

TREATY RESEARCH REPORT  
THE ROBINSON TREATIES  
(1850)

by  
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**1986**

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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## HISTORICAL BACKGROUND

In 1791, the boundaries of Upper Canada were set and the new colony received jurisdiction over the territory west of the Ottawa River between the St. Lawrence River - Great Lakes waterway and the lands which had been granted to the Hudson Bay Company. The H.B.C. lands also known as Rupert's Land, consisted of the region drained by the rivers flowing into Hudson's Bay. Therefore the Upper Canadian northern boundary was demarcated by the height of land sometimes referred to as the Arctic watershed.

This is significant for it meant that virtually the entire province fell within the Indian Territory as defined by the Royal Proclamation of 7 October 1763, which decreed that the lands therein were reserved "for the Use of the ...Indians as their Hunting Grounds". It went on to describe in general terms the manner by which the Crown's representatives could purchase portions of that Indian territory.

And whereas Great Frauds and abuses have been committed in purchasing lands of the Indians, to the great prejudice of our interests, and to the great dissatisfaction of the said Indians; In order, therefore, to prevent such irregularities for the future, and to the End that the Indians may be convinced of our justice and determined resolution to remove all reasonable cause of discontent, we do, with the advice of our privy council strictly enjoin and require, that no private person do presume to make any purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where, we have thought proper to allow settlement; but that, if at any Time any of the said Indians should be inclined to dispose of the said Lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians, to be held for the purpose by the Governor or Commander in Chief of our Colonies respectively within which they shall lie...<sup>1</sup>

Between 1764 and 1836 in Upper Canada about twenty-seven sizeable land purchases were completed, and over the years certain procedures, commonly called the treaty system, developed to provide for the alienation of Indian title to land. These included the following:

1. Payment for the land. At first, this involved a single, one-time payment of a specified amount, payable in trade goods. Beginning in 1818, however, this was replaced by an annuity of a specified amount, payable in trade goods, based on the number of persons who occupied the surrendered tract at the time of the agreement. Later, the trade goods were replaced with cash.
2. Hunting, fishing and occupancy rights. When land was purchased for settlement or military purposes, it was seldom occupied completely either by the forces or by settlers. In the first land cession agreements, like the Crawford (1783), McKee (1790) or Lake Simcoe (1798) purchases, it was understood that the Indian residents would be allowed to continue to live, hunt and fish in the unsettled areas. Because the growth of settlement was slow, this caused few serious difficulties before 1815. But immigration in the post War of 1812 years increased the pressure on Indian society, causing concern among the Indians with regard to hunting and fishing rights. These expressed concerns were often recorded in the treaty negotiation minutes, which also recorded that the Crown's representative agreed verbally to those rights being retained. But no mention of the hunting and fishing rights<sup>2</sup> of Indians was actually included into the written agreements before 1850.
3. Reserve lands. In some of the early treaties such as the 1790 McKee purchase or the 1805-6 Credit River agreement,<sup>3</sup> it was provided that some specific and limited portions of the surrendered tract would be reserved exclusively for Indian use. These usually were longstanding village locations or traditional - and bountiful fisheries. In 1830 the formal adoption of a civilization programme meant that reserves became essential to government policy. Where such pockets of Indian settlement had been omitted in previous treaty arrangements, they were established by a variety of means. By 1850 when it came time to negotiate a major land cession on the northern shores of Lakes Huron and Superior, it had become generally accepted that it would include provision for reserves.

The impetus to seek such a land surrender in the northwestern portion of Canada West was provided by the mining industry. Previous to this the single significant commercial enterprise in that region had been the fur trade. After 1821 that activity was a virtual monopoly of the Hudson's Bay Company, although independent traders were active there also. The Indians of that region, usually referred to as the Northern Ojibwa, participated in that activity as well as the traditional methods of food gathering by hunting and fishing. The Indians were not unified, however. Certainly there were some relations among those who occupied the long shoreline of the two upper Lakes, but the

population of some 3,000 persons was nonetheless divided into about two dozen fairly distinct bands. Each had its own band organization with its own chief; and each group restricted its operations to a clearly defined area. Within that area the band occupied regular village sites on the coast during suitable weather, and other inland areas during the winter.

Some of these sites either contained or were located close to mineral deposits, particularly copper. Thus, when entrepreneurs began to exploit the mineral deposits - some of which had been known since the days of Father Alouez's journey into the region in the seventeenth century - their prospecting, surveying and technical parties were actually moving into lands which the Indians considered to be theirs. This activity was regarded by the Indians as trespassing.

Responsibility for mineral resource development lay with the provincial Crown Lands Department. Two factors must be noted in relating this branch of government's actions in the years 1845-50. First, the impetus for mineral development was inspired by the successful mining operations on the upper Michigan Peninsula. It seemed possible that the copper deposits in particular would be found on both sides of the Upper Lakes. Canadian and British entrepreneurs hoped to replicate that success. Second, the Department had no past experience or precedents to guide it when requests were made to pursue mining activity on the shores of Lake Huron or Lake Superior. Nor did it have any knowledge of what resources might be found there. Between 1845 and 1847 the branch took some tentative steps to correct these shortcomings.

