 12.
I did not get the date of the Breaking but
it looks as though it was done during
the past summer.

Yours obedient servant

Joseph Bouchard Esq.
Secretary

Department of Indian Affairs

Ottawa
Canada

Tab 5

393506

Ottawa, 19th August 1920.

Sir, -

With reference to your letter of the 14th August No. 1735121, I have to say that Mr. John Stoney (Johanie Stoney) is a Treaty Indian, No. 12 of the Sawridge Band. He can continue to occupy the land referred to in the N.E. 6-73-4- W. 5.4., which is a part of the Sawridge Indian reserve.

Your obedient servant,

C. Macdonald

for Assistant Deputy and Secretary.

S.B.
The Secretary,

W.B.
Department of the Interior,
Ottawa, Ont.

Indian Affairs, (44-10, volume 7778, file 17131-5)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

Tab 6

[illegible]

NAME		DATE OF BIRTH		DATE OF DEATH		AGE		SEX		RELATIONSHIP		REMARKS		TOTAL	
27	Bryce	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
28	Mary	1880	12/12	1910	12/12	30	12	F	1	1	1			1	1
29	James	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
30	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
31	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
32	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
33	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
34	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
35	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
36	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
37	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
38	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
39	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
40	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
41	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
42	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
43	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
44	John	1880	12/12	1910	12/12	30	12	M	1	1	1			1	1
Total															17

Bryce

17 30 25 6 107 333 11

Tab 7

Indian Act, RSC 1985, c I-5

Current version: In force since Jan 31, 2011.

Link to the latest version: <http://canlii.ca/t/7vhk>

Stable link to this version: <http://canlii.ca/t/10hh>

Citation to this version: Indian Act, RSC 1985, c I-5, retrieved on 2012-04-19

Currency: Last updated from the Justice Laws Web Site on 2012-04-13

Share:



Indian Act

R.S.C., 1985, c. I-5

An Act respecting Indians

SHORT TITLE

Short title

1. This Act may be cited as the *Indian Act*.

R.S., c. I-5, s. 1.

INTERPRETATION

Definitions

2. (1) In this Act,

"band"

« bande »

"band" means a body of Indians

(a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after September 4, 1951,

(b) for whose use and benefit in common, moneys are held by Her Majesty, or

(c) declared by the Governor in Council to be a band for the purposes of this Act;

"Band List"

« liste de bande »

"Band List" means a list of persons that is maintained under section 8 by a band or in the Department;

"child"

« enfant »

"child" includes a legally adopted child and a child adopted in accordance with Indian custom;

"common-law partner"

« conjoint de fait »

"common-law partner", in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year;

"council of the band"

« conseil de la bande »

"council of the band" means

(a) in the case of a band to which section 74 applies, the council established pursuant to that section,

(b) in the case of a band to which section 74 does not apply, the council chosen according to the custom of the band, or, where there is no council, the chief of the band chosen according to the custom of the band;

"Department"

Persons entitled to be registered

6. (1) Subject to section 7, a person is entitled to be registered if

(a) that person was registered or entitled to be registered immediately prior to April 17, 1985;

(b) that person is a member of a body of persons that has been declared by the Governor in Council on or after April 17, 1985 to be a band for the purposes of this Act;

(c) the name of that person was omitted or deleted from the Indian Register, or from a band list prior to September 4, 1951, under subparagraph 12(1)(a)(iv), paragraph 12(1)(b) or subsection 12(2) or under subparagraph 12(1)(a)(iii) pursuant to an order made under subsection 109(2), as each provision read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as any of those provisions;

(c.1) that person

(i) is a person whose mother's name was, as a result of the mother's marriage, omitted or deleted from the Indian Register, or from a band list prior to September 4, 1951, under paragraph 12(1)(b) or under subparagraph 12(1)(a)(iii) pursuant to an order made under subsection 109(2), as each provision read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as any of those provisions,

(ii) is a person whose other parent is not entitled to be registered or, if no longer living, was not at the time of death entitled to be registered or was not an Indian at that time if the death occurred prior to September 4, 1951,

(iii) was born on or after the day on which the marriage referred to in subparagraph (i) occurred and, unless the person's parents married each other prior to April 17, 1985, was born prior to that date, and

(iv) had or adopted a child, on or after September 4, 1951, with a person who was not entitled to be registered on the day on which the child was born or adopted;

(d) the name of that person was omitted or deleted from the Indian Register, or from a band list prior to September 4, 1951, under subparagraph 12(1)(a)(iii) pursuant to an order made under subsection 109(1), as each provision read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as any of those provisions;

(e) the name of that person was omitted or deleted from the Indian Register, or from a band list prior to September 4, 1951,

(i) under section 13, as it read immediately prior to September 4, 1951, or under any former provision of this Act relating to the same subject-matter as that section, or

(ii) under section 111, as it read immediately prior to July 1, 1920, or under any former provision of this Act relating to the same subject-matter as that section; or

(f) that person is a person both of whose parents are or, if no longer living, were at the time of death entitled to be registered under this section.

Idem

(2) Subject to section 7, a person is entitled to be registered if that person is a person one of whose parents is or, if no longer living, was at the time of death entitled to be registered under subsection (1).

Deeming provision

(3) For the purposes of paragraph (1)(f) and subsection (2),

(a) a person who was no longer living immediately prior to April 17, 1985 but who was at the time of death entitled to be registered shall be deemed to be entitled to be registered under paragraph (1)(a);

(b) a person described in paragraph (1)(c), (d), (e) or (f) or subsection (2) and who was no longer living on April 17, 1985 shall be deemed to be entitled to be registered under that provision; and

(c) a person described in paragraph (1)(c.1) and who was no longer living on the day on which that paragraph comes into force is deemed to be entitled to be registered under that paragraph.

R.S., 1985, c. I-5, s. 6; R.S., 1985, c. 32 (1st Supp.), s. 4, c. 43 (4th Supp.), s. 1; 2010, c. 18, s. 2.

Persons not entitled to be registered

7. (1) The following persons are not entitled to be registered.

ENFRANCHISEMENT

109. to 113. [Repealed, R.S., 1985, c. 32 (1st Supp.), s. 20]

Tab 8




Home > Canada (Federal) > Federal Court of Appeal >
2012 FCA 47 (CanLII)

Canadian Legal Information Institute

Français | English

Twinn v. Poltras, 2012 FCA 47 (CanLII)

Date: 2012-02-08
Docket: A-280-10
URL: <http://canlii.ca/t/fq3w2>
Citation: Twinn v. Poltras, 2012 FCA 47 (CanLII); <<http://canlii.ca/t/fq3w2>> retrieved on 2012-04-19
Share: 
Print: PDF Format
Noteup: Search for decisions citing this decision
Reflex Record: Related decisions, legislation cited and decisions cited

Federal Court of
Appeal



Cour d'appel
fédérale

Date: 20120208
Docket: A-280-10
Citation: 2012 FCA
47

CORAM: EVANS
J.A.

PELLETIER J.A.
STRATAS J.A.

BETWEEN:

WALTER PATRICK TWINN, THE COUNCIL OF THE
SAWRIDGE BAND and THE SAWRIDGE BAND

and

ELIZABETH BERNADETTE POITRAS

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by THE MINISTER OF INDIAN AFFAIRS
AND NORTHERN DEVELOPMENT

Appellants

Respondent

Respondent

Heard at Ottawa, Ontario, on February 8, 2012.
Judgment delivered from the Bench at Ottawa, Ontario, on February 8, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

STRATAS J.A.

Federal Court of
Appeal



Cour d'appel
fédérale

Date: 20120208
Docket: A-280-10
Citation: 2012 FCA
47

CORAM: EVANS
J.A.

PELLETIER J.A.
STRATAS J.A.

BETWEEN:

WALTER PATRICK TWINN, THE COUNCIL OF THE
SAWRIDGE BAND and THE SAWRIDGE BAND

Appellants

and
ELIZABETH BERNADETTE POITRAS

Respondent

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by THE MINISTER OF INDIAN AFFAIRS
AND NORTHERN DEVELOPMENT

Respondent

REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Ottawa, Ontario, on February 8, 2012)

STRATAS J.A.

[1] This is an appeal against the Order dated July 27, 2010 made by a case management judge in the Federal Court (Justice Hugessen). The case management judge ordered that an issue central to an action (the "main action") has become moot.

[2] The circumstances giving rise to the Order are as follows.

