

**TREATY RESEARCH REPORT
TREATY EIGHT
(1899)**

**by
Dennis F.K. Madill
Treaties and Historical Research Centre
Indian and Northern Affairs Canada
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The opinions expressed by the author in this report are not necessarily those of the Department of Indian and Northern Affairs Canada.

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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.

HISTORICAL BACKGROUND

Introduction

Treaties Nos. 1 to 7 were conducted during the 1870s in the territory between the watershed west of Lake Superior and the Rocky Mountains, in what was then Canada's newly acquired Northwest. They laid the foundation of the Dominion's Indian policy. These agreements reflected the premises and methods of traditional British North American Indian policy, which recognized the title of original inhabitants to their ancestral lands (Royal Proclamation of 1763) and the extinguishment of Indian title prior to impending settlement and development. They also reflected "a consistent body of precedent and tradition which was utilized on new frontiers where fairly rapid settlement or resource exploitation was being promoted."¹

Some precedents were provided as a result of a study of a complicated series of formal treaties and surrenders in the late eighteenth and early nineteenth centuries in what is now southern Ontario. Until 1815, these transactions were merely territorial cessions in return for once-for-all grants. Annuities appeared in a surrender involving the Rice Lake Mississaugas, the Credit River Mississaugas and the Lake Simcoe Chippewas in 1818, after which they became standard, whether in the form of cash or goods.² Much of the groundwork for future treaty-making procedures was established by the Robinson-Superior and Robinson-Huron Treaties of 1850s, often referred to as the "forerunners of the future treaties."³ The principal features, which were incorporated generally into Treaties Nos. 1 to 7, included provision for annuities, Indian reserves, once-for-all expenditures, and freedom for the Indians to hunt and fish on unoccupied Crown lands. Also, a review of the American treaties, which went beyond the usual provisions of annuities and reserves to contain promises of education, agricultural assistance, and hunting and fishing supplies, established valuable precedents and were reflected in Treaties Nos. 1 and 2. Finally, the negotiation of the first Prairie treaties in 1871 provided the precedent and experience from which all subsequent "numbered" treaties were administered, although the timing of each presented difficult decisions.⁴

The first of the northern treaties, Treaty No. 8, presented the most difficult decisions in timing and terms. In 1876, the federal government signed Treaty Six with the Indians of what is now central Alberta and Saskatchewan. North of this area the Northwest Territories and the northern half of both provinces formed what was called "unceded portions of the Territories."⁵ Since the 1870s there had been pleas from missionaries, fur traders and Indians for a treaty in the Athabasca-Mackenzie region, but the federal government disclaimed any responsibility for these Indians, despite the hardships they suffered, and remained committed to a policy of not proceeding with northern treaties until the land was required for settlement.⁶ Only at the turn of the century, when mineral discoveries provided the catalyst, were treaties made to the north of the areas surrendered during the 1870s.⁷ Further detailed discussion is necessary to place in perspective the federal government's decision to negotiate the first of the northern treaties.

Government Involvement in Athabasca-peace River Area, 1870-1897

The federal government was largely unaware of the extent of the hardships suffered by Indians north of Treaty Six until after the Hudson's Bay Company surrendered its charter to Rupert's Land in 1870 and the Dominion assumed responsibility for the Northwest Territories and its native people. During the fur trade period, the Crees and Athapaskans were able to establish an early relationship or compact with the trading company, in which each made certain demands of the other.⁸ The Hudson's Bay Company provided social services in the field of health and social welfare and its dealing with the Indians of the Athabasca-Peace River area were generally marked by a sense of trusteeship and strict integrity. But, after the charter surrender in 1870, the Indians could no longer depend on the Company for social services and the Indian Affairs Department and the prime minister were petitioned by the Company and the missionaries to provide relief. The federal government felt no obligation toward those who had not signed a formal agreement, nor did it wish to negotiate treaty with Indians whose land was not required for settlement or which was of little apparent value.⁹ Lawrence Vankoughnet, deputy superintendent general of Indian Affairs, argued that

the government was not responsible for providing relief, as their land was "situated some fifty miles north of the boundaries of Treaty No. 6, and is, therefore, outside of Treaty limits."¹⁰ Nevertheless, in 1883, the petitions prompted Vanhoughnet to suggest to Prime Minister John A. Macdonald the advantages of negotiating treaty with the Athabasca-Mackenzie District Indians:

The undersigned was informed from several quarters while in the Northwest that very much uneasiness exists among the Indians in the unceded part of the Territories at parties making explorations into their country in connections with railroads, etc., without any Treaty being made with them; and it was reported to him by persons well acquainted with these Indians that they are most anxious to enter into Treaty relations with the Government and that it is in the interest of humanity very desirable that the Government should render them assistance, as their condition at many points is very wretched. The Indians in the unceded portions of the Territories are not numerous; but at the same time they could of course do great injury to any railway or any public work which might be constructed in their country, unless the Government had a previous understanding with them relative to the same.¹¹

Macdonald, however, adhered strongly to the government policy "that the making of a treaty may be postponed for some years, or until there is a likelihood of the country being requested for settlement purposes."¹²

Reports of hardships in prominent newspapers and continued appeals from the Hudson's Bay Company and missionaries for provisions during the difficult years of 1887 and 1888 finally resulted in government action. During the winter of 1887-88, there were indications that Indians in the Fort St. John area were killing their horses for food. Furthermore, the *Calgary Tribune* reported that rendering assistance to the northern Indians was good policy and would have the timely effect of producing "a good feeling" when a treaty was ultimately made.¹³ In 1881, the federal government apportioned \$7,000 to the Hudson's Bay Company for relief for destitute Indians in all of the "unorganized territory" and, a year later, Parliament voted an annual grant of \$500 to the Roman Catholic bishop of the Mackenzie for the distribution of twine and fish hooks.¹⁴

Despite accounts of widespread hardship, the Indian Affairs Department remained unconvinced of the need for a treaty. The Indians of the Athabasca, Mackenzie and Peace Rivers realized that they were at a disadvantage compared to treaty Indians, at least in terms of government assistance. Consequently, Kinoyayoo, chief of the Lesser Slave Lake Band, stated that the natives of the Lesser Slave Lake area had held a meeting on 1 January 1890 to consider the benefits of treaty and that while "a very few of those present were against the treaty . . . a very large majority were in favour of it."¹⁵ It was indicated also that the Indians of the Upper Peace River favoured treaty. The federal government, however, maintained its hard line on treaties in the north and argued that the surrender of the Hudson's Bay Company charter in 1870 did not relieve the Company of its responsibility to provide social services to the Indians and, in addition, settlement had not occurred since the surrender. Hence, it became increasingly evident that Indian suffering would not be the basis for a treaty. Even when Treaty Eight was finally signed, the Isle à la Crosse area, from which there were reports of hardship and requests for a treaty, was not included. The Indians of this area were not involved in treaty negotiations until 1906, when Treaty Ten was signed.¹⁶

Reports in the late 1880s – from Department of the Interior field personnel, the Geological Department, and from the Report of the Senate Select Committee of the Great Mackenzie Basin – that large quantities of mineral wealth had been discovered in the north provided the catalyst for treaty talks. By 1891, serious plans were being made for signing a treaty with the Indians in the summer of 1892. The Privy Council Report of 1891 clearly indicated that the government's intention was to extinguish the Indian title prior to the development of mineral resources, the construction of railways and the preparation for settlement:

On a report dated 7th of January, 1891, from the Superintendent General of Indian Affairs, stating that the discovery in the District of Athabasca and in the Mackenzie River Country, that immense quantities of petroleum exist within certain areas of these regions, as well as the belief that other minerals and substances of economic value, such as Sulfur, on the south coast of Great Slave Lake, and Salt, on the Mackenzie and Slave Rivers, are to be found therein, the development of which may add materially to

the public wealth, and the further consideration that several railway projects, in connection with this portion of the Dominion, may be given effect to at no such remote date as might be supposed, appear to render it advisable that a treaty or treaties should be made with the Indians who claim those regions as their hunting grounds, with a view to the extinguishment of the Indians title in such portions of the same, as it may be considered in the interest of the public to open up for settlement. The Minister, after fully considering the matter, recommends that negotiations for a treaty be opened up during the ensuing season with the Indians interested in those portions of the Mackenzie River Country, and in the District of Athabaska, including the Peace River Country, as well as in that portion of country which lies south of the District of Athabaska, and north and west of the Northern boundary of Treaty No. 6...¹⁷

The boundaries of this proposed treaty varied from those of Treaty Eight in that they excluded northeastern B.C. but included large areas of the present Northwest Territories and province of Saskatchewan. For no apparent reason, however, the treaty was not discussed again until 1897. Available records do not reveal why treaty plans remained inactive, but Father René Fumoleau, O.M.I., suggests that the delay was due to the political instability that followed Macdonald's death in 1891 and the fact that politicians were disappointed with the results of oil exploration and exploitation in the north.¹⁸

The Role of the North West Mounted Police

Transportation advances were rapidly opening up the "unceded territory" to frontiersmen such as white trappers, settlers and prospectors, but it was discovery of gold in the Klondike in 1896 that precipitated the resumption of treaty proposals. In 1896 and 1897, the North West Mounted Police, who had stationed twenty men in the Yukon in 1894 to maintain law and order and to assist the federal government in establishing and asserting sovereignty over an area that was being overrun by mostly American miners, sent men overland to the Yukon from Edmonton to report on the practicality of such an overland route. This was the first attempt to reach the Yukon through the Peace River region. Inspector J.D. Moodie, who was entrusted with the task of blazing an overland trail from Fort St. John via Fort Grahame to the Klondike,

reported that the Beaver and Sekani Indians of this area were "a miserable lot, half-starved most of the winter, and utterly unreliable."¹⁹ He added that the influx of miners would worsen their difficulties of hunting and trapping:

There is no doubt that the influx of whites will materially increase the difficulties of hunting by the Indians, and these people, who, even before the rush, were often starving from their inability to produce game, will in future be in a much worse condition; and unless some assistance is given to them by the Indian Department, they are very likely to take what they consider a just revenge on the white men who have come, contrary to their wishes, and scattered themselves over the country. When told that if they started fighting as they threatened, it could only end in their extermination, the reply was "we may as well die by the white men's bullets as of starvation."²⁰

Until 1897, the North West Mounted Police had restricted their role in the District of Athabasca to maintaining outposts at three locations on the Athabasca River to control the liquor trade into the region. Also, they became increasingly aware of the Indian's bitterness over the illegal use of poison traps by white and half-breed trappers. Hence, with the rush of prospectors into the Klondike, L.W. Herchmer, commissioner of the North West Mounted Police, decided in January 1897 to establish annual winter patrols to parts of the Peace River region, the Lake Athabasca District, and as far north as Fort Resolution on Great Slave Lake. While visiting the various trading posts en route, the inspectors of the Mounted Police were requested to enforce the prohibition of poison traps and to investigate the problems of destructive forest fires and the liquor trade. Furthermore, they were to report generally on the condition of affairs and gather information that would be useful to the federal government in future dealings with the areas inhabitants.²¹ The reports of the Mounted Police are an invaluable source for evaluating conditions influencing Treaty Eight negotiations and document the Indian way of life, particularly the miners' intrusion on Indian hunting grounds and its negative effects.

Several inspectors of the Mounted Police reported on the hardships experienced by various Indian bands, and their reports echo miseries recorded twenty years earlier by

missionaries, prominent newspapers and the Hudson's Bay Company. For example, Inspector A.M. Jarvis stated that there were many Crees and Chipewyan residing near Fort Chipewyan who were suffering from hunger because of a small supply of furs.²² Similarly, Inspector W.R. Routledge indicated that during his stay at Fort Resolution a party of starving Indians from Fond du Lac had travelled 150 miles on a sparse diet of fish to make known the condition of their people.²³

Preparations for Treaty

The North West Mounted Police, who had witnessed the negative effects of the Klondikers on the Indian way of life and recognized the possibility of settlement and development in the Athabasca-Peace River Districts, foresaw the need for a treaty. The Indian Affairs Department first realized the significance of negotiating treaty with the natives occupying the overland route in November 1897 as a result of a report by Major James Walker, formerly of the North West Mounted Police. These Indians were not involved in the previous "numbered" treaties of the 1870s and now, unless some accommodation was reached with them to secure their rights, violence might occur. Only twelve years earlier, the Northwest Rebellion of 1885 had reflected the Dominion government's failure to realize the extent of Métis unrest. Hence Major Walker pointed out to Clifford Sifton, Minister of the Interior in the Wilfrid Laurier administration, that treating with the northern Indians was simply good policy:

From all appearance there will be a rush of miners and others to the Yukon and the mineral regions of the Peace, Liard and others rivers in Athabasca during the next year...others intend to establish stopping places, trading posts, transportation companies and to take up ranches and homesteads in fertile lands of the Peace River... They (the Indians) will be more easily dealt with now than they would be when their country is overrun with prospectors and valuable mines be discovered.²⁴

A month later, a similar report was received from L.W. Herchmer, who advised the federal government that a treaty should be made with those Indians who might resist the Klondikers:

I have the honour to draw your attention to the advisability of the Government taking some immediate steps toward arranging with the Indians not under Treaty, occupying the proposed line of route from Edmonton to Pelly River. These Indians although few in number, are said to be very turbulent, and are liable to give very serious trouble when isolated parties of miners and travellers interfere with what they consider their vested rights.

At the present time the Half-breeds of Lesser Slave Lake are dissatisfied with the presence of the Police in that District, and the numerous parties of Americans and others between that point and Peace River will not improve the situation. The Beaver Indians of Peace River and the Nelson are said to be inclined to be troublesome at all times, and so also are the Sicanies and Nahamies and the Half-breeds are sure to influence them.²⁵

Both these letters were forwarded to Sifton with the request that he should "report fully in the matter in time to admit of provision being made at the next session of Parliament for the expense of making a treaty should the same be decided upon."²⁶

A.E. Forget, Indian commissioner of the Northwest Territories, also received copies and commented:

I am convinced that the time has now come when the Indian and Half-Breed title to at least a portion of the territory to the north of that ceded to the Crown under Treaty No. 6, should be acquired, i.e., those tracts which are already partially occupied by Whites as miners or traders, and over which the Government has for some years exercised some measure of authority.