In 1845, the Crown Lands Department issued several regulations, through orders-in-council, regarding the licensing of prospectors, the boundaries of mining claims and the price of land containing base metals.<sup>4</sup> In response to requests for mining permits, the government began issuing licenses for that purpose and by May of 1846, thirty-four<sup>5</sup> had been issued to explore for minerals on the north shore of Lake Superior. Among the first companies to seek opportunities in the Northwest was the Montreal Mining Company, an English firm organized in 1845 with some Canadian support. After

conducting surveys on Lake Superior the company purchased numerous mining locations from the government. These totalled 180 square miles; and a single location extended five miles in length and two miles in width. None of these provided significant returns, but the firm's holdings at Bruce Mines, on Lake Huron, were much more promising and it was later reported that up to July of 1848, about 1475 tonnes of copper ore had been raised, averaging 8.01% copper (unconcentrated).<sup>6</sup>

The government sought to develop its own data concerning the area. In the summer of 1846, the provincial geologist, William E. Logan, examined the Michipicoten and Kamisistagua areas, and reported that the numerous bays and inlets could provide safe harbours. He also noted that there was sufficient arable land to support small settlements. In 1846, investigations of other areas were made by two provincial land surveyors - McNaughton and Vidal. Vidal conducted further surveys in 1847 and 1848 on the north shore of Lake Huron and another surveyor, Albert P. Alter, surveyed locations on the north shore of Lake Superior.<sup>7</sup> Other provincial surveyors as well as privately hired geologists continued to move in the region in 1848 and 1849.

This activity began to worry the Indians of the region, who responded by warning off the newcomers. On at least one occasion, April 7, 1846, a land surveyor in the temporary employ of the government was threatened by Chief Shinguakouse of Garden River.<sup>8</sup> The Indians also wrote letters of complaint to the central government. The most well known of these was a petition sent by Shinguacouse to the Governor General on June 10, 1846. In this the chief referred to his own services to the British during the War of 1812, and noted promises had been made that he would be able to live "unmolested forever", but that promise was being broken by the men who were moving into his region. He observed further that other Indians in Canada were receiving annuities, that his and related bands should also receive money for their land, and that he and his people wanted "a share of what (was) found on (his) lands."<sup>9</sup> Other complaints also made their way to the government, and one petition was even published in the *Montreal Gazette*, in 1849.<sup>10</sup>

The government, however, was unreceptive to these complaints. If government officials understood that the Indians wanted a royalty of some kind for the minerals extracted from their lands - and that would appear to have been at least Shinguakouse's meaning - they ignored it, assuming the complainants were simply after annuities. They felt the solution to the problem was simply to negotiate a land cession treaty similar to those that had been arranged for the southern part of the province. At first, however, even that was denied.

In a report on the matter in November, 1847, Denis-Benjamin Papineau, the Commissioner of Crown Lands (and the brother of the more famous Louis-Joseph Papineau) rejected any claim to the land by the northern Indians. He did so on the grounds that those bands had occupied their lands only since the conquest in 1763 and were not, therefore, the original inhabitants. He also thought the scattered bands did not constitute a nation sufficiently organized to claim territory.<sup>11</sup> Papineau's report and agreements were not satisfactory to the Governor-General, Lord Elgin.

The report was not altogether satisfactory to me, and after the change of administration which took place in the spring I again brought the subject under the consideration of the Government. With the concurrence of the Council I sent Mr. Anderson a very efficient officer of the Indian Department in the summer of 1848, to examine into these Indian Claims, and I enclose for your Lordship's perusal a copy of his report which was favourable to the Indians, and of the correspondence which ensued upon it with the Crown Lands office. As the information which he collected was not in all particulars sufficiently complete to enable the Government to propose terms to the Indians, he was sent up again this summer with a colleague Mr. Vidal on behalf of the Provincial Government to complete his enquiries. These gentlemen were on their return from their mission when the disturbance broke out of which I have now to report the occurrence.<sup>12</sup>

The occurrence to which Lord Elgin referred is known as the Mica Bay Incident. It involved a band of Indians and Métis, led by the white entrepreneur Allan Macdonell. The group travelled from Sault Ste. Marie along the shore of Lake Superior for about 200 miles to Mica Bay, and there, in November, 1849, attacked the mining installations of the Quebec Mining Company. This attack by an armed force (estimates of the numbers involved vary from 30 to 100) inclined the company agent, John Bonner, to

surrender without resistance. The government was sufficiently alarmed to send a force of 100 rifles to suppress this “Indian uprising”.<sup>13</sup>

The incident itself was easily ended. In December Macdonell and another white participant, Metcalfe, were arrested, as were two Métis and two Ojibwa chiefs including Shinguakouse. All were sent to Toronto for trial, and all were later released. It can not be said with certainty that the Mica Bay affair was connected directly to the concurrent question of land cession, but the Governor General apparently saw a connection. In the same letter quoted above he wrote:

I cannot but think that it is much to be regretted that steps were not taken to investigate thoroughly and extinguish all Indian claims before licenses of exploration or grants of land were conceded by the Government in this Territory. This omission is the pretext for the present disturbances and renders the Indians much more difficult to treat with.