[3] Some time ago, the respondent, Ms. Poitras, started the main action against the appellant Band, claiming membership in it. The Band defended, in part, on the basis that it had a right under section 35 of the *Constitution Act, 1982* to determine who was a member of the Band.

[4] The main action was stayed pending the outcome of another action that the Federal Court regarded as being closely related (the "closely related action"). In the closely related action, the Band was challenging amendments to the *Indian Act*, advancing the same argument, namely that it had a right under section 35 of the *Constitution Act, 1982* to determine who was a member of the Band. That action had a long history, including a retrial. In the end result, the closely related action was dismissed: *Sawridge Band v. The Queen*, 2008 FC 322 (CanLII), 2008 FC 322, aff'd 2009 FCA 123 (CanLII), 2009 FCA 123.

[5] With the dismissal of the closely related action, what was to become of the main action and the issue of Ms. Poitras' membership in the Band? To determine this, the Federal Court issued a notice of status review concerning the main action.

[6] As a result of the status review, a case management conference in the Federal Court was held. There, the issue of mootness was discussed, having been raised in the submissions filed.

[7] The case management judge's Order followed. The case management judge ordered that the issue of Ms. Poitras' membership in the Band was moot.

[8] In this Court, the appellants appeal that Order.

[9] The appellate standard of review applies. The appellants must show that the Order is vitiated either by legal error or by palpable and overriding error on some issue of fact or fact-based discretion. In reviewing the exercise of discretion in this case, it must also be borne in mind that this is an Order made by a case management judge who had managed the main action and the closely related action for many years and, as a result, possessed great familiarity with the factual issues and history of the matters: *Sawridge Band v. Canada*, 2001 FCA 338 (CanLII), 2001 FCA 338 at paragraph 11, 2001 FCA 338 (CanLII), [2002] 2 F.C. 346.

[10] In our view, the appellants have not shown any reversible error on the part of the case management judge that would warrant permitting the Band to relitigate the constitutional issues.

[11] There can be circumstances which can prompt the Court to exercise its discretion to allow relitigation, notwithstanding the doctrines of issue estoppel and abuse of process: *Danyluk v. Ainsworth Technologies Inc.*, 2001 SCC 44 (CanLII), 2001 SCC 44, [2001] 2 S.C.R. 460; *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 (CanLII), 2003 SCC 63, [2003] 3 S.C.R. 77.

[12] But there is nothing in the record of this case showing that the appellants offered to the case management judge any such circumstances. Indeed, the record shows that the appellants deliberately decided, for reasons known to them, to close their case in the closely related action knowing they could have called more evidence and made further submissions. They knew that a dismissal would result after they closed their case. See *Sawridge Band v. Canada*, 2008 FC 322 (CanLII), 2008 FC 322 at paragraphs 10-21 and 60.

[13] For the foregoing reasons, we shall dismiss the appeal and direct the parties to return to the current case management judge to bring the pleadings into line with the issues that remain in light of this Court's decision.

"David Stratas"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-280-10

**APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE HUGESSEN DATED JULY 22, 2010,
DOCKET NO. T-2655-89**

STYLE OF CAUSE:

Walter Patrick Twinn, The Council Of The Sawridge
Band and The Sawridge Band v. Elizabeth Bernadette
Poitras and Her Majesty the Queen in her Right of
Canada as Represented by The Minister of Indian and
Northern Development

PLACE OF HEARING:

Ottawa, Ontario

DATE OF HEARING:

February 8, 2012

REASONS FOR JUDGMENT OF THE COURT BY: Evans, Pelletier and Stratas J.J.A.

DELIVERED FROM THE BENCH BY: Stratas J.A.

APPEARANCES:

Philip P. Healey

FOR THE APPELLANT

Kevin Kimmis

FOR THE RESPONDENT, Her
Majesty the Queen in her Right of
Canada as Represented by The Minister
of Indian and Northern Development

SOLICITORS OF RECORD:

Aird & Berlis LLP
Toronto, Ontario

FOR THE APPELLANT

Terrence P. Glancy
Edmonton, Alberta

FOR THE RESPONDENT,
Elizabeth Bernadette Poitras

Myles J. Kirvan
Deputy Attorney General of Canada

FOR THE RESPONDENT, Her
Majesty the Queen in her Right of
Canada as Represented by The
Minister of Indian and Northern
Development

Tab 9



Sawridge First Nation v. Canada, 2009 FCA 123 (CanLII)

Date: 2009-04-21
Docket: A-154-08; A-112-08
URL: <http://canlii.ca/t/237vj>
Citation: Sawridge First Nation v. Canada, 2009 FCA 123 (CanLII), <<http://canlii.ca/t/237vj>> retrieved on 2012-02-02
Share: [Share](#)
Print: PDF Format
Noteup: Search for decisions citing this decision
Reflex Record: Related decisions, legislation cited and decisions cited

Date: 20090421
Docket: A-154-08
A-112-08

Citation: 2009 FCA 123

**CORAM: RICHARD C.J.
EVANS J.A.
SHARLOW J.A.**

Docket: A-154-08

BETWEEN:

SAWRIDGE BAND

**Appellant
(Plaintiff)**

**and
HER MAJESTY THE QUEEN**

**Respondent
(Defendant)**

**and
CONGRESS OF ABORIGINAL PEOPLES,
NATIVE COUNCIL OF CANADA (ALBERTA),
NON-STATUS INDIAN ASSOCIATION OF ALBERTA
and NATIVE WOMEN'S ASSOCIATION OF CANADA**

**Respondents
(Interveners)**

Docket: A-112-08

AND BETWEEN:

**TSUU T'INA FIRST NATION
(formerly the Sarcee Indian Band)**

**Appellant
(Plaintiff)**

and

HER MAJESTY THE QUEEN

**Respondent
(Defendant)**

and

**CONGRESS OF ABORIGINAL PEOPLES,
NATIVE COUNCIL OF CANADA (ALBERTA),
NON-STATUS INDIAN ASSOCIATION OF ALBERTA
and NATIVE WOMEN'S ASSOCIATION OF CANADA**

**Respondents
(Interveners)**

Heard at Ottawa, Ontario, on April 20 and 21, 2009.

Judgment delivered from the Bench at Ottawa, Ontario, on April 21, 2009.

REASONS FOR JUDGMENT OF THE COURT BY:

SHARLOW J.A.

Date: 20090421

Docket: A-154-08

A-112-08

Citation: 2009 FCA 123

**CORAM: RICHARD C.J.
EVANS J.A.
SHARLOW J.A.**

BETWEEN:

Docket: A-154-08

BETWEEN:

SAWRIDGE BAND

**Appellant
(Plaintiff)**

and

HER MAJESTY THE QUEEN

**Respondent
(Defendant)**

and

**CONGRESS OF ABORIGINAL PEOPLES,
NATIVE COUNCIL OF CANADA (ALBERTA),
NON-STATUS INDIAN ASSOCIATION OF ALBERTA
and NATIVE WOMEN'S ASSOCIATION OF CANADA**

**Respondents
(Interveners)**

Docket: A-112-08

AND BETWEEN:

**TSUU T'INA FIRST NATION
(formerly the Sarcee Indian Band)**

**Appellant
(Plaintiff)**

and

HER MAJESTY THE QUEEN

**Respondent
(Defendant)**

and

**CONGRESS OF ABORIGINAL PEOPLES,
NATIVE COUNCIL OF CANADA (ALBERTA),
NON-STATUS INDIAN ASSOCIATION OF ALBERTA
and NATIVE WOMEN'S ASSOCIATION OF CANADA**

**Respondents
(Interveners)**

REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Ottawa, Ontario, on April 21, 2009)

SHARLOW I.A.

[1] These are appeals of the decision of Justice Russell to dismiss the appellants' action and to award costs totalling approximately \$1.7 million in favour of the Crown and the other respondents (interveners at trial). That award includes a substantial amount as increased costs in excess of full indemnity. The reasons for dismissing the action are reported at 2008 FC 322 (CanLII), 2008 FC 322. The reasons for the costs award are reported at 2008 FC 267 (CanLII), 2008 FC 267. The appellants are seeking a retrial.

[2] Despite the thorough and lengthy written and oral submissions of counsel for the appellants, we can discern no error on the part of Justice Russell that warrants the intervention of this Court. We do not consider it necessary to discuss the grounds of appeal in detail. We will offer only the following comments.