I am aware for some time past, the extension of Governmental authority into the Lesser Slave Lake and Upper Peace River Districts in advance of the acquisition of title to the territory has been regarded more or less jealously by the Native population therein, more particularly by the large halfbreed population of the Lesser Slave Lake District.²⁷

Departmental officials, acting upon the recommendations of Major Walker and L.W. Herchmer, indicated at this point the need for a treaty to help resolve some of the problems brought about by the Klondike gold rush. On 18 June 1898, Sifton suggested the desirability of a treaty, and cabinet approval was granted by Privy Council order of 27 June 1898 (No. 1703).

There was a strong sense of urgency on the part of government authorities to negotiate treaty as soon as possible. In June 1898, 500 Indians impressed upon the federal government the urgent need for treaty when they refused to allow police and miners to enter the Fort St. John area until a treaty was signed. They protested that some of their horses were taken by miners and that the influx of so many men would drive away fur-bearing animals. The necessary arrangements to have the treaty signed during the summer of 1898 could not be completed in time, and Forget declared on 28 June 1898 that "no time should be lost in notifying the Indians of the intention of the Government to treat with them next Spring."²⁸ J.A.J. McKenna, private secretary to the superintendent general of Indian Affairs, responded that Sifton was "quite convinced that it will be necessary to take immediate steps to assure the Indians that the Government has no intention of ignoring their rights and has already arranged for the making of a treaty next summer."²⁹ Treaty preparations, however, would have to move quickly, before the northern Indians could be influenced by their southern brothers in the Treaty Six area, particularly concerning the difference between written and oral promises:

... the Wood Crees and Halfbreeds about Lesser Slave Lake who are closely connected with some of the Edmonton Indians may be found imbued with an intention to demand all those things the Crees from the South always claim they were promised, and blame the Government for not embodying in the written treaty, asserting that they were amongst the terms. These were, in the main: Full rations for all time: White men to work for them – making farms, building houses, etc.; all sorts of stock and implements; in short, sustenance without exertion on their part. And if such an intention grows before you treat, you may meet with much unreasonableness...³⁰

In the final analysis, protection and welfare were not important considerations in the government's decision to negotiate treaty. Charles Mair, a member of the Treaty Eight Half-breed Commission, commented on the government's rationale to make treaty:

[T]he gold seekers plunged into the wilderness of Athabasca without hesitation, and without as much as 'by your leave' to the native. Some of these marauders, as was to be expected, exhibited on the way a congenital contempt for the Indians' rights. At various places his horses were killed, his dogs were shot, his bear-traps broken up. An outcry arose in consequence, which inevitably would

have led to reprisals and bloodshed had not the Government stepped in and forestalled further trouble by a prompt recognition of the natives' title.³¹

The official statement of the deputy minister of Indian Affairs, which gave a detailed explanation of why the treaty was required, also referred to the effects of the gold rush and added that it was important to gain the confidence of the Indians at the outset and to lay the foundation for permanent, friendly and profitable relationship between the races. Also, although extensive settlement was not imminent, some squatters had migrated into the Peace River district.³²

Notes

1. See Indian Claims Commission, *Indian Claims in Canada: An Introductory Essay and Selected List of Library Holdings* (Ottawa, 1975), p. 8.
2. See Robert J. Surtees, "Indian Land Surrenders in Ontario, 1763-1867" (Ottawa: INAC, 1983).
3. Alexander Morris, *The Treaties of Canada with the Indians* (Toronto, 1880; reprinted Toronto: Coles Canadiana, 1971), p. 16. Hereafter Morris, *Treaties*.
4. R. Daniel, "Treaties of the Northwest, 1871-1930" in "A History of Native Claims Processes in Canada, 1867-1979" (Ottawa: INAC, 1980), p. 9.
5. PAC, RG10, file 241, 209-1, Vankoughnet to John A. Macdonald, 5 November 1883.
6. Daniel, "Treaties of the Northwest, 1871-1930," p. 10.
7. See René Fumoleau, *As Long As this Land Shall Last: A History of Treaty 8 and Treaty 11, 1870-1939* (Toronto, 1975).
8. See J.E. Foster, "Indian-White Relations in the Prairie West during the Fur Trade Period - A Compact?" in *The Spirit of the Alberta Indian Treaties*, edited by Richard Price (Montreal, 1979).
9. Fumoleau, *As Long As This Land Shall Last*, p. 31.
10. PAC, RG 10, Vol. 4006, file 241, 209-1, Vankoughnet to John A. Macdonald, 5 November 1883.
11. *Ibid.*
12. *Ibid.*, Dewdney to Superintendent General of Indian Affairs, 25 April 1884; Macdonald's note is dated 27 May 1884.
13. PAC, RG 10, Vol. 3708, file 19502-1, *Calgary Tribune*, 5 February 1887.
14. Morris Zaslow, *The Opening of the Canadian North, 1870-1914* (Toronto, 1971), p. 74.
15. PAC, RG 10, Vol. 3708, file 19502-1.

16. PAC, RG 10, Vol. 4006, file 241,209-1; see also William R. Morrison, "Treaty Research Report: Treaty Ten" (Ottawa: INAC, 1985).
17. PAC, RG 10, Vol. 3848, file 75236-1, Canada Privy Council, O.C. 52, 26 January 1891.
18. Fumoleau, *As Long As This Land Shall Last*, p. 43.
19. Canada, Parliament, *Sessional Papers*, No. 15, Annual Report of the North West Mounted Police for 1899, report of J.D. Moodie, 14 January 1899, pt. 2, p. 10.
20. *Ibid.*
21. *Ibid.*, Appendix L, Annual Report of the North West Mounted Police for 1898, Commissioner L.W. Herchmer to Inspector A.M. Jarvis, 21 December 1896, p. 156.
22. *Ibid.*, Report of Inspector A.M. Jarvis, 24 April 1897, p. 161.
23. *Ibid.*, Annual Report of the North West Mounted Police for 1899, Report of Inspector W.M. Routledge, p. 12.
24. PAC, RG10, vol. 3848, file 75,236-1, Walker to Deputy Superintendent General, 30 November 1897.
25. *Ibid.*, L.W. Herchmer to the Comptroller, NWMP, 2 December 1897.
26. *Ibid.*, J.D. McLean to A.E. Forget, 18 December 1897.
27. *Ibid.*, Forget to Secretary of Department of Indian Affairs, 12 January 1898.
28. *Ibid.*, Forget to J.A.J. McKenna, Department of Indian Affairs, 28 June 1898.
29. *Ibid.*, McKenna to Forget, 6 July 1898.
30. *Ibid.*, Macrae to McKenna, 3 December 1898.
31. Charles Mair, *Through the Mackenzie Basin: A Narrative of the Athabasca and Peace River Expedition of 1899* (Toronto, 1908), pp. 23-24.
32. Canada, Parliament, *Sessional Papers*, 1900, No. 14, pp. xviii-xix.

TERMS AND CONDITIONS

Prelude to Treaty Negotiations

The decision to negotiate treaty in the spring and summer of 1899 was inconvenient and untimely for Clifford Sifton. In 1896, Wilfrid Laurier's Liberal government had assumed the reins of power and Sifton, as minister of the Interior and superintendent general of Indian Affairs, was involved in an extensive reorganization of the Indian Affairs Department. Indian Affairs had been placed in a position inferior to the Interior Department and had been staffed by new men who had neither direct experience nor sympathy with Indians.¹ Moreover, Sifton had just returned from an inspection of the Alaska-Yukon border problems and was preoccupied with the tension between Canada and the United States in that region.² Problems with the northern Indians were somewhat inconvenient at a time when the N.W.M.P. were dealing with the Yukon crisis. Finally, there were several problems regarding the framing and implementation of the terms and conditions of Treaty Eight.

The postponements of the treaty negotiations for a year to permit the necessary arrangements, including the distribution of public notices, was well advised. There were many outstanding issues still under active debate in the department regarding treaty implementation and negotiation. The position of the half-breeds concerning their inclusion in the negotiations was undetermined; the boundaries of the proposed treaty area had not been clearly defined; the treaty terms and conditions themselves had not been completely developed; and the position of the province of British Columbia regarding the application of the treaty terms and conditions was unclear.

Position of Halfbreeds

A summary of the procedures adopted for dealing with extinguishment of Métis land claims in Manitoba and the North-West Territories is required in order to appreciate the nature of the terms offered to the Métis in the Treaty Eight area. Between 1870 and

1890, the extinguishment of Métis land claims in Manitoba and the North-West Territories was settled by various statutes, orders-in-council, commissions and treaties. Under section 31 of the Manitoba Act (1870), for example, 1.4 million acres of land was to be granted to children of half-breed families. Moreover, by order-in-council of 25 April 1871 it was provided that every half-breed resident in Manitoba on 15 July 1870, the date of transfer of Rupert's Land to the Dominion of Canada, and every child of such resident would be entitled to participate in the half-breed land grant (amended in 1873 and provided that only the children of half-breed heads of families were entitled). Although the Manitoba Act established a policy for the settlement of Métis claims, its implementation was erratic. A census was undertaken to determine the per capita division of the total allocation and on this basis it was calculated that each child was entitled to 190 acres. The allotment of lands proceeded slowly until 1875 when provision was made to appoint commissioners (J.M. Macher and Matthew Ryan) to examine individual Métis claims. A year later, children's grants were increased to 240 acres on the basis of the number of claimants established by the commission and other validated claims.

Indian treaties also permitted limited scope for the settlement of half-breed claims in Manitoba and the North-West. When Treaty One was signed in 1871 at Stone Fort (Manitoba), for instance, Commissioner Wemyss Simpson found that several Métis resided in Indian communities and consequently he decided to offer them the choice of taking treaty or scrip under the Manitoba Act. Also, a separate adhesion to Treaty Three (North-West Angle Treaty) was signed by the Métis of Rainy River in 1875. In the latter case, since the system of half-breed grants was not extended outside Manitoba (i.e., not until 1885, when a commission was established in the North-West Territories), recognition of half-breed claims in Treaty required that they be permitted to be included in treaty.

In 1885, the Métis rebellion precipitated the establishment of the North-West Half-Breed Commission (Street Commission) to conduct the preliminary phases of the process of settlement of half-breed claims in the North-West Territories. The commission was set

up to enumerate the half-breeds of the North-West Territories born before 15 July 1870. Half-breed children were entitled to a scrip worth \$240 or a land scrip of 240 acres while the heads of half-breed families were entitled to scrip for \$160 or 160 acres. When an adhesion to Treaty Six was taken in 1889 at Montreal Lake, a precedent was established when a Scrip Commission accompanied the Treaty Commission to settle Métis land claims. Similarly, in extinguishing Métis claims in the Treaty Eight area, the federal government adopted the same procedure followed at Montreal Lake ten years earlier.

During the 1890s, several half-breeds had settled in the Athabasca-Mackenzie District, particularly in the Lesser Slave Lake area, and there was the problem of deciding how to treat them. North West Mounted Police Commissioner L.W. Herchmer stated on 2 December 1897 that "the Half-breeds of Lesser Slave Lake are dissatisfied with the presence of the Police in that District" and added that they could influence the Indians during treaty negotiations."³ Also, Forget related to McKenna the concerns of Bishop Grouard of Athabasca on dealing with the half-breeds simultaneously with the Indians, as "he fears that the influence which the Half-breeds might exercise over the Indians might be detrimental to our treating with the latter."⁴

In June 1898, Sifton recommended to cabinet that the commission should be empowered to deal with the Métis as well as the Indians "in the relinquishment of [their] aboriginal title."⁵ He revealed also that it was impossible to instruct the commissioners to "draw a hard and fast line" between the Métis and the Indians, as some of them were closely allied in manner and customs to the latter. Hence, considerable latitude would be given to allow Métis who so desired to be treated as Indians and taken into treaty, which "would be more conducive to their own welfare, and more in the public interest... than to give them scrip."⁶ During the negotiations of Treaties One to Six, the federal government had permitted some Métis to join treaty; therefore, Sifton was not altering departmental policy in allowing Métis of the Athabasca District to do likewise. The terms offered to Métis would not be more liberal than those accorded the half-breeds of Manitoba and the Northwest Territories.⁷

Treaty 8 Boundaries

In determining the Treaty Eight boundaries, several factors had to be considered: the areas likely to be traversed by miners or settlers; the areas which could be reached in one summer; the reduction of expenses; and obligations of the government. On 12 January 1898, Indian Commissioner Forget outlined an area where there was "considerable activity in mining matters."⁸ It covered the valleys of Athabasca and Peace Rivers north of the Treaty Six area and the valleys of the Nelson, upper Peace and upper Liard Rivers in B.C. He emphasized that the Dominion government should not negotiate treaty with the natives beyond these points. The Great Slave Lake District and the Mackenzie Basin were excluded, as those areas were only affected marginally by the gold rush and were rarely visited by settlers.⁹

The treaty boundary question was discussed again in early 1899 by David Laird, Indian commissioner for Manitoba and the Northwest Territories, and Clifford Sifton. Laird indicated in a memorandum certain practical considerations for determining the treaty boundaries:

The Treaty Commissioners would not have time to go north beyond Fort Smith. It may perhaps be possible to drop [the treaty boundary] down the Great Slave River as far as Fort Resolution. If this could be done, the whole territory to the Southern Shore of Great Slave might be included in the surrender... I, however, do not deem it advisable to attempt going to Fort Resolution this year unless the Government, on account of applications for permits to mining prospectors, consider(s) highly important that the surrendered territory should extend to Great Slave Lake.¹⁰

Sifton agreed with Laird's assessment of the treaty boundaries and on 12 May 1899 stated that "in view of the reported mining development in the Great Slave Lake region, it is important that a treaty should be extended to embrace that country if at all possible."¹¹ Hence, "the territory watered by the Lesser Slave Lake, the Peace and Athabasca Rivers, the Athabasca Lake, the South of Great Slave Lake and their tributaries" was to be included in the treaty.¹² These were the areas traversed by settlers and miners and the treaty commissioners did not deem it necessary to extend

the boundaries.