[3] The dismissal of the action was the end of the retrial of an action commenced on January 15, 1986. The appellants were seeking an order declaring that certain amendments to the *Indian Act*, R.S.C. 1985, c. 1-5, breached the appellants' rights under section 35 of the *Constitution Act, 1982*. The statutory amendments compelled the appellants, against their wishes, to add certain individuals to the list of band members. The appellants argue that the legislation is an invalid attempt to deprive them of their right to determine the membership of their own bands.

[4] The first trial began in September of 1993 and ended with a dismissal of the action on July 6, 1995 (*Sawridge Band v. Canada (T.D.)*, 1995 CanLII 3521 (FC), [1996] 1 F.C. 3). That decision was set aside by this Court on the basis of a reasonable apprehension of bias (*Sawridge Band v. Canada (C.A.)*, [1997] 3 F.C. 580, application for leave to appeal dismissed December 1, 1997). A new trial was ordered. It began in January of 2007, after almost 10 years of procedural disputes and delays.

[5] The action was dismissed again because, on January 7, 2008, the appellants informed Justice Russell that they would not be calling further evidence. This was in response to Justice Russell's oral ruling on September 11, 2007 striking all of the appellants' past and future lay witnesses because of non-compliant will-says. There being no case for the Crown to answer, the action necessarily failed. The action was formally dismissed on March 7, 2008.

[6] In deciding to call no further evidence on the retrial, the appellants were not abandoning the cause that led them to begin the action in 1986. Rather, they chose to end the action when they did in order to challenge a series of rulings made by Justice Russell precluding the appellants from eliciting any evidence from lay witnesses that had not been disclosed in the will-says for those witnesses, as well as the oral ruling on September 11, 2007. The appellants also argue that Justice Russell's conduct since his appointment as trial judge raises a reasonable apprehension of bias.

[7] It is not necessary to recount the lengthy procedural history of this matter, which is described in detail by Justice Russell. We note, however, that during the process of case management and after the discovery process had become hopeless, Justice Hugessen made an order requiring the appellants to produce will-say statements for all lay witnesses proposed to be called at trial. In June of 2004, Justice Russell found the appellants' first attempt at will-says to be inadequate and ordered new will-says 2004 FC 933 (CanLII), (2004 FC 933). He found the second attempt also to be inadequate 2004 FC 1436 (CanLII), (2004 FC 1436) and ordered a third attempt 2004 FC 1653 (CanLII), (2004 FC 1653). None of these orders was appealed.

[8] In November of 2005 Justice Russell made an order permitting the appellants to call 24 of their 57 potential lay witnesses, but prohibiting them from calling the other 33 because of various failures to comply with the will-say orders 2005 FC 1476 (CanLII), (2005 FC 1476). The appellants' appeal of that order was dismissed 2006 FCA 228 (CanLII), (2006 FCA 228, application for leave to appeal dismissed, February 8, 2007).

[9] The 2006 interlocutory appeal settled a number of issues. One was that the will-says were intended to provide a substitute for oral discovery, which "the parties had shown themselves incapable of conducting in a productive and focused manner" (see paragraph 9 of the reasons of Justice Evans, speaking for the Court). Another was that it was within the discretion of Justice Russell not to permit witnesses to be called because of the appellants' non-compliance with Court orders regarding the filing of will-says (see paragraph 13 of the reasons of Justice Evans).

[10] In oral argument, counsel for the appellants argued that, despite the long history of controversy about will-says and what would constitute a compliant will-say, they were not aware when they prepared the third set of will-says that the evidence they could elicit from a witness for whom a will-say had been served could not include anything not set out in the will-say. Our review of the record discloses that the appellants should have been aware by the commencement of the retrial that they could be precluded from adducing any evidence from a witness for whom no compliant will-say had been produced, and that they could also be limited to eliciting evidence disclosed in the will-

say. If they were confused on those points, however, they did little to clarify the situation when they indicated to Justice Russell that, although they considered their will-says to be compliant with the standard he had set, their ability to make their case would be compromised if they were barred from eliciting any evidence from a witness that did not appear in the will-say for that witness.

[11] The appellants' equivocation when asked if their will-says were compliant led Justice Russell to conclude that if the appellants could not adequately make their case based on what was stated in the will-says, the will-says must necessarily have been non-compliant. The appellants take issue with Justice Russell's interpretation of their submissions and his reasoning. However, based on our review of the record, Justice Russell's understanding of the appellants' position, as expressed many times in his reasons, was reasonably open to him.

[12] In our view, all of the orders and directions which the appellants now seek to challenge were discretionary decisions made by Justice Russell in furtherance of his obligation to control the trial process. He was required to discharge that obligation in circumstances that became increasingly difficult because of the appellants' apparent reluctance to accept that a trial judge may exclude relevant evidence on the basis that it was not properly disclosed in the discovery process or, as in this case, will-say statements that were intended to stand in the place of oral discoveries. A failure to make disclosures required by a court order may and occasionally does result in the exclusion of relevant evidence.

[13] Finally, without endorsing every statement made by Justice Russell in his voluminous reasons, we find no factual foundation in the record for the appellants' argument that there was a reasonable apprehension of bias on the part of Justice Russell. On the contrary, we agree with the other panel of this Court in the 2006 interlocutory appeal that, given the circumstances facing him, Justice Russell displayed an appropriate mix of "patience, flexibility, firmness, ingenuity, and an overall sense of fairness to all parties" (paragraph 22, per Justice Evans).

[14] We express no opinion on the comments of Justice Russell to the effect that he remains seized of matters relating to the possibility of proceedings against appellants' former counsel for contempt of court or professional disciplinary proceedings. No ground of appeal can arise in relation to those matters unless and until Justice Russell makes an order or renders judgment.

[14]

[15] The Crown and other respondents have argued that this appeal is based largely on debates that were decided against the appellants in prior proceedings, some going so far as to say that the appeal itself is abusive. While there is some force in this argument, on balance we have concluded that, after the action was dismissed, it was open to the appellants to appeal the decision of Justice Russell to strike the evidence of the witnesses. While we have concluded that there is no merit in that appeal, it does not follow that the appeal itself is an abuse of process.

[16] As to the appellants' appeal of the costs awarded at trial, we are not persuaded that Justice Russell erred in law or failed to exercise his discretion judicially when he awarded increased costs as he did. In particular, having considered the entire history of the retrial, we can detect no palpable and overriding error in Justice Russell's findings of misconduct on the part of the appellants.

[17] This appeal will be dismissed with costs to the Crown and each of the other respondents (interveners at trial) on the ordinary scale (that is, the mid-range of Column III of Tariff B of the *Federal Courts Rules*). These reasons will be placed in Court file A-154-08 and a copy will be placed in Court file A-112-08.

"K. Sharlow"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-154-08 & A-112-08

(APPEAL FROM A JUDGMENT OF THE FEDERAL COURT DATED MARCH 7, 2008, FEDERAL COURT DOCKET NUMBER T-66-86)

STYLE OF CAUSE:

SAWRIDGE BAND v. HER MAJESTY THE QUEEN et al. (A-154-08)

TSUU T'INA FIRST NATION v. HER MAJESTY THE QUEEN et al. (A-112-08)

PLACE OF HEARING:

Ottawa, Ontario

DATES OF HEARING:

April 20 and 21, 2009

REASONS FOR JUDGMENT OF THE COURT BY:

(RICHARD C.J., EVANS J.A. and SHARLOW J.A.)

DELIVERED FROM THE BENCH BY:

Sharlow J.A.