There was much discussion regarding the inclusion of the northeastern section of B.C. within the treaty boundaries. It was decided that all of B.C. situated east of the Rocky Mountains would be added to the 1891 treaty proposal because it was on the route to the Klondike, and a natural boundary appealed more to the natives than an artificial one. Moreover, as stated by Sifton, it would be impractical to exclude from the treaty those Indians who were closely allied to the Indians of the Athabasca and who would expect to be treated equally by the federal government.¹³ Consequently, the northeastern part of B.C., which contained about 104,400 square miles, was included in the treaty and comprised the districts of Fort St. John, Fort Nelson, Fort Halkett and Hudson's Hope.¹⁴

There has been some confusion regarding the western boundary of Treaty Eight. The treaty describes the boundary as the "central range of the Rocky Mountains," while the maps accompanying both the treaty and the enabling order-in-council, P.C. 2749, dated 6 December 1898, authorizing the signing of Treaty Eight, indicate the western boundary of the treaty to the height of land separating the Arctic drainage system from the Pacific drainage system, a more westerly range of mountains.¹⁵ The boundary question has been addressed by the Department of Indian Affairs on several occasions and it has been concluded that the more westerly range of mountains was the intended boundary of Treaty Eight.¹⁶

Extensive research conducted by historian Kenneth S. Coates has revealed that the federal government had no intention of including the Yukon Indians in treaty proposals. Indeed, as early as 1894, Inspector Constantine, as official representative of the Indian Affairs Department, was instructed "not to give encouragement to the idea that they (the Yukon Indians) will be received into treaty, and taken under the care of the government."¹⁷ Convinced that the northern district held few prospects for development or settlement, the government felt no need to negotiate treaty there. Also, the Klondike gold rush did not convince departmental authorities of the need for treaty, as it was

argued that the territory could not sustain permanent development and there was little to be gained from a treaty which might involve expenses and obligations on the part of the government.¹⁸ The policy of the federal government, therefore, from the period of the establishment of sovereignty in 1894 until 1950 was to encourage the Yukon Indians to continue their traditional economic activities such as hunting and trapping and to make as few demands on the government as possible. The government's reluctance to negotiate treaties with the Indians was based on the premise that the natives were "best left as Indians".¹⁹ In addition, Father Fumoleau has noted that there was no Métis population in the Yukon to be pacified and this factor could have influenced the Treaty Eight boundaries.²⁰

Discussion of Terms and Conditions

On 27 June 1898, Sifton appointed a commission to administer the terms and conditions of Treaty Eight. The actual wording of the terms and conditions and the plan of procedure and basis of treatment continued to be discussed in the department between the summer of 1898, when the treaty notices were distributed, and the following summer, when the treaty was made. Moreover, discussions by missionaries and members of the North West Mounted Police with the Indians indicated that at this juncture the Indians were generally opposed to treaty. Previously, some bands of the Peace River-Athabasca area had considered applying for treaty because of the need for government assistance in time of hardship. But conditions improved and, by 1898, when the federal government was preparing for treaty, several bands feared that they would lose their hunting, fishing and trapping rights and be restricted to reserves. It was those concerns expressed by the Indians regarding the treaty that were most actively debated by the treaty commissioners and departmental authorities.

The Treaty Eight commission was a double one: one to frame and effect the treaty and secure the adhesion of the various tribes, and the other to investigate and extinguish the half-breed title. A.E. Forget was initially appointed Treaty Eight commissioner but was unable to assume the responsibilities of the position because of his elevation to the

lieutenant governorship of the Northwest Territories. Consequently, on 17 February 1899, Sifton recommended to cabinet the appointment of David Laird, Indian commissioner for Manitoba and the Northwest Territories and architect of Treaty Seven (Blackfoot Treaty), as Treaty Eight commissioner (confirmed by an order-in-council dated 2 March 1899).²¹ The other treaty commissioners were James Ross, minister of Public Works in the territorial government, and J.A.J. McKenna, private secretary to the superintendent general of Indian Affairs. The secretaries of the commission were Harrison Young and J.W. Martin; H.A. Conroy was Treaty Eight accountant while Pierre d'Eschambault and Henry McKay were interpreter and camp manager respectively. Associated with them in an advisory capacity was Rev. Father Lacombe, O.M.I., who had been identified for fifty years with the Canadian northwest. Not associated with the commission, but travelling with it as a guest, was Rev. E. Grouard, O.M.I., Bishop of Athabasca and Mackenzie Rivers. The missionaries were there to provide the commissioners with reliable background on the manners, customs and characteristics of the northern Indians - information unobtainable from the Indians Affairs Department.

The Half-breed Scrip Commission was composed of Major James Walker, a retired officer of the North West Mounted Police and commander of the force present at the Treaty Six negotiations (Fort Carlton Treaty), and J.A. Coté, Land Department officer. Charles Mair and J.F. Prudhomme were the secretaries. Finally, a most important constituent of the half-breed and treaty parties were Inspector A.E. Snyder and his RCMP detachment.

In developing the terms and conditions of Treaty Eight, the issues of annuities, reserves, and hunting, fishing and trapping rights caused the most debate among the commissioners and departmental authorities. Until April 1899, there were discussions regarding perpetual annuities and single cash payments. J.A. Macrae, secretary of the Indian Affairs Department, argued that the situation had changed since the first treaties were signed in the early 1870s, when a perpetual annuity of five dollars for each Indian was granted. He suggested that a single payment – "say, for the sake of argument, \$100.00 per head" – would appeal more to the Indians who were about to sign Treaty

Eight:

... what might have been deemed advantageous in granting such annuities when the Indians were looked upon as a disappearing race should be regarded as disadvantageous now that their ability to continue to exist, and increase, under changed conditions is established.²²

Treaty Commissioners Laird and McKenna disagreed on the method of payment, with the latter favouring one large payment instead of small annuities.²³ Sifton sided with Laird, who suggested that while a larger payment might be welcomed by the Indians who were about to sign treaty, it would be unjust to their children and descendants.²⁴ It was decided, therefore, that the government should still adhere to the policy of providing small annuities.²⁵

After discussions with the northern Indians regarding treaty matters, missionaries and North West Mounted Police personnel reported that there was some opposition to treaty by those who resisted being restricted to reserve lands and who feared the loss of their hunting, fishing and trapping rights.²⁶ Forget questioned the application of the reserve system in the north, as the area to be covered by Treaty Eight was unlike that of the previous "numbered" treaties, and the social organization of the northern Indian bands differed from that of the Plains Indians. In the north, hunting and trapping were carried out by individuals or family groups, and by the end of the nineteenth century family trapping territories were well established.²⁷ He suggested, therefore, that land should be allocated "in severalty" or that an Indian family could have its own small reserve, apart from those of other families or bands.²⁸ The issue was also addressed by a Privy Council committee, which decided on 27 June 1898 that the treaty commissioners should be given discretionary powers regarding reserve lands.²⁹ Treaty Commissioner McKenna concurred with the decisions of Forget and the Privy Council committee and offered his opinions on the reserve system on 17 April 1899:

... it might be desirable to give the Commissioners a freer hand. We can scarcely rely on the experience of the past in dealing with the Indians now to be treated with. When the Government negotiated for the surrender of the Indian title to the

land in the organized territories, it had to deal with Indian nations which had distinct tribal organizations. The communal idea was strong and made necessary the setting apart of the reserves for the continuance of the common life until the Indians could be gradually weaned from it.

From what I have been able to learn of the North country, it would appear that the Indians there act rather as individuals than as a nation, and that any tribal organization which may exist is very slight. They live by hunting and by individual effort, very much as the halfbreeds in that country live. They are averse to living on reserves; and as that country is not one that will ever be settled extensively for agricultural purposes it is questionable whether it would be good policy to even suggest grouping them in the future. The reserve idea is inconsistent with the life of a hunter, and is only applicable to an agricultural country.³⁰

In his final instructions to the treaty commissioner on 12 May 1899, Sifton refused to alter drastically the terms regarding reserve land and was satisfied to introduce the new policy of reserves in severalty to the extent of 160 acres per person. The old system of selecting reserves for particular bands was also used.³¹

The main concern of the northern Indians was the protection of their hunting, fishing and trapping rights. They stated in no uncertain terms through missionaries and the N.W.M.P., who acted as intermediaries, that they would refuse treaty unless there was assurance that their way of life would not be restricted. There were reports circulating that if the Indians took treaty they would lose their hunting, fishing and trapping rights. The government wished to correct these "misleading reports" and requested the services of Father Lacombe and other missionaries to help in the treaty negotiations to persuade the Indians to accept the treaty terms and conditions. Only when the commissioners gave assurances that hunting, fishing and trapping rights would be guaranteed did the Indians at the various trading posts agree to sign the treaty.

Position of the Province of British Columbia

Another problem the treaty commissioner encountered was the application of the application of the terms and conditions of Treaty Eight to Indians in northeastern B.C. The extension of Treaty Eight to include this portion of B.C., authorized by order-in-

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, Weecheewayis 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

they adhered to treaty they would be subject to conscription into the British army.⁴⁸ Laird also acted as treaty negotiator at Slave Lake, Fort Vermilion and Fond du Lac, while the other treaty party, led by McKenna and Ross, secured adhesions at Fort Dunvegan, Fort Chipewyan, Smith's Landing and Wabiscow. Commissioners McKenna and Ross also intended to make treaty with the Beaver Indians at Fort St. John on 21 June 1899, but there was some confusion regarding the signing of the treaty, as explained in the report of the commissioners:

Unfortunately the Indians had dispersed and gone to their hunting grounds before the messenger arrived and weeks before the date originally fixed for the meeting, and when the Commissioners got within some miles of St. John the messenger met them with a letter from the Hudson's Bay Company officer there advising them that the Indians after consuming all their provisions, set off on the 1st June in four different bands and in as many different directions for the regular hunt... It may be stated, however, that what happened was not altogether unforeseen. We had grave doubts of being able to get to St. John in time to meet the Indians, but as they were reported to be rather disturbed and ill-disposed on account of the actions of miners passing through the country, it was thought that it would be well to show them that the Commissioners were prepared to go into their country, and that they had put forth every possible effort to keep the engagement made by the Government.⁴⁹

At Fort Chipewyan, Bishop G. Breynat summarized the Indians' position by stating that "Crees and Chipewyans refused to be treated like the Prairie Indians, and to be parked on reserves... It was essential to them to retain complete freedom to move around."⁵⁰ Also included in the long list of demands of the Chipewyans was a railway link with the south.

On 19 February 1900, Clifford Sifton appointed J.A. Macrae, an inspector with the Indian Affairs Department, to pay annuity to Indians in the Treaty Eight area and to obtain adhesions from the Fort St. John and Fort Resolution Bands. Also, he was to report to Sifton any outstanding half-breed claims. Macrae was authorized to perform these duties by order-in-council P.C. 460, dated 2 March 1900.⁵¹ Subsequently, he secured an adhesion with part of the Beaver Band at Fort St. John (only 46 adherents) and with the Dogribs, Yellowknives, Chipewyans and Slaveys of Fort Resolution. The

Sturgeon Lake Crees and the Upper Hay River Slaveys asked to be included in the treaty and, since they were entitled, Macrae obtained their adhesions.⁵² In addition, some Caribooeaters, inhabiting the country east of Smith's Landing on Great Slave River, also jointed treaty and were incorporated with the Chipewyan band of Smith's Landing.⁵³

Macrae's report of the meetings in 1900 reflected earlier concerns regarding the Indians' opposition to reserves and their desire to continue their traditional economic activities, such as hunting, fishing and trapping:

As was reported by your commissioners last year, there is little disposition on the part of most of the northern Indians to settle down upon land or to ask to have reserves set apart. Dealing, under your instructions, with demands for land, two small provisional reserves were laid out at Lesser Slave Lake for Kineesayo's band, and fifteen or sixteen applications were registered for land in severalty by Indians who have already, to some extent, taken to agriculture.

It appears that this disinclination to adopt agriculture as a means of livelihood is not unwisely entertained, for the more congenial occupations of hunting and fishing are still open, and agriculture is not only arduous to those untrained to it, but in many districts it as yet remains untried. A consequence of this preference of old pursuits is that the government will not be called upon for years to make those expenditures which are entailed by the treaty when the Indians take to soil for subsistence.⁵⁴

Macrae also pointed out that some of the Indians present at the 1899 meeting wanted further explanations of the terms and conditions. Furthermore, he estimated that even after the adhesions of 1900 were secured, there still remained over 500 Indians who had not been given the option of taking treaty or scrip. He concluded, nevertheless, that "the Indian title...may be fairly regarded as extinguished."⁵⁵

In addition to his duties of paying annuity to Indians in the Treaty Eight area and obtaining adhesions of the Fort St. John and Fort Resolution Bands, Macrae was to report on the half-breed claims. In 1900, he investigated and reported 381 claims to Sifton, 229 of which were allowed.⁵⁶ In settling outstanding half-breed claims, Macrae indicated that he adhered to those policies which Half-breed Commissioners Major

James Walker and J.A. Coté employed in 1899:

I have been governed in dealing with these claims by a principle which I have understood was laid down in 1899 or before, viz., to allow applicants themselves to decide whether they were entitled as Half-breeds to scrip or as Indians to treaty benefits though I have not felt altogether sure of the soundness of the principle. This has been done because it seemed to me that as I was only winding up work commenced and to a great extent completed by others that it was proper to continue the lines which they appeared to have lain down rather than to attempt to institute fresh ones.⁵⁷

In the final analysis, when Treaty Eight was signed in 1899 and 1900 the federal government took a broad and liberal view regarding the class of persons eligible for treaty. The policy of the Indian Affairs Department at that time was to give treaty rather than scrip to those half-breeds who had adopted the Indian way of life. During the negotiations of Treaties One to Six, some Métis were allowed to join treaty; hence, departmental policy was not altered in permitting the Métis of the Treaty Eight area to do likewise.

In succeeding years, Indian Affairs representatives, including separate half-breed commissions who were authorized under various orders-in-council to extinguish the half-breed title, dealt with those Indians and Métis in the more isolated parts of the Treaty Eight area who had not been reached in 1899 or 1900.⁵⁸ As reported by Indian Commissioner Macrae, only about half of the Indians were reached in 1899, when 2,217 accepted treaty. Another 1,106 were added in 1900.⁵⁹ Macrae did not return after the expedition in 1900 and H.A. Conroy, who accompanied the original treaty party in 1899 as a clerk, was appointed inspector for Treaty Eight on 1 April 1902. During his annual visits to the major trading posts, he distributed annuities, ammunition and fishnets, listened to the Indians' complaints and admitted Indians to treaty. In addition, he was authorized to deal with outstanding Métis claims under various orders-in-council. In the Treaty Eight portion of northern Alberta, the scrip option was removed in 1912 and Métis claims were dealt with by admission to treaty.⁶⁰ During Conroy's visits, there were requests that the north Saskatchewan area, particularly in the vicinity of Isle à la Crosse and Portage la Loche, be included in Treaty Eight.⁶¹ Furthermore, there were petitions

and requests by various tribes inhabiting the country north of Great Slave Lake and along the valleys of the Slave and Mackenzie Rivers that they be allowed to enter Treaty Eight.⁶² It was proposed, however, that separate treaties be negotiated with the Indians in these two regions.⁶³

Many Indians of the Fort St. John Beaver Band, who had not signed adhesions in 1900, were admitted to treaty in subsequent years; by 1914, there were 162 adherents.⁶⁴ Nevertheless, there was some difficulty in bringing them into treaty and Conroy's annual reports reflect a general mood of indifference. For example, on 5 October 1903, he reported that the Fort St. John Indians were reluctant to adhere to treaty:

The Indians at this place are very independent and cannot be persuaded to take treaty. Only a few families joined. The Indians there said they did not want to take treaty, as they had no trouble in making their own living. One very intelligent Indian told me that when he was old and could not work he would then ask the government for assistance, but till then he thought it was wrong for him to take assistance when he did not really require it.⁶⁵

By 1907, reports indicated that only half of the Indians in the Fort St. John area had been given, to justify signing treaty, assurances that would guarantee hunting, fishing and trapping rights and freedom of movement. Inspector Conroy emphasized the fact that "a great many of them have a great antipathy to treaty."⁶⁶

Also, in 1908, Conroy issued scrips to several nomads west of Whitefish Lake and north of Lesser Slave Lake. Despite the pleadings of their priests, in most cases the Métis insisted on cash scrips. Few wanted to claim Indian status and join treaty because of the stigma of inferiority the Indian Act carried. Conroy reported further on negotiations with the nomads west of Whitefish Lake:

There are quite a number of half-breeds who live west of Whitefish Lake whom I have tried for the last few years to get into treaty, but have failed to do so. Last fall they appeared before me and I took their applications for half-breed scrip. I considered them living the Indian mode of life, but they insisted on having scrip.⁶⁷

Apparently the treaty commissioners saw no urgent need to obtain adhesions from B.C. Indian bands located within the limits of Treaty Eight, as settlement was exceedingly slow, until it was reported in 1909 that the Fort Nelson natives were "becoming troublesome" and should be approached to sign treaty. A number of upper Hay River treaty Indians were trespassing on the hunting grounds of the Slaves and Sekani of the Fort Nelson Band, creating a potentially volatile situation. The latter objected, arguing that treaty Indians had no right to hunt in that part of the country.⁶⁸ Consequently, H.A. Conroy was appointed a commissioner by order-in-council on 18 December 1909, to negotiate an adhesion by the Fort Nelson Indians.⁶⁹

While the Fort Slaves seemed eager to adhere to treaty, most of the Sekanis at the outset were strongly opposed. There was, nevertheless, one obstacle to the Slaves signing treaty, as reported by Conroy on his arrival at Fort Nelson:

I arrived at Fort Nelson on Saturday August 13th, two days ahead of time. The greater part of the next two days was spent talking with the Indians, and explaining the articles of Treaty. Their chief objections were that their country was too big to sell for a few dollars, and that they could make a good living in the bush without the aid of the Government.

I pointed out to them that Treaty would be paid every year in perpetuity, and not only they, but their descendants forever would reap the benefit. They, too, were poor and ill-clad; the old and destitute were uncared-for; the children were in rags.⁷⁰

Satisfied with Conroy's description of the treaty, the Indians elected a chief and headman and, on 15 August 1910, signed an adhesion to Treaty Eight for themselves and a band of 124 Indians. They were "mostly Slaves with a few Sicanees."⁷¹ Treaty payments, as indicated by Conroy, would aid the Fort Nelson Indians enormously:

I have never seen so poor a band of purely nomadic Indians. They are sickly, infected with scrofula and own no shacks or even teepees, using only bark and brush. They have no horses, and travel from place to place with women and children, and dogs laden with packs. They make a few pine bark canoes, but they are at best a poor affair, never lasting more than one season.

The Hudson's Bay Company is the only trading company at Nelson, consequently goods are priced very high and fur correspondingly low. As a result the Indians can afford few supplies, and must spend most of their time following the meat animals. This makes them poor fur-hunters, and exposes them to much hardship. Treaty will be of great benefit to them. The annuity will purchase clothing, and the fur will be traded for supplies, which will considerably ameliorate their condition.⁷²

The Fort Nelson Sekani resisted attempts by departmental officials to bring them into treaty during the summer of 1910 but agreed to terms a year later. Upon the arrival of Inspector Conroy and his Treaty Eight party at Fort Nelson on 13 August 1910, the Sekanis indicated they were not as willing to adhere to treaty as their Slave counterparts.⁷³ They were anxious to return to their hunting grounds and stated that they not only opposed treaty but also the presence of settlers in their country.⁷⁴ A member of Conroy's party, Royal Northwest Mounted Police Sergeant R. Field of the Chipewyan detachment, explained further the rationale for the Sekanis' refusal to adhere:

[T]he Sicannies really belong to the other side of the mountains, they would have nothing at all to do with us, would not listen to have the terms of the treaty explained, they in fact acted in rather a hostile manner, refusing to shake hands with us. The Old Sicannies chief stated that he did not want any assistance from the government. He made the following short speech – "God made the game and fur bearing animals for the Indians, and money for the white people; my forefathers made their living in the country without white men's money and I and my people can do the same."

After Mr. Conroy explained to them they were not going to be forced to take treaty, but could go on making their living by hunting and trapping, as they always did, they cooled down and talked in a quieter manner. It was also explained to them that they would have to obey the laws of the country whether they took treaty or not. They absolutely refused to take Treaty and left the next day for their hunting grounds. The Slavey's [sic] remained and held consultations among themselves whether to accept the treaty or not. They finally decided to accept it after a considerable amount of explaining and talking; so on the afternoon of August 15, 1910, 126 names were registered in the Indian Treaty books.⁷⁵

On 10 May 1911, Harold Laird, clerk and assistant for Indian Agent Dr. W.B.L. Donald of the Lesser Slave Lake District, was authorized by assistant deputy and secretary,

J.D. McLean, to admit to treaty those Fort Nelson Indians who had not signed the previous year.⁷⁶ Finally, on 4 August 1911, after several talks, 98 Sekanis were persuaded by Laird to accept treaty. These Indians belonged to two bands, one under Chief Prophet (located on Sicannie River) and the other under Chief Big Foot (situated on Fort Nelson River). There was some difficulty in reconciling these two factions to union under one chief. Eventually, Big Foot was elected chief and Malcolm, son of Chief Prophet, councillor.

There is little evidence to suggest why the Fort Nelson Sekani reversed their position regarding treaty adhesion over a one-year period. One can only conclude that Harold Laird emphasized the benefits of certain Treaty Eight provisions that Inspector H.A. Conroy alluded to in 1910 when the Fort Nelson Slaves signed treaty. That is, Conroy pointed out that treaty would be paid annually in perpetuity and that treaty payment would aid them immensely as they were in a destitute state. More importantly Conroy had assured the Slaves that they would still be allowed to pursue their traditional vocations of hunting, fishing and trapping.

During the negotiations for the Fort Nelson adhesion, departmental officials suggested that at some future date the Sekanis in the Fort Grahame-Finlay River area should be brought into treaty. Indian Commissioner David Laird announced this decision on 11 January 1910:

The Beaver Indians of Fort St. John have given their adhesion; the Sicannies and other Indians of Nelson River are proposed to be asked by Inspector Conroy to give their adhesion to the Treaty next summer. It will also probably be necessary before long to get the adhesion of the Indians in the vicinity of Fort Graham, as I understood that the Dominion Government by the aid of R.N.W.M. Police have recently opened a trail from Fort St. John on the Peace River to Fort Graham on the Finlay River, a tributary of the Peace.⁷⁷

The question of bringing into treaty the Sekanis and other Indians within the limits of Treaty Eight was not addressed again by departmental authorities until 1913, when Treaty Eight Inspector H.A. Conroy estimated that there were about 300 Indians trading

at Fort Grahame and another 100 along the northwestern limits of Treaty Eight territory who had not taken treaty.⁷⁸ He also suggested that treaty should be made with a band of 100 Indians resident at Moberly Lake, as settlers were moving into that area.⁷⁹ Also, Harold Laird stated more specifically that there were between 300 and 320 Indians who traded at Fort St. John and Hudson's Hope, 150 of whom had never been admitted to treaty. As well, there were 23 Sauteaux Indians situated at the east end of Moberly Lake who had never been taken into treaty.⁸⁰

Finally, during the summer of 1914, those Indians located at Moberly Lake, numbering 116, and 34 Sauteaux (Cree) were brought into treaty. While some of the Fort Nelson Slaves and Sekanis signed a formal adhesion to Treaty Eight in 1910, the evidence suggests that the Hudson's Hope and Sauteaux Bands were merely admitted to treaty. That is, there were many Indians who were reluctant to adhere to treaty at Fort St. John in 1900 but were entitled to do so. Some of these Indians were admitted to treaty between 1900 and 1914, usually during the summer, when departmental officials were paying annuity. The treaty commissioners, moreover, intended to negotiate with other bands, but for various reasons, including lack of information and inaccessibility, some Indians had not taken treaty. H.A. Conroy, for example, indicated in the *Annual Report* for the Department of Indian Affairs for 1914 that the Hudson's Hope and Sauteaux Bands were entitled to take treaty:

I would respectfully suggest, also, that during next year the government authorize me to inspect this territory and arrange for the establishment of Hudson Hope and St. John Indians on the reserve that has already been staked out, but upon which several white settlers have squatted. There are from 100 to 125 Indians who have not taken treaty but who are entitled to do so, and these should be allowed to come in.

Another small band of the Stony Indians of a nomadic character who have been constantly travelling the western country will within the last four years in order to avoid treaty, have now settled at Moberly Lake, a few miles south of St. Johns on the Dominion Lands reservation. They have built themselves good houses, and now express a desire to come under treaty.

In their case, also, white settlers are endeavouring to oust them, and I would suggest that the necessary arrangements be put through so that they may be

definitely established on their own reserve and come under the usual treaty regulations.⁸¹

There is evidence to indicate that several Indians were admitted to treaty in the isolated communities of northern Alberta during the period following treaty negotiations. The Treaty Eight Commission did not visit these communities (Trout Lake, Peerless Lake, Chipewyan Lake, Sandy Lake and Loon Lake) in 1900 or 1900, as it followed mainly the Peace and Athabasca Rivers and did not travel into the interior hinterland. For example, many Indians were added to the Wabasca lists from 1900 to 1940 by the various Indian agents. In 1911, Indian Agent Harold Laird passed through the Trout-Peerless area and reported that there were many people from the Wabasca lists residing at Trout Lake.⁸² Furthermore, apparently nobody from Loon Lake joined treaty in 1899 and 1900 and there is no indication that scrip was issued. It was not until 1930 that 15 people from Loon Lake were paid annuity at Whitefish Lake. In 1932, moreover, the Indian agent for Lesser Slave Lake, L.N. L'Heureux, reported that 125 people at Loon Lake requested to be admitted to treaty but apparently the request was refused.⁸³ Finally, there is no indication that anyone from Whitefish Lake entered treaty until 1915, when one person from Prairie Lake was entered on the Whitefish Lake lists. There were further entries in subsequent years.⁸⁴

It should also be noted here that 42 Métis from Fort Resolution joined Treaty Eight in 1930.⁸⁵ In 1929, Dr. Clement Bourget, Indian agent for the Fort Resolution agency (established in 1923), forwarded a letter to the Indian Affairs Department advising them that there were "too many classes of people in the county" and that many people not on the treaty roll lived as Indians and deserved the "protection" of the treaty.⁸⁶ Several Métis were admitted to treaty in the early 1930s but most refused, mainly because they feared being confined to reserves.⁸⁷ When Bishop Breynat learned that some Métis at Fort Resolution were taken into treaty, he suggested that the same "privileges" be extended to those in the Fort Smith and Fort Simpson agencies.⁸⁸ In 1938, some Métis from Fort McPherson were admitted to treaty (Treaty Eleven) but generally this practice was opposed by the Indian Affairs Branch.⁸⁹

There were some bands within the Treaty Eight boundary in B.C. who did not adhere to treaty. These bands included Liard River, McLeod Lake, Fort Grahame (or Ingenika as it is now called - later split into Fort Ware and Fort Grahame Bands, which amalgamated in 1959) and Finlay River. The question of an adherence to Treaty Eight by the non-signatory bands was not addressed again by the Indian Affairs Branch until the 1950s and 1960s, because no formal request was made by the bands to adhere to treaty. The correspondence indicated that these Indians did not adhere to treaty "probably because they were nomadic."⁹⁰ W.C. Bethune, Chief, Reserves and Trusts, suggested on 14 April 1960 that B.C. officials consider a surrender of the non-treaty Indians:

It would seem that the crux of the question is the importance from a Provincial standpoint of securing a surrender from these Indians who are not under treaty, of their interest in land within Treaty No. 8 area. The matters may not be of great significance to the Province in view of the fact that most of the Province is not under treaty. However, there is no objection to your discussing this informally with Provincial officials and ascertaining their reaction.⁹¹

There is little evidence, however, to indicate that this matter was ever discussed seriously or that B.C. officials even considered Bethune's suggestion.