APPEARANCES:

Edward H. Molstad, Q.C.
Marco S. Poretti
David L. Sharko

FOR THE APPELLANTS

Catherine M. Twinn

FOR THE APPELLANTS

E. James Kindraka
Kevin Kimmis
Krista Epton

FOR THE RESPONDENT (HER MAJESTY THE QUEEN)

Joseph E. Magnet

**FOR THE RESPONDENT
(CONGRESS OF ABORIGINAL PEOPLES)**

Janet L. Hutchison

**FOR THE RESPONDENT
(CONGRESS OF ABORIGINAL PEOPLES)**

Jon Faulds, Q.C.
Derek A. Cranna

FOR THE REPENDENT (NATIVE COUNCIL OF CANADA (ALBERTA))

Michael J. Donaldson

FOR THE RESPONDENT (NON-STATUS INDIAN ASSOCIATION OF ALBERTA)

Mary Eberts

FOR THE RESPONDENT (NATIVE
WOMEN'S ASSOCIATION OF
CANADA)

SOLICITORS OF RECORD:

Parlee McLaws LLP
Edmonton, AB

FOR THE APPELLANTS

Barrister & Solicitor
Slave Lake, AB

FOR THE APPELLANTS

John H. Sims, Q.C.
Deputy Attorney General of Canada

FOR THE RESPONDENT (HER
MAJESTY THE QUEEN)

Joseph E. Magnet & Associates
Ottawa, ON

FOR THE RESPONDENT
(CONGRESS OF ABORIGINAL
PEOPLES)

Chamberlain Hutchison
Edmonton, AB

FOR THE RESPONDENT
(CONGRESS OF ABORIGINAL
PEOPLES)

Field LLP
Edmonton, AB

FOR THE REpondent (NATIVE
COUNCIL OF CANADA
(ALBERTA))

Burnet, Duckworth & Palmer LLP
Calgary, AB

FOR THE RESPONDENT (NON-
STATUS INDIAN ASSOCIATION
OF ALBERTA)

Law Office of Mary Eberts
Toronto, ON

FOR THE RESPONDENT
(NATIVE WOMEN'S
ASSOCIATION OF CANADA)

[Scope of Databases](#) | [Tools](#) | [Terms of Use](#) | [Privacy](#) | [Help](#) | [Contact Us](#) | [About](#)

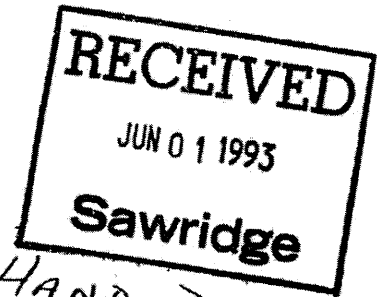
by **LEXUM**  for the  Federation of Law Societies of Canada

Tab X

June 1-93

copy

attention: Chief Walter Twinn,



Hand Delivered

Dear Sir,

The purpose of this letter is to inform you of our intended protest rally, we the band members of (C31) the Kee-sip-iamahk Band of the Lesser ~~Slave~~^{SLAVE} Lake area, are going to organize and hold a protest rally on the Sawridge Reserve.

We will set up a tent and teepee camp to protest housing and land issues. Being ex-bandmembers of the Sawridge Band, we feel that we have every right to hold a protest rally. We've tried every possible negotiable route and avenue to get ^{the} said issues settled. To no avail did anyone try or say that they would help us with these matters. Our patience has worn out. We will invite the media and anyone else who wishes to support our rally.

This is Exhibit "X" referred to in the
Affidavit of

ROLAND TWINN

Sworn before me this _____ day
of JUNE, 2012

W. Brown
A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN
A Commissioner for Oaths
In and for The Province of Alberta
My Appointment Expires December 30, 2012

Our legal council will also be present. We are at all times, open for negotiations, with who ever is involved with these issues that we are going to protest. The rally at all times will be peaceful and orderly.

This protest rally is going to be held on June 13-93 at 1:p.m.

We will also elect a Band Council, these councillors are to be elected from approximately twelve different families that make up the Kee-sip-igamahk Band.

One member is to be elected from each family, to establish a twelve member band council. The main leader or leaders are to be elected at a later date. Sitting in as acting leaders at present are Sam Sinclair, Gordon Sinclair, and Maurice Stoney.

As stated earlier we the Kee-sip-igamahk Band members are more than willing to negotiate these very important matters.

Yours truly,

Executive Councillor,

Maurice Stoney

Kee-sip-igamahk Band,

609-12st s.e.

Phone-849-5173

Slave Lake, AB. T0G2a3

Maurice Stoney

Tab Y

**IN THE MATTER OF THE APPEAL OF THE MEMBERSHIP APPLICATION OF
MAURICE FELIX STONEY TO THE SAWRIDGE FIRST NATION**

BETWEEN:

MAURICE FELIX STONEY

Appellant

- and -

SAWRIDGE FIRST NATION

Respondent

DECISION

DAVIS LLP.
1201 Scotia 2 Tower
10060 Jasper Avenue
Edmonton, AB T5J 4K5
Attn: Priscilla Kennedy
Tel: (780) 426-5300
Fax: (780) 702-4383
Solicitor for Maurice Felix Stoney

PARLEE McLAWS LLP
1500 Manulife Place
10180 - 101 Street
Edmonton, AB T5J 4K1
Attn: Edward H. Molstad, Q.C.
Tel: (780) 423-8500
Fax (780) 423-2870
Solicitor for Sawridge First Nation

This is Exhibit "Y" referred to in the
Affidavit of

ROLAND TWINN
Sworn before me this 26 day
of JUNE A.D. 2012

Donna Brown
A Commissioner for Oaths in and for
the Province of Alberta

DONNA BROWN
A Commissioner for Oaths
In and for The Province of Alberta
My Appointment Expires December 30 2012

(E6177671.DOCX; 1)

The Appeal of Maurice Felix Stoney (herein referred to as the "Appellant") in relation to his membership application was heard on the Sawridge Reserve in the Sawridge Boardroom on April 21, 2012, before Electors of the Sawridge First Nation (herein referred to as the "First Nation") in attendance at a meeting convened by the First Nation for the purposes of hearing the Appeal.

The Electors of the First Nation in attendance at the meeting who constituted the Appeal Committee were as follows:

Roland Twinn	Bertha L'Hirondelle	Frieda Draney
Vera McCoy	Margaret Claire Ward	Jaclyn Twin
Water F. Twin	Denise Midbo	Yvonne Twin
Justin Twin	Lillian Potskin	Arlene Twinn
Irene Twinn	Darcy Twin	Kristina Midbo
Winona Twin	Catherine Twinn	Sam Twinn
Clara Midbo	Paul Twinn	David Midbo

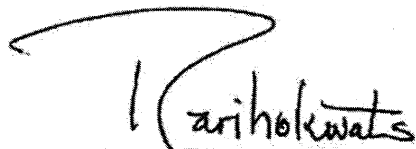
Rarihokwats chaired the Appeal Committee.

The Appellant appeared with Legal Counsel, Priscilla Kennedy of Davis LLP. The First Nation was represented by Legal Counsel, Edward H. Molstad, Q.C. of Parlee McLaws LLP and Michael McKinney, General Counsel for the First Nation.

Written submissions were presented on behalf of the Appellant and oral submissions were made on behalf of the Appellant.

Following the submissions of the Appellant and questions and comments of Members of the Appeal Committee, the Appeal Committee met in camera in order to make its decision.

The unanimous decision of the Appeal Committee is to uphold the decision of Chief and Council and to dismiss the appeal on the grounds that having heard the evidence and the submission of the Appellant and the Appellant's Legal Counsel, there are no grounds to set aside the decision of the Chief and Council.

A handwritten signature in black ink, appearing to read 'Rarihokwats', is written over a horizontal line. The signature is stylized with a large, sweeping initial 'R'.

RARIHOKWATS
CHAIR, APPEAL COMMITTEE

EXHIBIT "3"

Federal Court



Cour fédérale

Date: 20130515

Docket: T-923-12

Docket: T-922-12

Citation: 2013 FC 509

Ottawa, Ontario, May 15, 2013

PRESENT: The Honourable Mr. Justice Barnes

Docket: T-923-12

BETWEEN:

MAURICE FELIX STONEY

Applicant

and

SAWRIDGE FIRST NATION

Respondent

Docket: T-922-12

BETWEEN:

ALINE ELIZABETH (MCGILLIVRAY)
HUZAR AND JUNE MARTHA
(MCGILLIVRAY) KOLOSKY

Applicants

This is Exhibit "3" referred to in the
Affidavit of

Roland Twinn

and

Sworn before me this 21 day
of September A.D. 2016

SAWRIDGE FIRST NATION

A Notary Public, A Commissioner for Oaths
in and for the Province of Alberta

MICHAEL R. MCKINNEY Q.C.
BARRISTER & SOLICITOR

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review pursuant to section 18.1 of the *Federal Courts Act*, RSC, 1985, c F-7. The Applicants are all descendants of individuals who were at one time members of the Sawridge First Nation, but who, either voluntarily or by operation of the law at the time, lost their band memberships. As a result the Applicants were excluded from membership in the Sawridge First Nation. They now ask this Court to review the Sawridge First Nation Appeal Committee's decision to uphold the Sawridge Chief and Council's decision which denied their applications for membership.

[2] The father of the Applicant Maurice Stoney was William J. Stoney. William Stoney was a member of the Sawridge First Nation but in April 1944 he applied to the Superintendent General of Indian Affairs to be enfranchised under section 114 of the *Indian Act*, c 98, RSC 1927. In consideration of payments totalling \$871.35, William Stoney surrendered his Indian status and his membership in the Sawridge First Nation. By operation of the legislation, William Stoney's wife, Margaret Stoney, and their two children, Alvin Stoney and Maurice Stoney, were similarly enfranchised thereby losing their Indian status and their membership in the Sawridge First Nation.

[3] The Applicants Aline Huzar and June Kolosky are sisters and, like Mr. Stoney, they are the grandchildren of Johnny Stoney. The mother of Ms. Huzar and Ms. Kolosky was Johnny Stoney's daughter, Mary Stoney. Mary Stoney married Simon McGillivray in 1921. Because of her marriage Mary Stoney lost both her Indian status and her membership in Sawridge by operation of law. When Ms. Huzar and Ms. Kolosky were born in 1941 and 1937 respectively Mary Stoney was

not a member of the Sawridge Band First Nation and she did not reacquire membership before her death in 1979.

[4] In 1985, with the passing of Bill C-31, *An Act to amend the Indian Act*, 33 – 34 Eliz II c 27, and pursuant to section 10 of the *Indian Act*, the Sawridge First Nation delivered its membership rules, supporting documentation and bylaws to the Deputy Minister of Indian and Northern Affairs, who accepted them on behalf of the Minister. The Minister subsequently informed Sawridge that notice would be given pursuant to subsection 10(7) of the *Indian Act* that the Sawridge First Nation had control of its membership. From that point on, membership in the Sawridge First Nation was determined based on the Sawridge Membership Rules.

[5] Ms. Kolosky submitted her application for membership with the Sawridge First Nation on February 26, 2010. Ms. Huzar submitted her application on June 21, 2010. Mr. Stoney submitted his application on August 30, 2011. In letters dated December 7, 2011, the Applicants were informed that their membership applications had been reviewed by the First Nation Council, and it had been determined that they did not have any specific "right" to have their names entered in the Sawridge Membership List. The Council further stated that it was not compelled to exercise its discretion to add the Applicants' names to the Membership list, as it did not feel that their admission would be in the best interests and welfare of Sawridge.

[6] After this determination, "Membership Processing Forms" were prepared that set out a "Summary of First Nation Councils Judgement". These forms were provided to the Applicants and outlined their connection and commitment to Sawridge, their knowledge of the First Nation, their

character and lifestyle, and other considerations. In particular, the forms noted that the Applicants had not had any family in the Sawridge First Nation for generations and did not have any current relationship with the Band. Reference was also made to their involvement in a legal action commenced against the Sawridge First Nation in 1995 in which they sought damages for lost benefits, economic losses, and the "arrogant and high-handed manner in which Walter Patrick Twinn and the Sawridge Band of Indians has deliberately, and without cause, denied the Plaintiffs reinstatement as Band Members...". The 1995 action was ultimately unsuccessful. Although the Applicants were ordered to pay costs to the First Nation, those costs remained unpaid.

[7] In accordance with section 12 of the Sawridge Membership Rules, the Applicants appealed the Council's decision arguing that they had an automatic right to membership as a result of the enactment of Bill C-31. On April 21, 2012 their appeals were heard before 21 Electors of the Sawridge First Nation, who made up the Appeal Committee. Following written and oral submissions by the Applicants and questions and comments from members of the Appeal Committee, it was unanimously decided that there were no grounds to set aside the decision of the Chief and Council. It is from the Appeal Committee's decision that this application for judicial review stems.

[8] The Applicants maintain that they each have an automatic right of membership in the Sawridge First Nation. Mr. Stoney states at para 8 of his affidavit of May 22, 2012 that this right arises from the provisions of Bill C-31. Ms. Huzar and Ms. Kolosky also argue that they "were persons with the right to have their names entered in the [Sawridge] Band List" by virtue of section 6 of the *Indian Act*.

[9] I accept that, if the Applicants had such an acquired right of membership by virtue of their ancestry, Sawridge had no right to refuse their membership applications: see *Sawridge v Canada*, 2004 FCA 16 at para 26, [2004] FCJ no 77.

[10] Ms. Huzar and Ms. Kolosky rely on the decisions in *Sawridge v Canada*, 2003 FCT 347, [2003] 4 FC 748, and *Sawridge v Canada*, 2004 FCA 16, [2004] FCJ no 77 in support of their claims to automatic Sawridge membership. Those decisions, however, apply to women who had lost their Indian status and their band membership by virtue of marriages to non-Indian men and whose rights to reinstatement were clearly expressed in the amendments to the *Indian Act*, including Bill C-31. The question that remains is whether the descendants of Indian women who were also deprived of their right to band membership because of the inter-marriage of their mothers were intended to be protected by those same legislative amendments.

[11] A plain reading of sections 6 and 7 of Bill C-31 indicates that Parliament intended only that persons who had their Indian status and band memberships directly removed by operation of law ought to have those memberships unconditionally restored. The only means by which the descendants of such persons could gain band membership (as distinct from regaining their Indian status) was to apply for it in accordance with a First Nation's approved membership rules. This distinction was, in fact, recognized by Justice James Hugessen in *Sawridge v Canada*, 2003 FCT 347 at paras 27 to 30, 4 FC 748, [2003] 4 FC 748:

27 Although it deals specifically with Band Lists maintained in the Department, section 11 clearly distinguishes between automatic, or unconditional, entitlement to membership and conditional entitlement to membership. Subsection 11(1) provides for automatic

entitlement to certain individuals as of the date the amendments came into force. Subsection 11(2), on the other hand, potentially leaves to the band's discretion the admission of the descendants of women who "married out."

28 The debate in the House of Commons, prior to the enactment of the amendments, reveals Parliament's intention to create an automatic entitlement to women who had lost their status because they married non-Indian men. Minister Crombie stated as follows (*House of Commons Debates*, Vol. II, March 1, 1985, page 2644):

... today, I am asking Hon. Members to consider legislation which will eliminate two historic wrongs in Canada's legislation regarding Indian people. These wrongs are discriminatory treatment based on sex and the control by Government of membership in Indian communities.

29 A little further, he spoke about the careful balancing between these rights in the Act. In this section, Minister Crombie referred to the difference between status and membership. He stated that, while those persons who lost their status and membership should have both restored, the descendants of those persons are only automatically entitled to status (*House of Commons Debates*, idem, at page 2645):

This legislation achieves balance and rests comfortably and fairly on the principle that those persons who lost status and membership should have their status and membership restored. [page 766]
While there are some who would draw the line there, in my view fairness also demands that the first generation descendants of those who were wronged by discriminatory legislation should have status under the Indian Act so that they will be eligible for individual benefits provided by the federal Government. However, their relationship with respect to membership and residency should be determined by the relationship with the Indian communities to which they belong.

30 Still further on, the Minister stated the fundamental purposes of amendments, and explained that, while those purposes may conflict, the fairest balance had been achieved (*House of Commons Debates*, idem, at page 2646):

... I have to reassert what is unshakeable for this Government with respect to the Bill. First, it must include removal of discriminatory provisions in the Indian Act; second, it must include the restoration of status and membership to those who lost status and membership as a result of those discriminatory provisions; and third, it must ensure that the Indian First Nations who wish to do so can control their own membership. Those are the three principles which allow us to find balance and fairness and to proceed confidently in the face of any disappointment which may be expressed by persons or groups who were not able to accomplish 100 per cent of their own particular goals...

[Emphasis added]

This decision was upheld on appeal in *Sawridge v Canada*, 2004 FCA 16, [2004] FCJ no 77.

[12] The legislative balance referred to by Justice Hugessen is also reflected in the 2010

Legislative Summary of Bill C-3 titled the *Gender Equity in Indian Registration Act*, SC 2010, c 18.

There the intent of Bill C-31 is described as follows:

Bill C-31 severed status and band membership for the first time and authorized bands to control their own membership and enact their own membership codes (section 10). For those not exercising that option, the Department of Indian Affairs would maintain "Band Lists" (section 11). Under the legislation's complex scheme some registrants were granted automatic band membership, while others obtained only conditional membership. The former group included women who had lost status by marrying out and were reinstated under paragraph 6(1)(c). The latter group included their children, who acquired status under subsection 6(2).