In 1972, questions concerning the treaty status of the Liard River Band (formed in 1961 by an amalgamation of the Casca, Nelson River, Liard and Francis Lake, and Watson Lake Bands) and a possible adherence to Treaty Eight, were raised by I.F. Kirby, Regional Director, Department of Indian Affairs, Yukon. C.I. Fairholm, Senior Policy Advisor for the Policy, Planning and Research Branch, indicated that the Liard River Band did not adhere to Treaty Eight, although they were provided with reserves in the Treaty area of B.C.⁹² On the possibility of the Liard River Band adhering to treaty he stated:

The situation of the Liard River Indian is by no means unique. Various groups of the Indians came into treaty in western Canada long after the Treaties were signed, some as recently as the 1950's. The Liard River Band could presumably seek adhesions to Treaty 8 or 11, or both as the case may be. Whether it could be wise for it to do so is debatable.⁹³

More recently, the McLeod Lake Band has considered the possibility of adhering to Treaty Eight.⁹⁴

Treaty Provisions

In reporting generally on the negotiation of 1899, the treaty commissioners indicated that the Indians who signed treaty "wanted as liberal, if not more liberal terms than were granted to the Indians of the plains."⁹⁵ The treaty commissioners acknowledged the fact that the social organization of the northern bands differed from that of the Plains Indians and, consequently, there was much discussion regarding the alteration of some of the treaty provisions such as annuities, reserve land, and hunting, fishing and trapping rights. When the written terms and conditions of Treaty Eight were finally developed after the Lesser Slave Lake negotiations, they were based largely on those of Treaty Seven, although there were some notable variations. No radical departure from previous treaty policy was attempted, despite the wish of Commissioner J.A.J. McKenna to attain a "slimmed down" version of the usual treaty where the government would not have to assume the same responsibilities as in previous treaties.⁹⁶ In large measure, the final version of the terms and conditions of Treaty Eight indicates the influence of Commissioner David Laird, the architect of Treaty Seven, and the unwillingness of Clifford Sifton to propose new terms due to the department's lack of knowledge of the northern Indians and of the extent of the claims they were likely to put forward.⁹⁷ It should also be noted that Adams G. Archibald, who was involved as a treaty negotiator in the early treaties, foresaw the likelihood that the first two treaties, signed in 1871, would establish a policy precedent from which it would be difficult to depart.⁹⁸

In part, the provisions of Treaty Eight reflected a recognition that the Indians in the Treaty Eight area might wish to continue traditional economic activities, such as hunting, fishing and trapping, and to resist being restricted to reserve land.⁹⁹ Therefore, where Treaty Seven referred to the protection of the Indians' "vocations of hunting," Treaty Eight provided for the:

right to pursue their usual vocation of hunting, trapping and fishing throughout the tract surrendered as heretofore described, subject to such regulations as may from time to time be made by the Government of the country, acting under the authority of Her Majesty, and saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes.¹⁰⁰

And where previous treaties had provided reserves of one square mile for every family of five, Treaty Eight provided:

reserves for such bands as desire reserves, the same not to exceed in all one square mile for each family of five for such number of families as may elect to reside on reserves, or in that proportion for larger or smaller families; and for such families or 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.¹⁰¹

Most of the other provisions of Treaty Eight were similar to those of Treaty Seven. The chief received a present of \$32, the headman \$22 and each Indian \$12, at the time of treaty. Thereafter, annuities amounted to \$25 to each chief, \$15 to a headman, and \$5 to each Indian. Moreover, the Dominion government was committed to pay the salaries of teachers of Indian children "as the government may deem advisable." The "Report of Commissioners for Treaty No. 8" also indicated that certain verbal assurances concerning education rights were required:

As to education, the Indians were assured that there was no need of any special stipulation, as it was the policy of the Government to provide in every part of the country, as far as circumstances would permit, for the education of Indian children, and that the law, which was as strong as a treaty, provided for non-interference with the religion of the Indians in schools maintained or assisted by the Government.¹⁰²

Other provisions of Treaty Eight included farm stock and implements, ammunition and twine, and a suit of clothing for headmen every third year (triennial clothing). Regarding the provisions for stock and implements and ammunition and twine (once-for-all-expenditures), each band that selected a reserve and cultivated the soil would receive:

two hoes, one spade, one scythe and two hay forks for every family so settled, and for every three families one plough and one harrow, and to the Chief, for the use of his Bands, two horses or a yoke of oxen, and for each Band potatoes, barley, oats and wheat (if such seed be suited to the locality of the reserve), to plant the land actually broken up, and provisions for one month in the spring for several years while planting such seeds; and to every family one cow, and every Chief one bull, and one mowing-machine and one reaper for the use of his Band when it is ready for them; for such families as prefer to raise stock instead of cultivating the soil, every family of five persons, two cows, and every Chief two bulls and two mowing-machines when ready for their use, and a like proportion for smaller or larger families. The aforesaid articles, machines and cattle to be given one [sic] for all for the encouragement of agriculture and stock raising; and for such Bands as prefer to continue hunting and fishing, as much ammunition and twin for making nets annually as will amount in value to one dollar per head of the families so engaged in hunting and fishing.¹⁰³

The provisions of Treaty Eight failed to provide for social services previously provided by the Hudson's Bay Company and missionaries although the report of the commissioners suggested that some verbal commitments were mentioned:

We pointed out that the Government could not undertake to maintain Indians in idleness; that the same means of earning a livelihood would continue after the treaty as existed before it, and that the Indians would be expected to make use of them. We told them that the Government was always ready to give relief in cases of actual destitution, and that in seasons of distress they would without any special stipulation in the treaty receive such assistance as it was usual to give in order to prevent starvation among Indians in any part of Canada; and we stated that the attention of the Government would be called to the need of some special provision being made for assisting the old and indigent who were unable to work and dependent on charity for the means of sustaining life. We promised that supplies of medicines would be put in the charge of persons selected by the Government at different points, and would be distributed free to those of the Indians who might require them. We explained that it would be practically impossible for the Government to arrange for regular medical attendance upon Indians so widely scattered over such an extensive territory. We assured them, however, that the Government would always be ready to avail itself of any opportunity of affording medical service just as it provided that the physician attached to the Commission should give free attendance to all Indians whom he might find in need of treatment as he passed through the country.¹⁰⁴

Notes

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, Mc Kenna 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.

- ⁴⁵. Canada, Parliament, Department of the Interior, *Sessional Papers*, No. 13, 1900, Part 8, "Report of the Half-Breed Commissioners," 30 September 1899, p. 3.
- ⁴⁶. *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.
- ⁴⁷. Canada, *Treaty No. 8*, pp. 6-7.
- ⁴⁸. *Ibid.*, p. 5.
- ⁴⁹. *Ibid.*, pp. 7-8.
- ⁵⁰. G. Breynat, *Cinquante Ans au Pays des Neiges*, Vol. 1 (Montreal, 1945), pp. 186-187.
- ⁵¹. Canada, Privy Council, O.C. No. 460, 2 March 1900.
- ⁵². Canada, *Treaty No. 8*, p. 20.
- ⁵³. *Ibid.*
- ⁵⁴. *Ibid.*, p. 21.
- ⁵⁵. *Ibid.*
- ⁵⁶. PAC, RG15, vol. 771, file 518158, McKenna to Sifton, 16 March 1901.
- ⁵⁷. PAC, RG15, Vol. 782, file 555680, McKenna to Sifton, 19 January 1901.
- ⁵⁸. See Joe Sawchuk, Patricia Sawchuk, and Theresa Ferguson, *Métis Land Rights in Alberta: A Political History* (Edmonton, 1981), pp. 125-127.
- ⁵⁹. Canada, *Treaty No. 8*, pp. 20-21.
- ⁶⁰. 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.
- ⁶¹. See PAC, RG10, vol. 4006, file 241,109-1; William R. Morrison and K.S. Coates, "Treaty Research Report: Treaty Ten" (Ottawa: INAC, 1985).
- ⁶². 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).
- ⁶³. Treaties 10 and 11 were signed in 1905-1906 and 1921, respectively.
- ⁶⁴. See Wilson Duff, *The Indian History of British Columbia* (Victoria, 1964), p. 71.

- ^{65.} DIAND, *Annual Report*, 1903, p. 235, H.A. Conroy to Superintendent General of Indian Affairs, 5 October 1903.
- ^{66.} DIAND, *Annual Report*, 1907, p. 183, Conroy to Frank Pedley, 5 February 1907.
- ^{67.} 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.]
- ^{68.} 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.
- ^{69.} PAC, RG 10, Privy Council, O.C. 8/2534, 18 December 1909.
- ^{70.} *Ibid.*, Conroy to Superintendent General of Indian Affairs, 29 October 1910.
- ^{71.} PAC, RG10, Vol. 1852, Copy of Fort Nelson Adhesion, 15 August 1910; DIAND, *Annual Report*, 1911, p. 191, Conroy to Pedley, 14 November 1910.
- ^{72.} DIAND, *Annual Report*, 1911, p. 191, Conroy to Pedley, 14 November 1910.
- ^{73.} 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.
- ^{74.} *Ibid.*
- ^{75.} *Ibid.*
- ^{76.} PAC, RG10, vol. 3979, file 156, 710-31, J.D. McLean to Harold Laird, 10 May 1911.
- ^{77.} 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.
- ^{78.} *Ibid.*, Conroy to Duncan Scott, 29 December 1913.
- ^{79.} DIAND, *Annual Report*, 1915, p. 84, "Report of Henry A. Conroy, Inspector for Treaty No. 8."
- ^{80.} 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.
- ^{81.} DIAND, *Annual Report*, 1915, p. 84. "Report of Henry A. Conroy, Inspector for Treaty No. 8."
- ^{82.} Daniel, "Land Rights of the Isolated Communities of Northern Alberta," p. 6.
- ^{83.} *Ibid.*, p. 7.
- ^{84.} *Ibid.*, p.8.
- ^{85.} 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.
- ^{86.} Smith, *Moose-Deer Island House People*, p. 114.

- ^{87.} *Ibid.*
- ^{88.} Fumoleau, *As Long As This Land Shall Last*, p. 273.
- ^{89.} 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.
- ^{90.} PAC, RG 10, file 1/1-11-5, Vol. 1, W.C. Bethune to Indian Commissioner for B.C., 14 April 1960.
- ^{91.} *Ibid.*
- ^{92.} *Ibid.*, C.I. Fairholm to I.F. Kirby, 10 May 1972.
- ^{93.} *Ibid.*
- ^{94.} 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.
- ^{95.} Canada, *Treaty No. 8*, p. 5.
- ^{96.} 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.
- ^{97.} PAC, RG10, Vol. 3848, file 75, 236-1, Sifton to Governor-General, 18 June 1898.
- ^{98.} R. Daniel, "Treaties for the Northwest, 1871-1930." In *A History of Native Claims Processes in Canada, 1867-1979*. (Ottawa, 1980), p. 9.
- ^{99.} Daniel, "The Spirit and Terms of Treaty Eight," p. 80.
- ^{100.} Canada, *Treaty No. 8*, p. 12.
- ^{101.} *Ibid.*, pp. 12-13.
- ^{102.} *Ibid.*, p. 6.
- ^{103.} *Ibid.*, pp. 13-14.
- ^{104.} *Ibid.*, pp. 5-6.

TREATY IMPLICATIONS

The federal government and the Treaty Eight signatories held contrasting views on the purpose of the treaty, the terms and conditions, and the fulfilment of treaty obligations. With Treaty Eight, the federal government intended to extinguish the Indian title in the Peace River-Athabasca Districts while the native inhabitants intended to sign friendship treaties.¹ An affirmation or recognition of their rights to the land and a guarantee that their traditional economy and freedom of movement would not be affected was what Indians expected. Generally, the negotiations of treaties by the Dominion government aimed at overcoming any hostility or resistance by the Indians of frontier areas to the advance of the frontier economy.² Hence, the purpose of Treaty Eight from a government perspective was to protect the economic interests of the settler frontier in the wake of the Klondike gold rush and, in extinguishing Indian title to the land, to offer the Indians some protection through various guarantees and obligations as stated in the treaty terms and conditions.

The text of the treaty terms and conditions has been subjected to various interpretations of the obligations made by the government. The oral tradition of Indian communities in the Treaty Eight area is a significant source of evidence of the treaty. Interviews of Indian elders by research groups, Indian associations, and social scientists, as well as presentations and submissions to public and court hearings, have revealed that the Indians' perceptions of the treaty terms and conditions varied substantially from those of the Treaty Eight commissioners.

In fulfilling its Treaty Eight obligations, the federal government has adopted a rather narrow view compared to that of the Indian. In the immediate post-treaty period, conflicts arising from Treaty Eight were experienced by the Indians and the federal government, and the limitations of the treaty became obvious as political, economic and social changes reached the north. With the creation in 1905 of the provinces of Alberta and Saskatchewan, which included much of the Peace River and Athabasca Districts, and the transfer of control over natural resources from the federal government to the

Prairie provinces and B.C. in 1930 (i.e., Peace River block and Railway belt),³ the provincial governments assumed an active role in controlling the development of the northern hinterland, especially hunting, fishing and trapping rights.⁴ Furthermore, after 1930, the federal government gave inadequate protection for Indian interests compared to those of the settler communities. The gradual erosion of the federal government's obligations and the incursion of the industrial and energy frontiers have been the subject of various inquiries, commissions and court cases. The province as well as various regional metropolitan communities developed commercial interests in the northern hinterland which directly affected Indian perceptions of the treaty relationship.