[Emphasis added]

[13] While Mary Stoney would have an acquired right to Sawridge membership had she been alive when Bill C-31 was enacted, the same right did not accrue to her children. Simply put neither Ms. Huzar or Ms. Kolosky qualified under section 11 of Bill C-31 for automatic band membership. Their only option was to apply for membership in accordance with the membership rules promulgated by Sawridge.

[14] This second generation cut-off rule has continued to attract criticism as is reflected in the Legislative Summary at p 13, para 34:

34. The divisiveness has been exacerbated by the Act's provisions related to band membership, under which not all new or reinstated registrants have been entitled to automatic membership. As previously mentioned, under provisions in Bill C-31, women who had "married out" and were reinstated did automatically become band members, but their children registered under subsection 6(2) have been eligible for conditional membership only. In light of the high volume of new or returning "Bill C-31 Indians" and the scarcity of reserve land, automatic membership did not necessarily translate into a right to reside on-reserve, creating another source of internal conflict.

Notwithstanding the above-noted criticism, the legislation is clear in its intent and does not support a claim by Ms. Huzar and Ms. Kolosky to automatic band membership.

[15] I also cannot identify anything in Bill C-31 that would extend an automatic right of membership in the Sawridge First Nation to William Stoney. He lost his right to membership when his father sought and obtained enfranchisement for the family. The legislative amendments in Bill C-31 do not apply to that situation.

[16] Even if I am wrong in my interpretation of these legislative provisions, this application cannot be sustained at least in terms of the Applicants' claims to automatic band membership. All of the Applicants in this proceeding, among others, were named as Plaintiffs in an action filed in this Court on May 6, 1998 seeking mandatory relief requiring that their names be added to the Sawridge membership list. That action was struck out by the Federal Court of Appeal in a decision issued on June 13, 2000 for the following reasons:

[4] It was conceded by counsel for the respondents that, without the proposed amending paragraphs, the unamended statement of claim discloses no reasonable cause of action in so far as it asserts or assumes that the respondents are entitled to Band membership without the consent of the Band.

[5] It is clear that, until the Band's membership rules are found to be invalid, they govern membership of the Band and that the respondents have, at best, a right to apply to the Band for membership. Accordingly, the statement of claim against the appellants, Walter Patrick Twinn, as Chief of the Sawridge Indian Band, and the Sawridge Indian Band, will be struck as disclosing no reasonable cause of action.

See *Huzar v Canada*, [2000] FCJ no 873, 258 NR 246.

[17] It is not open to a party to relitigate the same issue that was conclusively determined in an earlier proceeding. The attempt by these Applicants to reargue the question of their automatic right of membership in Sawridge is barred by the principle of issue estoppel: see *Danyluk v Ainsworth Technologies Inc.*, 2001 SCC 44, [2001] 2 SCR 460.

[18] The Applicants are, nevertheless, fully entitled to challenge the lawfulness of the appeal decision rejecting their membership applications.

[19] The Applicants did not challenge the reasonableness of the appeal decision but only the fairness of the process that was followed. Their argument is one of institutional bias and it is set out with considerable brevity at para 35 of the Huzar and Kolosky Memorandum of Fact and Law:

35. It is submitted that the total membership of Sawridge First Nation is small being in the range of 50 members. Only three applicants have been admitted to membership since 1985 and these three are (were) the sisters of deceased Chief, Walter Twinn. The Appeal Committee consisted of 21 of the members of Sawridge and three of these 21 were the Chief, Roland Twinn and Councillors, Justin Twinn and Winona Twin, who made the original decision appealed from.

[20] In the absence of any other relevant evidence, no inference can be drawn from the limited number of new memberships that have been granted by Sawridge since 1985. While the apparent involvement of the Chief and two members of the Band Council in the work of the Appeal Committee might give rise to an appearance of bias, there is no evidence in the record that would permit the Court to make a finding one way or the other or to ascertain whether this issue was waived by the Applicants' failure to raise a concern at the time.

[21] Indeed, it is surprising that this issue was not fully briefed by the Applicants in their affidavits or in their written and oral arguments. It is of equal concern that no cross-examinations were carried out to provide an evidentiary foundation for this allegation of institutional bias. The issue of institutional bias in the context of small First Nations with numerous family connections is nuanced and the issue cannot be resolved on the record before me: see *Sweetgrass First Nation v Favel*, 2007 FC 271 at para 19, [2007] FCJ no 347, and *Lavalee v Louison*, [1999] FCJ no 1350 at paras 34-35, 91 ACWS (3d) 337.

[22] The same concern arises in connection with the allegation of a section 15 Charter breach. There is nothing in the evidence to support such a finding and it was not advanced in any serious way in the written or oral submissions. The record is completely inadequate to support such a claim to relief. There is also nothing in the record to establish that the Crown was provided with any notice of what constitutes a constitutional challenge to the *Indian Act*. Accordingly, this claim to relief cannot be sustained.

[23] For the foregoing reasons these applications are dismissed with costs payable to the Respondent.

JUDGMENT

THIS COURT'S JUDGMENT is that these applications are dismissed with costs payable
to the Respondent.

"R.L. Barnes"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-923-12
T-922-12

STYLE OF CAUSE: STONEY v SAWRIDGE FIRST NATION
and
HUZAR ET AL v SAWRIDGE FIRST NATION

PLACE OF HEARING: Edmonton, Alberta

DATE OF HEARING: March 5, 2013

REASONS FOR JUDGMENT: BARNES J.

DATED: May 15, 2013

APPEARANCES:

Priscilla Kennedy

FOR THE APPLICANTS

Edward H. Molstad

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Davis LLP
Edmonton, Alberta

FOR THE APPLICANTS

Parlee McLaws LLP
Edmonton, Alberta

FOR THE RESPONDENT

EXHIBIT "4"



Courts Administration Service
Service administratif des
tribunaux judiciaires

Facsimile Transmittal Form / Formulaire d'acheminement par télécopieur**TO / DESTINATAIRE(S) :**

1. Name / Nom : Ellery Jamison
Facsimile / Télécopieur : 1-780-423-2870
2. Name / Nom: Priscilla Kennedy
Facsimile / Télécopieur : 1-780-702-4383

FROM / EXPÉDITEUR : Heather Michaud	DATE : October 22, 2014
Telephone / Téléphone : 416-954-2528	TIME / HEURE : 2:44 PM
Facsimile / Télécopieur : 416-973-2154	Total number of pages (including this page) / Nombre de pages (incluant cette page) : 7

SUBJECT / OBJET :

T-922-12 and T-923-12 – Certificates of Assessment (1 for each file). Originals will be sent via registered mail to the attention of Ellery Jamison at Parlee McLaws LLP

This is Exhibit "4" referred to in the
Affidavit of

Roland Twinn

Sworn before me this 21 day
of September A.D., 2016

A Notary Public, A Commissioner for Oaths
in and for the Province of Alberta

MICHAEL R. MCKINNEY Q.C.
BARRISTER & SOLICITOR

N.B.: If you do not receive all pages being transmitted, please call the sender at the above telephone number. / Si vous ne recevez pas toutes les pages transmises, prière de communiquer avec l'expéditeur au numéro de téléphone ci-haut.

Federal Court



Cour fédérale

Date: 20141022

Docket: T-923-12

BETWEEN:

MAURICE FELIX STONEY

Applicant

and

SAWRIDGE FIRST NATION

Respondent

CERTIFICATE OF ASSESSMENT

UPON the Reasons for Judgment and Judgment delivered by the Court on May 15, 2013,
dismissing the Application for Judicial Review with costs payable to the Respondent;

AND UPON the filing of the Bill of Costs;

AND UPON the Directions issued and served upon the parties on July 29, 2014,
informing the parties that the assessment of costs would proceed in writing and of the deadline to
file representations;

AND UPON CONSIDERING the Affidavit of Disbursements of C. Candice
Cherkowski sworn June 13, 2014;

AND UPON CONSIDERING that, no other representations were received by the Registry of the Court, nor were any request to extend the time to file submissions;

AND UPON CONSIDERING the decision in *Dahl v Canada*, 2007 FC 192, in which it is stated at paragraph 2:

Effectively, the absence of any relevant representations by the Plaintiff, which could assist me in identifying issues and making a decision, leaves the bill of costs unopposed. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by an assessment officer stepping away from a position of neutrality to act as the litigant's advocate in challenging given items in a bill of costs. However, the assessment officer cannot certify unlawful items, i.e. those outside the authority of the judgment and the Tariff.