Purpose of Treaty Eight

Several Indian elders of the portion of the Treaty Eight area now within the Northwest Territories testified before Justice W.G. Morrow in 1973 (when a caveat was presented by the Dené of the western portion of the Northwest Territories for a claim based on aboriginal title to 400,000 square miles) that there was no reference made to land surrender or to reserve allocations during the treaty negotiations. The treaty was basically a peace treaty, to ensure that there would be no conflict between the Indians and the settlers or prospectors, with no reference to land.⁵ This view is also supported by those elders interviewed by Father Fumoleau:

They saw the white man's treaty as his way of offering them his help and friendship. They were willing to share their land with him in the manner prescribed by their tradition and culture. The two races would live side by side in the North, embarking on a common future.⁶

Most of the elders in the Treaty Eight section of Alberta accepted the land surrender as part of the treaty,⁷ but there are various views concerning the precise meaning of the surrender. Historian Richard Daniel has suggested that available documentation has shown that the treaty commissioners did not explain properly the implications of the phrase "the said Indians do hereby cede, release, surrender and yield up...all their rights, title and privileges whatsoever, to the lands..."⁸ The explanation is that the

commissioners thought that it was a mere formality from the government perspective and that the treaty was "a means of extinguishing the vague aboriginal rights and placating the native people by offering the advantages of a treaty."⁹ Also, it is improbable that the commissioners in their hasty journey through the north could have clarified the interpretation of the treaty, particularly the concept of land surrender. Dr. June Helm, in testifying before Justice Morrow, explained the complications:

...How could anybody put in the Athapaskan language through a Métis interpreter to monolingual Athapaskan hearers the concept of relinquishing ownership of land, I don't know, of people who have never conceived of a bounded property which can be transferred from one group to another. I don't know how they would be able to comprehend the import translated from English into a language which does not have those concepts, and certainly in any sense that Anglo-Saxon jurisprudence would understand. So this is an anthropological opinion and it has continued to puzzle me how any of them could possibly have understood this. I don't think they could have. That is my judgement.¹⁰

The Nelson Commission, which was appointed in 1959 to investigate the unfulfilled provisions of Treaties Eight and Eleven, supported Helm's views:

It should be noted that although the Treaties were signed sixty and thirty-eight years ago respectively, very little change has been effected in the mode of life of the Indians of the Mackenzie District. Very few of the adults had received an elementary education and consequently were not able to appreciate the legal implications of the Treaties. Indeed some bands expressed the view that since they had the right to hunt, fish and trap over all of the land in the Northwest Territories, the land belonged to the Indians. The Commission found it impossible to make the Indians understand that it is possible to separate mineral rights or hunting rights from actual ownership of land.¹¹

In the evidence to the Alaska Highway Pipeline hearings in December 1979, Michael Jackson, Professor of Law at the University of British Columbia, noted that the evidence gained from Indian oral history has indicated that the Indians did not perceive the treaty to be a surrender of rights:

They understood it as a treaty of peace and friendship. The condition precedent to their friendship was the affirmation or recognition of their rights to the lands.¹²

Professor Jackson suggests further that some Indians refused to sign treaty until they received hunting, trapping and fishing guarantees and an assurance that "their freedoms to engage in those activities, throughout the region, would not be affected, would not be restricted."¹³

Terms and Conditions

Interviews with many elders of the Alberta portion of the Treaty Eight area conducted over a four-year period by the Treaty and Aboriginal Rights Research group of the Indian Association of Alberta provided some interesting and revealing comments regarding the Indian interpretation of the written text of the terms and conditions. Some oral presentations were also submitted to the Nelson Commission in 1959; to Justice W.G. Morrow in 1973, to the Berger Commission, otherwise known as the Mackenzie Valley Pipeline Inquiry, from 1974 to 1976, and to the Northern Pipeline Agency public hearings in December 1979. These submissions reflect similar views in other sections of the Treaty Eight area comprising the Northwest Territories and northeastern B.C. Those treaty provisions discussed in the oral presentations include hunting, fishing and trapping rights, reserve land, social services, education, and once-for-all expenditures.

Of all the subjects discussed by the elders, the most important were hunting, fishing and trapping rights. All elders of the Treaty Eight area agreed that the treaty terms provided that there would be no restriction of hunting, fishing and trapping rights. Professor Michael Jackson, in his presentation to the Northern Pipeline Agency in 1979, referred to the words of Chief Drygeese at Fort Resolution, who described his perception of the treaty:

If it is going to change, if you want to change our lives, then it is no use taking treaty because without treaty we are making a living for ourselves and our families. I would like a written promise from you to prove you are not taking our land away from us. There will be no closed season on our land. There will be nothing said about the land. My people will continue to live as they were before and no white man will change that. You will in the future want us to live like white man does and we do not want that. The people are happy as they are. If you try

to change their ways of life by treaty, you will destroy their happiness. There will be bitter struggle between your people and my people.¹⁴

It seems clear that Treaty Eight would not have been signed if the Indians had not been assured that their traditional economy and freedom of movement would be guaranteed. Professor Jackson also referred to the evidence of Chief Johnny Yahey of the Blueberry reserve in the Fort St. John area, who suggested that during the treaty negotiations there were demands made regarding protection from competition by white trappers and hunters.¹⁵ Finally, Professor Jackson argued that if the treaty commissioners perceived the guarantees of hunting, fishing and trapping as mere temporary privileges to be terminated when settlement or other developments occurred, they failed to make that clear during the treaty negotiations.¹⁶

As historian Richard Daniel suggests, the treaty provision for reserves and lands in severalty was viewed by both sides as protection for those bands living in areas likely to be settled, and as an alternative economic base for those who might wish to engage in agriculture or stock raising.¹⁷ The evidence indicates, moreover, that reserves were explained by the treaty commissioners during the negotiations but not discussed to a great extent by the Indians.

There has been much written on Indian perceptions of the treaty regarding health care and social services. Although there was no provision for medical assistance, the commissioners promised medicines and care to the Indians and "assured them that the Government would always be ready to avail itself of any opportunity of affording medical service."¹⁸ Furthermore, the report of the commissioners indicates that the Indians asked for "assistance in seasons of distress" and "urged that the old and indigent who were no longer able to hunt and trap and were consequently often in distress should be cared for by the government." Also, they requested that medicines be provided and at Vermilion, Chipewyan and Smith's Landing, they demanded the services of a medical man. In 1900, a doctor accompanied the treaty party and "gave advice and dispensed medicines to large number of Indians and vaccinated many."¹⁹ In subsequent years, Inspector W.H. West, R.N.W.M.P., accompanied the treaty parties, but an annual visit

could not improve health conditions significantly.

After the measles epidemic of 1903, Chief Pierre Squirrel, who signed treaty for his band at Fort Smith, demonstrated his disappointment concerning health care:

You see how unhappy we are, how miserable and sick. When I made this treaty with your government, I stipulated that we should have here a policeman and a doctor; instead of that you have sent nothing but missionaries.²⁰

Nine years later, the Indian agent at Fort Smith advised that a medical officer was much needed and finally, in 1914, Dr. MacDonald was appointed. Other Indians, however, did not receive proper health care. Treaty Eight Inspector H.A. Conroy reported:

It is a physical impossibility for Dr. MacDonald stationed at Fort Smith, to visit with any degree of frequency such posts as Fort McMurray, Fort Chipewyan, Fond du Lac, Fort Resolution, Hay River, Fort Providence, Fort Simpson, Fort Wrigley, Fort Norman, and Fort Good Hope.²¹

The right to an education was emphasized in the treaty negotiations by Kinosayoo at Lesser Slave Lake in 1899 and the federal government indicated that this would be supplied. The churches were expected to continue to provide schooling and the Indians were promised that they would have complete freedom in choosing education under the religion of their choice. Nevertheless, neither the written treaty, the report of the treaty commissioners, nor the negotiations were clear about the nature and extent of the education to be provided under the treaty.

Finally, there has been some controversy regarding the treaty provisions for once-for-all expenditures. The treaty includes guarantees of assistance in agriculture and stock raising and the provision of tools, implements, seed and cattle. The treaty commissioners could not have explained that the allotment of cattle and implements was a "once-for-all" provision rather than a commitment to economic development. Those elders interviewed by the Treaty and Aboriginal Rights Research group of the Indian Association of Alberta recall that assurances were made regarding cattle,

implements and provision during planting.²² There is no evidence, as Daniel points out, that the Indians understood these promises to be on a "once-for-all" basis.²³

The Fulfilment of Treaty Obligations

After the Treaty Eight negotiations were completed, the affairs of the northern Indians came under the jurisdiction of a small, distant federal bureaucracy and an equally small field staff. Furthermore, with the establishment of the provinces of Alberta and Saskatchewan in 1905 and the transfer of control over natural resources by the federal government to the Prairie provinces and British Columbia in 1930, the provincial governments assumed a more active role in controlling the development of the northern hinterland, especially development concerning land use and natural resources. In the post-treaty period, the provincial governments represented the attitudes of the new settlement frontier and shared the settlers' views on land use and the exploitation of natural resources. Consequently, the fulfilment of treaty promises, particularly those concerning reserve land and hunting, fishing and trapping rights, were in direct conflict with settler interests as represented by the provincial governments.²⁴

Treaty Eight Administration

In 1908, nine years after Treaty Eight was signed, the Lesser Slave Lake agency was established with headquarters at Grouard. This agency covered a large area and included the Sturgeon Lake, Dunvegan, Peace River Landing, Little Red River, Fort Vermilion, Wabiscow and Whitefish Lake Bands, and later included bands of the Fort St. John District in northeastern B.C. Indian agencies were also opened at Fort Smith and Fort Simpson in 1911 "to distribute relief and carry out experiments in farming." Fort Smith was within the Treaty Eight boundaries, but Fort Simpson was not, which made the move an unusual one.²⁵ These agencies provided more contact with bands situated close to the agency headquarters, but the more distant bands continued to have little contact with the Indian Affairs field staff. Besides attending to the general complaints of the Indian bands in the Treaty Eight area, the Indian agents were involved in performing

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 Kinosayoo 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.³⁸ 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

Fort McKay	1915	#174; #174A; #174B
Fort McMurray (Gregoire Lake & Clearwater River)	1915	#175; #176
Portage La Loche (originally part of Fort McMurray Band)	1965	#221; #222; #223
Janvier	1922	#194
Chipewyan of Fort Chipewyan	1931	#201; #201A-201G (incl.)
Slaves of Upper Hay River	1946	#207; #209; #210; #211 #212; #213; #214
Crees of Fort Chipewyan	----	Tentative settlement reached offering seven parcels of land
Lubicon Lake	----	----

Northeastern British Columbia

Fort St. John	1911	#204; #205; #206
Fort Nelson	1960/1964	Fontas #1; Fort Nelson#2; Kahntak #3; Snake River #5
Prophet River (originally part of Fort Nelson Band)	1962	Prophet River #4
Hudson's Hope	1914	#168; #168A
Saulteau	1914	#169

Northwestern Saskatchewan

Stony Rapids	1966	#224; #225; #226
Fond du Lac	1967	#227; #228; #229

Northwest Territories

Hay River	1914 (i.e. settlement)	Hay River #1
Fitz/Smith	1910	Fort Smith Settlement, Fitzgerald

Resolution	1914	Fort Resolution Settlement, Rocher River
Snowdrift (Yellowknife "A")	1958	Snowdrift Settlement, Trout Rock Settlement
Yellowknife "B"	----	Yellowknife Settlement Yellowknife Indian Village.

Following World War I, the Department of the Interior demanded that the Indian Affairs Department surrender the reserves of the Duncan’s Band and the Beaver Band of Dunvegan in the fertile Peace River block for soldier settlement.³⁹ The Indian Affairs Department initially refused, but by 1928 there was little indication that these bands were using the land, and part of the Duncan’s Band reserve and all the Dunvegan reserve were surrendered.⁴⁰ The proceeds from the latter were used to purchase a new reserve at Clear Hills. Furthermore, by 1927, the premier of Alberta was requesting that idle reserve lands in the Lesser Slave Lake area be surrendered.⁴¹ The Indian Affairs Department resisted surrenders of the Driftpile and Sucker Creek reserves because the land was being put to good use but consented to the surrender of part of the Swan River reserve. The band, however, voted unanimously against a surrender.⁴²

In 1930 the federal government transferred control over natural resources to the Prairie provinces and B.C. (i.e., Peace River block and Railway belt). Since 1930, the federal government has retained responsibility for Indians lands, while settler and regional metropolitan interests have increasingly been represented by the province.⁴³ The resource transfer agreements contain a clause which exempts Indian reserve lands from the transfer and provides that:

...the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the appropriate Minister of the Province, select as necessary to enable Canada to fulfill its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof.⁴⁴

The Indian Affairs Department has interpreted this clause to mean that the federal government would determine the amount of land allocated to a particular band but the province would indicate where the bands would be located.⁴⁵ That is, under the agreements the province would assume obligation to set aside such lands as would enable the federal government to fulfill treaty land obligations. However, the nature and extent of this clause has never been clearly defined by either subsequent agreements or court decisions. Hence, those bands acquiring land after 1930 have been treated differently, depending on the particular circumstances of each claim.