AND UPON HAVING CONSIDERED the above referenced comments and the lack of challenge by the opposing party, I have reviewed the file and the materials submitted to ensure that the assessable services are claimed within the authority of the Tariff B of the *Federal Courts Rules*;

AND UPON HAVING CONCLUDED that the assessable services claimed under Tariff B of the *Federal Courts Rules* are reasonable;

AND UPON HAVING CONCLUDED that the disbursements claimed were all necessary charges for the conduct of this matter and that the amounts claimed are reasonable and necessary;

Page: 3

I HEREBY CERTIFY that the Bill of Costs presented by the Respondent is assessed
and allowed at \$2,995.65.

"Johanne Parent"
Assessment Officer

CERTIFIED AT TORONTO, ONTARIO, this 22nd day of October, 2014.

I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the _____

day of OCT 22 2014 A.D. 20____

Dated this _____ day of OCT 22 2014 20____

HEATHER MICHAUD
REGISTRY OFFICER
AGENT DU GREFFE

Doris McKenna

From: Doris M. McKenna
Sent: Thursday, October 23, 2014 8:48 AM
To: 'pkennedy@davis.ca'
Subject: Aline Elizabeth (McGillivray) Huzar and June Martha (McGillivray) Kolosky v. Sawridge First Nation; Action Number: T-922-12; Maurice Felix Stoney v. Sawridge First Nation; Action Number: T-923-12; (Our File: 64203-8/EHM)
Attachments: 0064203-000008_5614_20141023_07524683071.PDF

This message is sent on behalf of Ellery Jamison. Please direct any response you may have to Ms. Jamison directly at (780) 423-8536 or ejamison@parlee.com. Thank you.

Please see attached correspondence from Ms. Jamison dated October 22, 2014. Should you have any difficulty with the attachment, please immediately advise.

Doris M. McKenna | Legal Assistant



PARLEE McLAWS LLP

1500 Manulife Place, 10180-101 Street Edmonton, AB T5J 4K1
Direct: 780.423.8500 | Fax: 780.423.2870 | Email: mckendo@parlee.com

LEGAL NOTICE: The information contained in this email (including any attachments) is: (a) confidential, proprietary and subject to copyright, and may be subject to solicitor/client privilege, all such rights being reserved and not waived, and (b) intended only for the use of the named recipient(s). If you have received this communication in error, please notify us immediately by return email or telephone and delete all copies of the original message. If you are not an intended recipient, you are advised that copying, forwarding or other distribution of this email is prohibited. Thank you



PARLEE McLAWS LLP
BARRISTERS & SOLICITORS | PATENT & TRADE-MARK AGENTS

October 22, 2014

ELLERY JAMISON
DIRECT DIAL: (780) 423-8536
DIRECT FAX: (780) 423-2870
EMAIL: ejamison@parlee.com
OUR FILE #: 64203-8/EHM

SENT VIA EMAIL: pkennedy@davis.ca

Davis LLP
1201 Scotia Tower 2, Scotia Place
10060 - Jasper Avenue
Edmonton, AB T5J 4E5

Attention: Ms. Priscilla Kennedy

Dear Madam:

Re: *Aline Elizabeth (McGillivray) Huzar and June Martha (McGillivray) Kolosky v. Sawridge First Nation*
Action Number: T-922-12

Maurice Felix Stoney v. Sawridge First Nation
Action Number: T-923-12

Further to the Assessment Officer's issuance of the Certificate of Costs in respect of the above noted matters, please advise as to when we can expect to receive payment of our Bills of Costs from your client. We note that the Assessment Officer allowed costs at \$2,995.65 for each action.

I look forward to hearing from you at your earliest convenience.

Yours truly,

PARLEE McLAWS LLP



ELLERY JAMISON

ELJ/dmm

Scanning Device

Dev. Name:
Scan Time:
Sender's Account:

01/08/15 15:44:00
POSSKA

Sender

RightFax ID:
Name:
Voice Number:
Fax Number:

POSSKA
Karen E. Poss
780.423.8517

Destination

Fax Number:
Name:
Company:
Voice Number:

7807024383
Fax User

Consist

Type:
Coverpage:
Body Pages:
Billing Code #1:
Billing Code #2:
Unique ID:

Fax
does not have a cover page
8
64203
8
POSS4AEA5FD54DB

Results

Result:
Submitted at:
Completed at:
Remote CSID:
Fax Channel:

Success
01/08/15 15:45:01
01/08/15 15:45:13
6046871612
6

PARLEE McLAWSTM

1600 Vineyard Plaza
Folsom, CA 95630
Tel: 916 423 8500 Fax: 916 423 8517
WWW.PARLEE.COM

Fax

TO:

NAME	COMPANY	FAX NUMBER	YOUR FILE
Paralee McLaws	DocuSign	780 702 4383	

FROM:

NAME	PHONE NUMBER	DATE	YOUR FILE
Cherry Junction	(780) 423-8517	January 8, 2015	64203-8517

If all pages are not received or transmission problems occur, call
Karen at 780-423-8517

RE: Home of all v. Savaridge First Nation (File No. T-422-11) and Shoney v.
Savaridge First Nation (File No. T-422-11)

COMMENTS:

Please see the attached. Original is screen on file.
Thank you.

DISCLAIMER: This document is intended only for the use of the individual or entity to whom it is addressed and contains information that is confidential and exempt from disclosure. If the reader of this document is not the intended recipient or is required to agree separately for releasing the coverage of the content, please do not disseminate, distribute, or copy of this communication to others. If you have received this communication in error, please notify us immediately by telephone and delete the original message from your system.



PARLEE MCLAWS LLP
BARRISTERS & SOLICITORS | PATENT & TRADE-MARK AGENTS

1500 Manulife Place
10180-101 Street
Edmonton, AB T5J 4K1
Tel: 780.423.8500 Fax: 780.423.2870
WWW.PARLEE.COM

Fax

TO:

NAME	COMPANY	FAX NUMBER	YOUR FILE
Priscilla Kennedy	Davis LLP	780 702-4383	

FROM:

NAME	PHONE NUMBER	DATE	OUR FILE
Ellery Jamison	(780) 423-8536	January 8, 2015	64203-8/EHM

If all ⁸ page(s) are not received or transmission problems occur, call
Karen at 780-423-8517

RE: Huzar et al v. Sawridge First Nation (File No. T-922-12) and Stoney v.
Sawridge First Nation (File No. T-923-12)

COMMENTS:

Please see the attached. Original to remain on file.
Thank you.

{E6772520.DOCX; 1} This message is intended only for the use of the individual or entity to which it is addressed and contains information that is privileged, confidential and exempt from disclosure. If the reader of this message is not the intended recipient or an employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail.
Thank you.



PARLEE McLAWS^{LLP}
BARRISTERS & SOLICITORS | PATENT & TRADE-MARK AGENTS

January 8, 2015

ELLERY JAMISON
DIRECT DIAL: (780) 423-8536
DIRECT FAX: (780) 423-2870
EMAIL: cjamison@parlee.com
OUR FILE #: 64203-8/EHM

SENT VIA FACSIMILE

Davis LLP
1201 Scotia Tower 2, Scotia Place
10060 - Jasper Avenue
Edmonton, AB T5J 4E5

Attention: Ms. Priscilla Kennedy

Dear Madam:

Re: *Aline Elizabeth (McGillivray) Huzar and June Martha (McGillivray) Kolosky v. Sawridge First Nation*
Action Number: T-922-12

Maurice Felix Stoney v. Sawridge First Nation
Action Number: T-923-12

Further to our previous correspondence respecting costs payable by your client in respect of the above-noted matter, we note that the costs award given by the Assessment Officer remains outstanding.

We write to demand payment of the costs award in the amount of \$2,995.65 in Action No. T-922-12 and the amount of \$2,995.65 in Action No. T-923-12 within one month of the date of this letter, failing which we will seek instructions from our clients to pursue other judgment enforcement measures against your client. We have enclosed copies of the Assessment Officer's Certificate of Assessment for your reference.

We look forward to hearing from you at your earliest convenience.

Yours truly,

PARLEE McLAWS LLP



ELLERY JAMISON

ELJ/kp
Enclosures



Canadian
human rights
commission

Commission
canadienne des
droits de la personne

Deputy Chief Commissioner
Vice-président

13094

2015

PROTECTED B

Chief Roland Twinn
Chief of Sawridge First Nation
PO Box 326
Slave Lake Alberta T0G 2A0

APR 29 2015

Dear Chief Twinn:

I am writing to inform you of the decision taken by the Canadian Human Rights Commission in the complaint (20140008) of Maurice Stoney against Sawridge First Nation.

Before rendering the decision, the Commission reviewed the report disclosed to you previously and any submission(s) filed in response to the report. After examining this information, the Commission decided, pursuant to paragraph 41(1)(d) of the *Canadian Human Rights Act*, not to deal with the complaint.

The decision of the Commission is attached.

Accordingly, the file on this matter has now been closed.

If you have any questions please do not hesitate to contact Allan Carter, Commission Meeting Unit, at (613) 943-9530 or by email: allan.carter@chrc-ccdp.gc.ca.

.../2

This is Exhibit 5 * referred to in the
Affidavit of

Roland Twinn

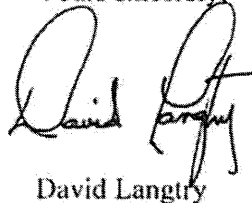
Sworn before me this 21 day
of September A.D. 2016

A Notary Public, A Commissioner for Oaths
in and for the Province of Alberta

MICHAEL R. McKINNEY Q.C.
BARRISTER & SOLICITOR

For your information, either party to a complaint can ask the Federal Court to review a Commission's decision under subsection 18.1(1) of the *Federal Courts Act*. The application to the Court must normally be filed within 30 days of receipt of the Commission's decision. Also, please note that the Court has found that the Commission cannot be a respondent in a judicial review of its own decision. Please refer to Rule 303(1) of the Federal Courts Rules, which indicates that an applicant shall name as a respondent every person directly affected by the order sought in the application, other than the tribunal whose decision is under review. To enquire about the procedures, please contact the Federal Court office in Ottawa at (613) 992-4238 or visit the website at www.fct-cf.gc.ca.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Langtry', with a stylized flourish at the end.

David Langtry

Encl.

c.c.: Mr. Edward H. Molstad, Q.C.



Canadian
human rights
commission

Commission
canadienne des
droits de la personne

Record of Decision under Sections 40/41

PROTECTED

Complaint Information

File Number(s): 20140008
Date of Complaint(s): January 31, 2014
Complainant(s): Maurice Stoney
Respondent(s): Sawridge First Nation

Decision under section 41

The Commission decided, for the reasons identified below, not to deal with the complaint, under paragraph 41(1)(d) of the *Canadian Human Rights Act*.

The Commission further decided that a decision under paragraph 41(1)(e) of the *Canadian Human Rights Act* is therefore unnecessary.

Material considered when decision made

The following documents were reviewed:


- Complaint form dated January 31, 2014
- Section 40/41 report dated January 21, 2015
- Complainant's submission dated February 6, 2015
- Respondent's submission dated March 23, 2015

Reasons for decision

The Commission adopts the following conclusion set out in the Section 40/41 Report:

The complainant has been a party to two different proceedings before the Federal Court with respect to the matters raised in this complaint: an action against the respondent which was struck by the Federal Court of Appeal in 2000 and an application for judicial review which was dismissed in May 2013. The essence of the complaint, i.e., the respondent's denial of the complainant's membership in the band, was central to both proceedings. The complainant clearly raised discrimination in his application for judicial review when he alleged that the decision violated the Charter; however, he did not provide adequate evidence for the Federal Court to overturn the decision of the respondent. The Supreme Court in Figliola held that human rights commissions must respect the finality of decisions made by other administrative decision-makers with concurrent jurisdiction to apply human rights legislation when the issues raised in both processes are the same. In this instance, the other decision-makers are judges of the Federal Court and the Federal Court of Appeal and could have clearly considered the human rights allegations raised. Therefore, it would not be unfair for the Commission to decide not to deal with this complaint.

Signature


Deputy Chief Commissioner

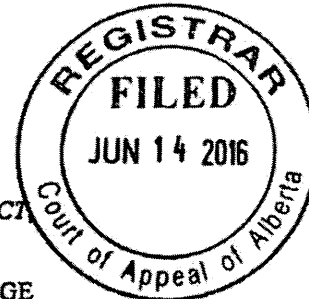
April 15, 2015

Date

I hereby certify this to be a true copy.


For Deputy Registrar
Court of Appeal of Alberta Form 44
[Rule 10.35(1)]

COURT OF APPEAL FILE NUMBER 1603-0033AC
TRIAL COURT FILE NUMBER 1103 14112
JUDICIAL CENTRE EDMONTON



IN THE MATTER OF THE TRUSTEE ACT,
RSA 2000, c T-8, AS AMENDED

IN THE MATTER OF THE SAWRIDGE
BAND INTER VIVOS SETTLEMENT
CREATED BY CHIEF WALTER
PATRICK TWINN, OF THE SAWRIDGE
INDIAN BAND, NO 19 now known as
SAWRIDGE FIRST NATION ON APRIL
15, 1985 (the "1985 Sawridge Trust")

APPLICANT: MAURICE STONEY

STATUS ON APPEAL APPELLANT

RESPONDENTS: ROLAND TWINN, CATHERINE TWINN,
WALTER FELIX TWIN, BERTHA
L'HIRONDELLE, and CLARA MIDBO, as
Trustees for the 1985 Sawridge Trust

STATUS ON APPEAL RESPONDENTS

RESPONDENT: PUBLIC TRUSTEE OF ALBERTA

STATUS ON APPEAL RESPONDENT

INTERESTED PARTY/
RESPONDENT:

THE SAWRIDGE FIRST NATIONS
Sworn before me this 21 day
of September A.D. 2016

STATUS ON APPEAL RESPONDENT

A Notary Public, A Commissioner for Oaths
in and for the Province of Alberta

MICHAEL R. MCKINNEY Q.C.
BARRISTER & SOLICITOR

DOCUMENT

BILL OF COSTS OF THE SAWRIDGE
FIRST NATION

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

PARLEE McLAWS LLP
Barristers & Solicitors
Patent & Trademark Agents

1500, 10180-101 Street NW
Edmonton, AB T5J 4K1
Attention: Edward H. Molstad, Q.C.
Phone: (780) 423-8506
Fax: (780) 423-2870
File No: 64203.7/EHM

BILL OF COSTS OF THE SAWRIDGE FIRST NATION

Fees claimed:

ITEM NO.	ITEM	AMOUNT
22	Appearance on contested application before Appeal Court, including brief	\$750.00
TOTAL		\$750.00

DISBURSEMENTS & OTHER CHARGES:

DISBURSEMENT & OTHER CHARGES SUMMARY	
DISBURSEMENTS, OTHER CHARGES & GST	
Disbursements:	
Other Charges:	
Copies (67 pages x 8 copies x 0.15/page)	\$80.40
Deliveries	\$25.50
	<hr/>
Sub-total:	\$105.90
	<hr/>
GST:	\$5.30
	<hr/>
TOTAL:	\$111.20
	<hr/>

GST:

- (a) Amount claimed on fees (5% GST): \$37.50
- (b) Amount claimed on disbursements: \$ nil
- (c) Amount claimed on other charges: \$ 5.30

TOTAL GST: \$42.80

By making the above claim for an additional amount on account of goods and services tax, the party entitled to the costs award warrants that it is not entitled under the *Excise Tax Act* (Canada) to a refund or rebate of any goods and services tax paid.

Total amount claimed:

Fees: \$750.00
Disbursements: nil
Other Charges: \$105.90

TOTAL GST: \$42.80
TOTAL: \$898.70

**APPROVED AS BEING THE COSTS
AWARDED:**

DLA PYPER (CANADA) LLP

PER: _____

Priscilla Kennedy
Solicitors for the Appellant, Maurice
Stoney

**APPROVED AS BEING THE COSTS
AWARDED:**

PARLEE MCLAWS LLP

for: _____
PER: _____

Edward H. Molstad, Q.C.
Solicitors for the Sawridge First
Nation

I, Robyn Cochran, certify the following amount that is to be paid

By Applicant \$898.70

To Sawridge First Nation.

Dated: June 14, 2016

Name of Assessment officer: Robyn Cochran

Signature: P. Cochran