The efforts of certain isolated communities to obtain reserves provides a basis for some tentative conclusions on the handling of land entitlement claims since 1930.⁴⁶ Since the treaty negotiations of 1900, several Indians in those isolated communities were committed to treaty and were added to band lists at the points where annuities were paid. For instance, most of the Indians from Chipewyan Lake, Trout Lake, Long Lake, Peerless Lake and Sandy Lake were added to the lists of the Bigstone Band of Wabasca. Similarly, most of the Indians from Lubicon Lake and Loon Lake were added to the lists of the Utikuma Lake (Whitefish Lake) Band.⁴⁷ The addition of several Indians to the band lists affected land entitlement and by 1935 some of the isolated communities requested that their autonomy be recognized and reserves allocated. T.R.L. McInnes, secretary of the Indian Affairs Branch, calculated in 1937 that 213 Indians had been added to the Wabasca Band lists from 1913 to 1936, entitling the band to 27,264 additional acres.⁴⁸ No action, however, was taken regarding the separate identity and the outstanding land entitlement for the isolated communities.

Rather, in 1942, M. McCrimmon of the Indian Affairs Branch conducted an inquiry into the band lists of the Lesser Slave Lake agency. The number of additions to treaty was so extensive that the Branch discharged about 700 individuals from the treaty lists on the grounds that their parents or grandparents were white or Métis. The action was protested by the people concerned and by local missionaries and as a result an investigation was conducted by Alberta District Court Justice W.A. Macdonald upon the advice of Jack Sissons, member of Parliament.⁴⁹ Judge Macdonald, who reviewed the

treaty-scrip option granted to the Métis in Treaties One and Eight, concluded that:

An Indian treaty, or for that matter any formal arrangement entered into with a primitive and unlettered people, should not be construed according to strict or technical rules of construction. So far as it is reasonably possible, it should be read in the sense in which it is understood by the Indians themselves. When Treaty No. 8 was signed the Indians were well aware that the Government took a broad and liberal view with respect to the class of persons eligible for treaty. Many of them taken into Treaty at that time were themselves of mixed blood. They knew that individuals of mixed blood who had adopted the Indian way of life were encouraged to take treaty. They cannot reconcile the removal from the band rolls of a large number of individuals who have been in treaty for many years, with their understanding of the situation as it existed when the treaty was signed.

The Indians Act is loosely drawn and is replete with inconsistencies. I venture to say that flexibility rather than rigidity and elasticity rather than a strict and narrow view should govern its interpretation.⁵⁰

Macdonald's report of 1944 found that although one-third of the people in question were descended from Métis who accepted scrip and were therefore rightly discharged from treaty, the Indians Affairs Branch had also removed almost three hundred because they were thought to be "half-breeds." The Branch, however, agreed to reinstate only 129 of the 294 persons Judge Macdonald insisted should be readmitted to treaty.⁵¹

It has been suggested that the removal of certain individuals from the band lists "may have been prompted by a realization of the extent of outstanding entitlement in Northern Alberta and the federal government's unwillingness or inability to get the provincial government to provide the required land in accordance with the commitments made when the natural resources were transferred to the province in 1930."⁵² More research is required in this area.

The Lubicon Lake Band and the Isolated Communities have been frustrated in more recent attempts to obtain reserve land. In the spring of 1975 the Indian Association of Alberta forwarded the land claim of the Isolated Communities and Lubicon Lake to the federal government. However, efforts to have their settlement claims recognized failed. Lubicon Lake filed their claim in federal court in April 1980, while the claim of the

Isolated Communities was presented in 1981, subsequently withdrawn, and then resubmitted in autumn 1984.⁵³ Other bands in northern Alberta in the Treaty Eight area have requested additions to their reserves since 1930, either because the land provisions of Treaty Eight were unfulfilled or because several families had been granted treaty status and had joined the band since the survey of its reserve. In some cases, however, a more cooperative approach has been reached by the federal and provincial governments.⁵⁴

The Fort Chipewyan Crees' request for a reserve has also remained outstanding. This is partly because of their incessant and difficult request for land within Wood Buffalo National Park and partly due to government delays.⁵⁵ The problem of calculating the extent of entitlement, moreover, has been a major stumbling block. The federal government and the band have agreed to calculate entitlement on the basis of the population of the band on 31 December 1972, but the Alberta government has maintained that the population at treaty time (1899) is the pertinent population figure.⁵⁶ In the fall of 1985, the Fort Chipewyan Band indicated that it was close to reaching an agreement with the federal government. The band was offered seven pieces of land covering about 5,000 hectares (approximately 12,350 acres) and \$24 million in compensation by the Office of Native Claims. One of the parcels of land is a two square kilometre (little less than one square mile) plot at Peace Point in Wood Buffalo National Park. The band would also retain its traditional hunting, fishing and trapping rights in the rest of the park.

In the B.C. portion of the Treaty Eight area, the allotment of reserves under Treaty Eight stipulations was dictated by the province's reversionary right to land policy. Moreover, as B.C. was not bound by any land provisions in a treaty negotiated by the Dominion government, a problem existed as to where reserve land would be allocated.⁵⁷ The reserve land problem in B.C. was alleviated somewhat by a complicated agreement whereby the federal government was able to select an area known as the Peace River block.⁵⁸ Reserves in the Peace River block were surveyed for the Fort St. John, Hudson's Hope and Sauleaux Bands in 1914 because of increased settlement in the

region and were based on the Treaty Eight formula of 128 acres per capita. Since all lands for these bands were located within the Peace River block, which was under federal jurisdiction until 1930, the province of B.C. was not involved in the land entitlement question.

There have been some reserve land transactions regarding the Fort St. John Band which have raised questions concerning its land entitlement under the terms of Treaty Eight. In 1914, D.L.S. surveyor D.F. Robertson "surveyed a reserve 28 square miles [17,920 acres] for the Fort St. John Band of Beaver Indians."⁵⁹ By order-in-council P.C. 819, dated 11 April 1916, "a parcel of land in the Peace River Block, known as St. John Indian Reserve No. 172," totalling 18,168 acres, was set apart for the Fort St. John Band.⁶⁰ On 16 October 1945, order-in-council P.C. 6506 authorized the surrender of Indian Reserve No. 172 "to be sold or leased for their benefit."⁶¹ The reserve was subsequently sold to the director, Veterans Land Act and the proceeds from the sale, totalling \$70,000, were credited to the Fort St. John Band. As indicated by Indian Superintendent E.J. Galibois, this reserve was replaced by Beaton River I.R. No. 204, Blueberry River I.R. No. 205, and Doig River I.R. No. 206, comprising 6,194 acres. These three reserves were confirmed by order-in-council P.C. 4092, dated 25 August 1950.⁶² Finally, it should be noted here that the surrender of Fort St. John I. R. No. 172 has raised the question of reserve land entitlement for the Fort St. John Band under the provisions of Treaty Eight. Issues dealing with the legality of the surrender and the reserve land entitlement question are presently before the provincial courts.

Reserve land entitlement problems have also existed for bands which were located outside the Peace River block and for non-signatory bands. By 1915, the only signatory band for whom land had not been provided under Treaty Eight was the Fort Nelson Band. This bands was situated outside the Peace River block and the problem of providing its land allotment, therefore, came within the terms of reference of the Royal Commission on Indian Affairs (McKenna-McBride Commission).⁶³ Likewise, the selection and allotment of reserves for the non-signatory bands were dealt with by the McKenna-McBride Commission. After the commission visited the Fort Nelson area in

1914, it decided not to deal with the question of reserve allotments for this band and instead issued Interim Report No. 91, dated February 1916, which deferred the selection and allotment of reserve for "Indian residents in that portion of British Columbia covered by Treaty 8 for whom reserves have not already been constituted and allotted" until such time as the Indian Affairs Department attained accurate knowledge of the number and location of the Indians involved.⁶⁴ The Slave Indians of the Fort Nelson Band did not claim reserve entitlement until 1961, due to lengthy negotiations with the province of B.C. regarding mineral rights.⁶⁵

Reserves for the non-treaty bands were created in 1916 pursuant to Interior Report No. 91. Reserves totalling about 4,300 acres were set aside for the 300 nomadic Indians resident in the western portion of Treaty Eight, immediately east of the Arctic divide, including the Liard River, McLeod Lake and Fort Grahame Indians. More recently, the question of a possible adhesion to Treaty Eight by some non-signatory bands has been raised. There is the problem, however, of the province's stand on providing reserves.

Finally, there are the unfulfilled treaty land entitlement provisions for those Indians resident in the Treaty Eight portion of the Northwest Territories. In 1950, s.19(d) was added to the Territorial Lands Act, enabling the governor-in-council to "set apart and appropriate such areas or lands as may be necessary to enable the Government of Canada to fulfill its obligations under treaties with the Indians and to make free grants or leases for such purposes, and for any other purpose that he may consider to be conducive to the welfare of the Indians."⁶⁶ No action was taken on this legislation until the matter was brought before the Committee of the Privy Council on 25 June 1959. At this meeting, it was noted that resolution of the land entitlement question in the Northwest Territories (about 576,000 acres) should not be further postponed because of settlement due to northern development. It was also indicated that the Indians were divided on the question of whether to insist on full land entitlement and, consequently, might consider renegotiation of the treaties. To examine these questions, the Nelson Commission was appointed to investigate the unfulfilled provisions of Treaties Eight and Eleven.⁶⁷ The alternatives presented to the 15 Indian communities were:

- (a) They could take their land as provided in the treaty.
- (b) They could ask for a portion of their land entitlement plus a cash settlement for the remaining portion.
- (c) In lieu of their land entitlement they could ask for mineral rights and cash.
- (d) A cash settlement with no land and no other rights except the rights to fish, hunt and trap as given to them in the treaty.
- (e) Any reasonable alternative that they might wish to suggest.⁶⁸

During the course of the presentations, it was explained that the choice of any alternative but the taking of reserve lands as provided in the treaties would necessitate a renegotiation of the treaties and the consent of the Indians of the Northwest Territories.⁶⁹ The commission indicated that no consensus emerged on the issue and that the Indians did not understand the distinction between land ownership, hunting and fishing rights, and mineral rights. Generally, the Nelson Commission recommended that the treaties be renegotiated to give the Indians (a) title to small plots of land, (b) a lump sum of \$20 per acre for their entitlement, and (c) an annual payment of one-half of one percent of any revenues derived by the Crown from the mineral, gas and oil reserves of that portion of the Northwest Territories ceded by Treaties Eight and Eleven.⁷⁰ No action was taken until almost a decade later.

More insight into the views of the Mackenzie peoples was given by the Report of the Indian Act Consultation Meeting, held in Yellowknife in 1968. The report reflected the importance of the treaty lands issue but did not state a conclusion.⁷¹ Not until 1974 was a single reserve site chosen anywhere in the Mackenzie District. That year, a reserve of 52 square miles was set aside for the Hay River Band of Treaty Eight by order-in-council P.C. 387 of 26 February 1974.⁷²

Hunting, Fishing and Trapping Rights

The fulfilment of treaty obligations regarding hunting, fishing and trappings rights had produced much conflict, controversy and bitterness. The Indians understood that, in

return for signing Treaty Eight, their economic system was to be guaranteed and protected. However, the extent to which governments would impose legal restrictions on Indians' access to fish and wildlife resources and the extent to which they would restrict non-Indian competition has been a subject of debate in the post-treaty period.

The game restrictions on native and non-native trappers that followed the treaty negotiations have caused considerable hardship for many Indians. In 1911, the province of Alberta closed beaver hunting for two years. When Treaty Inspector Conroy and N.W.M.P. Sergeant Mellor arrived at Fort Chipewyan in 1913, "the Indians were...full of complaints about the closed season for beaver."⁷³ In 1917, moreover, the "Act respecting Game in the Northwest Territories of Canada" was passed by the federal government. Section 4 of the Game Act established closed season on moose, caribou, mink, muskrat, ptarmigan, wild geese, wild ducks, etc. Furthermore, game laws and their application to Indians were discussed in the House of Commons on 8 June 1920. The solicitor general, the Honourable Arthur Meighen, commented on the game restrictions:

The Indian outside his reserve must comply with any provincial restrictions with respect to hunting or the preservation of game. The Indians have sometimes resisted the imposition of these restrictions by the provinces, but the policy of the department has been to get them to comply, I do not want to give that as a final opinion, but that is my impression.⁷⁴

In 1920 (and again in 1937) the Dogribs, Chipewyans, Slaveys and Yellowknives at Fort Resolution boycotted the treaty days in violation of treaty promises. They refused to accept treaty money as a protest against the government and against the imposition of strict game law regulations in violation of treaty promises.⁷⁵

The introduction of the registered trapline system in B.C. in 1926, whereby a trapper purchased exclusive trapping rights in a defined area, and the establishment of Indian fur game preserves in some portions of the Treaty Eight area were offered as solutions by the federal government to protect Indian hunting, fishing and trapping rights. The Indian Affairs Department's concern about the protection of these rights is evident in the

following report:

The condition of the Indians in the northerly and outlying districts who are still dependent upon the chase for their livelihood has become a matter of grave concern to the department.

During recent years there has been an alarming increase in the number of white trappers who are encroaching upon hunting grounds in the northern parts of the various provinces, which were formerly used by Indians only. White trappers are using poison extensively, and this illegal and vicious practice is becoming a grave menace to game conservation. Not a single instance of the use of poison by any Indian trapper anywhere in Canada has ever come to the attention of the department. It is felt that unless some protection is afforded, the Indian trappers in the northern regions, where other means of livelihood are not available, may become dependent, owing to the depletion of the game.

Hunting and fishing are the aboriginal vocations of the primitive Indians. By immemorial usage the Indians are conservationists of the game and fish, and may be expected to continue so, if protected; on the other hand, if whites are allowed to deplete the fish and game on Indian hunting grounds, the Indians themselves will naturally take all they can, while they can, and there is grave danger that such a situation may bring about intensive competition between whites and Indians, ending in the virtual extermination of valuable species. Indian families, in most cases, are permanent residents, and their hunting grounds are recognized among themselves, and handed down from one generation to another, whereas white trappers are frequently of the itinerant class, whose practice is to trap out an area and then move elsewhere.⁷⁶

Author Hugh Brody has argued that the registered trapline system in northeastern B.C. (Fort St. John area) produced a severe limitation on Indian land use and that the Indians were encouraged to believe that the guarantees promised in Treaty Eight would be secured under this system.⁷⁷ He suggests further that registration was not designed with Indian land use in mind but was "an attempt to bring what were considered the Indians' unusual economic practices into line with ideas of ownership and exclusivity in the interests of rational production for a market economy."⁷⁸ He concludes, however, that while the government's game department attempted to limit Indian hunting rights, the Indian Affairs Branch tried to offer some degree of protection.⁷⁹ Indian Affairs correspondence does reveal that several exclusive trapping areas were purchased from white trappers and that Fort St. John Indian Agents H.A.W. Brown and E.J. Galibois were actively involved in the selection and purchase of additional traplines.⁸⁰ In

addition, the evidence indicates that the B.C. Land & Forest Department and the Indian Affairs Branch conducted discussions regarding fur conservation schemes which involved restocking and farming.⁸¹

The registered trapline system was also implemented in Alberta in 1939 after discussions regarding the establishment of exclusive Indian preserves failed. The establishment of the Wood Buffalo Park in the Northwest Territories in 1922 (10,500 square miles) resulted in agitation from the Fort Chipewyan trappers of northern Alberta for similar protection.⁸² Furthermore, in 1923, seven large preserves were set aside for the exclusive use of Indian trappers in the Northwest Territories.⁸³ Agitation from northern Alberta trappers continued and there were discussions concerning the establishment of "hunting reserves," but the transfer of control over natural resources from the federal to the provincial government in 1930 influenced the nature of future discussions. Section 12 of the transfer agreement concerned Indian hunting, fishing and trapping rights:

In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Provinces from time to time shall apply to the Indians within the boundaries thereof, provided, however, that the said Indians shall have the right, which the Province hereby assures to them, of hunting, fishing and trapping game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.⁸⁴

The effect of Section 12 of the agreement was that the power of the federal government to influence the province concerning the regulation of hunting and trapping was limited. Furthermore, provincial interest in fur conservation was directed more at the protection of provincial revenues than at the protection of Indians. Finally, as early as 1934, provincial authorities had indicated their preference towards the registered trapline system, and in 1939 it was implemented.⁸⁵

The transfer of control over natural resources to the Prairie provinces and B.C. (including the Peace River block) in 1930 also increased provincial involvement in the

development of the northern hinterland.⁸⁶ 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.*

35. DIAND, file 779/30-10-174, vols. 1 and 2; DIAND, file 779/30-10-174A.
36. Daniel, "Indians Rights and Hinterland Resources: The Case of Northern Alberta", p. 137.
37. 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.
38. Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," p. 149.
39. PAC, RG 10, vol. 7535, file 26131-1, Arthur Meighen to Brigadier-General, W.A. Greisack, M.P., 7 May 1919.
40. PAC, RG 10, Vol. 1-6.
41. Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," p. 149.
42. *Ibid.*, p. 150.
43. *Ibid.*
44. *British North America Act*, 1930.
45. PAC, RG10, Vol. 7748, file 27001, W.W. Cory, Solicitor, Indian Affairs Branch , to H.W. McGill, Director, Indian Affairs Branch, 25 February 1938.
46. 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.
47. See Canada, Department of Indian Affairs and Northern Development, "Treaty Annuity Paylists."
48. 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.
49. See J. Sissons, *Judge of the Far North* (Toronto, 1968), pp. 50-51.
50. 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.
51. 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.
52. Daniel, "Land Rights of the Isolated Communities of Northern Alberta," p. 16.
53. See Indian and Northern Affairs Canada, Office of Native Claims, *Specific Claims in Canada: Status Report*, August 1984, p. 16.
54. Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," pp. 159-160.
55. 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.
56. Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," p. 159.
57. 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.

- ⁵⁸. 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).
- ⁵⁹. 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.
- ⁶⁰. Canada, Privy Council, O.C. NO. 819, 11 April 1916.
- ⁶¹. Canada, Privy Council, O.C. No. 6506, 16 October 1945.
- ⁶². 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.
- ⁶³. British Columbia, *Report of the Royal Commission on Indian Affairs* (Victoria, 1916), Vol. 1, p. 126 (Interim Report No. 91, 1 February 1916).
- ⁶⁴. *Ibid.*
- ⁶⁵. Canada, Privy Council, O.C. No. 2995, 28 November 1961.
- ⁶⁶. Cumming and Mickenberg, *Native Rights in Canada*, p. 126.
- ⁶⁷. 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).
- ⁶⁸. *Ibid.*, p. 3.
- ⁶⁹. *Ibid.*, p. 2.
- ⁷⁰. *Ibid.*, p. 8.
- ⁷¹. 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).
- ⁷². Ronald Maguire and George Brown, "Indian Treaties in Historical Perspective" (Ottawa, 1979), p. 47.
- ⁷³. Canada, *Sessional Paper*, 1915, No. 28, Report of Sergeant A.H.L. Mellor attending treaty payments, p. 197.
- ⁷⁴. Canada, *House of Commons Debates*, 8 June 1920, p. 3280.
- ⁷⁵. 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.
- ⁷⁶. DIAND, *Annual Report*, 31 March 1929, pp. 7-8.
- ⁷⁷. Brody, *Maps and Dreams*, p. 95.
- ⁷⁸. *Ibid.*, pp. 88-89.
- ⁷⁹. *Ibid.*, p. 92.

^{80.} See, for example, PAC, RG10, vols. 6735 and 6736.

^{81.} *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.

^{82.} PAC, RG10, vol. 6732, file 420-2B, Gerald Card, Indian Agent, to D.C. Scott, Superintendent General, 22 May 1924.

^{83.} *Ibid.*, vol. 6731, file 420-1-2.

^{84.} *Alberta Natural Resources Act*, 1930.

^{85.} PAC, RG10, vol. 6733, file 420-2, Vol. 5, C.P. Schmidt to Secretary of Indian Affairs, 9 March 1940.

^{86.} See Daniel, "Indian Rights and Hinterland Resources: The Case of Northern Alberta," Chapter 5.

SUMMARY

The federal government was committed to a policy of not proceeding with treaties until the land was required for settlement or development; it wished to ensure peaceful settlement and development of the land and to promote the harmonious co-existence of native and non-native cultures. The overriding factor in the government's decision to negotiate Treaty Eight involved economic considerations, not humanitarian or ideological concern for the Indians of the Peace River-Athabasca region.

Generally, Treaty Eight followed the same format as previous post-Confederation "numbered" treaties and exemplified the Dominion government's desire for substantially uniform treaties with minimal commitments. The negotiators of the first two treaties (signed in 1871) stated that the early treaties would establish a policy precedent from which it would be difficult to depart. Indeed, the negotiation of subsequent treaties with the Plains Indians of the "fertile belt" indicate few variations. When Treaty Eight was finally negotiated, the text of the written terms and conditions was based essentially on Treaty Seven, with some allowances to reflect local conditions.¹

The terms and conditions of Treaty Eight reflected, in part, the differences between the social organization of the northern and Plains Indians and the recognition that the Indians in the Treaty Eight area might wish to continue traditional economic activities, such as hunting, fishing and trapping, and to resist being restricted to reserve land. Therefore there were assurances that the government would not force upon them substantial changes in their way of life and that they would be permitted to hold their land collectively in reserves or in severalty. Officials of the Indian Affairs Department discussed the possibility of altering further treaty provisions but, owing to lack of information on the northern Indians, Clifford Sifton would not consent to any further changes and believed that "departmental goals could be achieved by more rigorous and efficient application of traditional methods."² Furthermore, historian D.J. Hall has argued that with the country emerging gradually from depression and with the emphasis on settlement of the prairies, it would have been impossible to undertake any radical or

costly departures from previous policy.³

From a government perspective, the negotiation of Treaty Eight was a political success.⁴ The Treaty Eight commissioners only intended to sign treaty with those Indians at the major trading posts, in those areas where there was mining activity, and where Indians might come in contact with prospectors or settlers. Also, the Métis were included because the government did not want an uprising similar to those in 1869-70 and 1885 and because it was feared that they might influence the outcome of the treaty. While limited consideration was given to alternative means of dealing with Indian and Métis claims, and while the negotiations were conducted somewhat hastily, there was little criticism directed at the federal government. Only when the half-breed commissioners exceeded their instructions and altered the form of scrip, enabling the Métis to dispose of their scrip more easily, was there any serious opposition. The Métis demonstrated their appreciation for Wilfrid Laurier's government, however, and voted Liberal in the following election.⁵

From the Indian perspective, Treaty Eight was certainly less than a success. For many of the northern bands who signed treaty, the concept of chiefs and headmen, as created by the treaty commissioners, was an unfamiliar one. Generally, the resources of their environment caused them to live in small groups, family units or loosely organized bands. Their traditional economic activities such as hunting, fishing and trapping did not promote a tribal organization with chiefs and councillors. The northern bands usually had leaders who achieved authority by demonstrating superior abilities, particularly as hunters. Local bands were organized around such leaders and several families placed themselves under the leadership of a skilled hunter, strictly observing any decisions regarding hunting and trapping.⁶ In most cases, the "government chiefs," who were usually chosen by the treaty commissioners to sign treaty, were regarded by the native people as spokesmen solely for Indian-government relations.⁷ Often their views reflected the interests of their own village rather than those of the several local families or bands they might be representing. This made it difficult to achieve a consensus during the treaty negotiations, when they might have influenced treaty terms and

conditions.

When the text of the terms and conditions was finally drafted, there were different interpretations of the nature of the obligations incurred by government. Interviews with Indian elders have indicated that the Indians' perception of the Treaty Eight provisions – particularly those regarding hunting, fishing and trapping rights, reserve land, social services, education and once-for-all expenditures – differed substantially from those of the government. Of all the treaty provisions, the most significant were hunting, fishing and trapping rights. Indian elders have stated in no uncertain terms that Treaty Eight would not have been signed if the Indians had not been assured that their traditional economy and freedom of movement would be guaranteed. If the treaty commissioners perceived the guarantees of hunting, fishing and trapping as mere temporary privileges to be terminated when settlement or other development occurred, they failed to make that clear during the treaty negotiations.

Furthermore, negotiations with bands in the Treaty Eight area were clouded from the outset by administrative entanglements. Generally, the method of bringing bands into treaty was rather haphazard. There was no clearly defined policy for securing the adhesions of those bands which had not signed treaty 1899 and 1900. Indeed, there were many Indians, particularly in the Fort St. John Beaver Band, who had not been given sufficient guarantees of their hunting, fishing and trapping rights to justify signing treaty. The Indian Affairs Department relied heavily on Treaty Inspector H.A. Conroy to admit those Indians who had not joined treaty and, after his death, Indian agents generally assumed this responsibility. Departmental officials, however, saw no urgent need to obtain adhesions from other Treaty Eight bands until it was reported in 1909 that the Fort Nelson natives were "becoming troublesome" and should be approached to sign treaty. The federal government seems to have been unaware of Indian concerns, especially in the more northern and isolated communities, partly because access was difficult and partly because of the nomadic lifestyle of the various Indian groups. By 1912, few Indians from these areas had joined treaty and, indeed, the government was still "discovering" communities north of Lesser Slave Lake.⁸ Also, in 1944, some

individuals, many illegally, were removed from the treaty band lists in some of the communities in the Lesser Slave Lake area.

Finally, there have been questions raised regarding the role of the federal government in fulfilling its treaty obligations, especially those referring to reserve land entitlement and hunting, fishing and trapping rights. In the post-treaty period, there has been a gradual but steady erosion of treaty promises, more particularly since 1930.

With the transfer of control over natural resources by the federal government to the Prairies provinces and B.C., the provincial governments have increasingly represented the attitudes of the new settlement frontier and have shared essentially the same views as the settlers regarding land use and the exploitation of natural resources. More recently, the federal government has been receiving some pressure to reassess its treaty obligations.

In November 1984, the minister of Indian Affairs and Northern Development, David Crombie, met with the chiefs and representatives of the First Nations of the Treaty Eight area at Sturgeon Lake, Alberta, and agreed to begin negotiations aimed at renovating Treaty Eight and establishing a renewed and revitalized Indian-government relationship.⁹ The treaty renovation agreement would attempt to define and specify the respective rights and obligations of the First Nations and the Crown arising from the treaty. Furthermore, the agreement would be embodied in legislation to the extent necessary and constitute a clarification of the treaty in light of contemporary legal political realities. Finally, it would not be a renegotiation of the treaty but an affirmation and clarification of its true terms.¹⁰ As indicated to Harold Cardinal, chief negotiator for Treaty Eight, the renovation process would proceed upon the basis that the true nature and extent of treaty rights and obligations would be derived from the following evidence:

- (a) the articles of the treaty itself and adhesions
- (b) the treaty commissioners' reports and other contemporary reports
- (c) the Indian perception of the treaty including written and oral history.¹¹

Notes

1. Richard Daniel, "The Spirit and Terms of Treaty Eight" in Richard Price, ed., *The Spirit of the Alberta Indian Treaties* (Montreal, 1979), pp. 80-82.
2. D.J. Hall, *Clifford Sifton: Volume 1: The Young Napoleon, 1861-1900* (Vancouver, 1981), p. 271.
3. *Ibid.*, p. 273.
4. *Ibid.* The Indian perception of the treaty differed, however, and there were some disagreements regarding alleged verbal promises and the written text of the terms and conditions.
5. D.J. Hall, "The Half-Breed Claims Commission," *Alberta History* 25 (Spring 1977), p. 7.
6. David M. Smith, *Moose-Deer Island House People: A History of the Native People of Fort Resolution* (Ottawa, 1982), p. 111.
7. *Ibid.*
8. Richard Daniel, "Land Rights of the Isolated Communities of Northern Alberta," unpublished paper prepared for the Isolated Communities Advisory Board and the Lubicon Lake Band, January 1975, p. 22.
9. See letter of 6 December 1984 from Harold Cardinal to The Honourable David Crombie.
10. *Ibid.*
11. *Ibid.*

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