Lord Elgin, however, was not certain that the Indian case was strong.

At the same time it must be admitted that their claims are of a questionable character, and as they are a docile people and cognizant of the steps which Government is now taking to ascertain and satisfy them, there can be little doubt that they are seduced into violent courses by the evil counsels of unprincipled white men.<sup>14</sup>

As Lord Elgin observed, the Anderson journey of 1848 and his subsequent report were considered insufficient to provide Government with data for a course of action regarding the Indian position. Thus Anderson was sent out again, this time as second in command to Alexander Vidal (a feature which Anderson resented) to report more fully on the circumstances on the northern shores of Lake Huron and Lake Superior. Their subsequent report paved the way for the future commissioner, William Benjamin Robinson.

The two principals - Vidal and Anderson - travelling by separate routes met at Sault Ste. Marie on September 15, 1849. Their plan was to travel together by schooner to Fort

William at the western extremity of the province, and from there to cruise the north shores of Lake Superior and Lake Huron by canoe. On this trip they would locate the bands, inform them of the intention of government and concurrently assess the strength of the Indian claim to the land.

Vidal travelled directly to Sault Ste. Marie from Sarnia but Anderson's route took him from Cobourg to the Holland River, Lake Simcoe and Penetanguishene. From there he moved westward by way of Manitowaning and the North Channel to St. Joseph Island and thence to the head of the lake.<sup>15</sup> Two features of his journey warrant mention. First, to the Indians whom he encountered - such as those from Shawanaga who saw him at Manitowaning - he delivered the message that they should be prepared to meet him and Vidal on their return journey to discuss a treaty. Second, when he reached the western region of Lake Huron his party was forbidden to land at Bruce Mines, because an epidemic of cholera had struck that community. Twenty-four persons had died already (September 14). Moreover, over half of those who were healthy had fled the region.<sup>16</sup> The presence of cholera and the lateness of the season when the Vidal-Anderson expedition returned to that area (mid November) meant that many bands were not directly contacted that year.

The two men and their party reached Fort William on September 24. They met with Indians there and on the 27<sup>th</sup> set out, by open canoe, to traverse the north shore of Lake Superior. It took until October 13 for them to reach Sault Ste. Marie. During their journey they conferred with bands at Fort William (September 25-26), at St. Ignace Island (September 29), and Michipicoten (October 9). They engaged in long discussions with the Indians of Garden River (October 15, 16, 17) and then proceeded along the north shore of Lake Huron.<sup>17</sup> The commissioner did manage to see the Mississagi band on October 22 but most bands, such as that at Serpent River, were absent and did not make any significant contact until October 26 when they were able to speak to an assembly at Manitowaning. From there they traversed the north channel but apart from a brief encounter with the chief's son at the French River, they were unable to find any bands until they reached Penetanguishene. There, on November 3,



they did manage a lengthy discussion with those chiefs who had assembled.<sup>18</sup>

The journey had not been as successful as had been hoped. Because it was late in the season - and probably also because of the cholera threat - the many bands who inhabited those shores were simply not available. This point has been made by several researchers who have examined the background to the Robinson Treaties, and invariably the commission and its report are criticized because of it.<sup>19</sup> Another deficiency in the documentation surrounding this inquiry is the sparseness of detail provided in the journals of both Anderson and Vidal.<sup>20</sup> For example, neither man identified the bands or chiefs whom they met at Manitowaning or at Penetanguishene.

Yet the commission should not be written off as a complete failure. The report underscored the Indian claim to the territory in question.

...The claim of the present occupants of this tract derived from their forefathers, who have from time immemorial hunted upon it is unquestionably as good as that of any of the tribes who have received compensation for the cession of their rights in other parts of the Province; and therefore entitles them to similar remuneration...<sup>21</sup>

The commissioners, furthermore, did speak to assemblies of Indians where and when they could. They also spoke to individuals whom they encountered. In this fashion they were able to inform those they saw of the intentions of government regarding a land surrender, and one can assume that this information was passed on among the Indians themselves. Also, allowing for the deficiencies already noted, the commissioners did provide a substantial amount of information regarding conditions in the northwestern portions of the Province to people who were little acquainted with it. This information included the approximate numbers of separate bands, their traditional locations, and their general hopes, desires and temperament. It was on the basis of this information that the government assigned a Special Commissioner, William Benjamin Robinson, the task of negotiating a treaty for the surrender of these lands.

Perhaps the most significant feature of conditions in the northwest, as reported by

Anderson and Vidal, was the range of Indian attitudes towards the possibility of a land cession agreement. In general, reported the commissioners, the Indians of the region were friendly towards the idea of a treaty with the exception of the bands at Fort William and at Sault Ste. Marie. Since those were the largest gatherings addressed by the two men, these exceptions would seem to be of greater importance than the report suggests.

At Fort William, the spokesman for all of the bands below the Lake Superior watershed was Chief Peau de Chat. His original demeanour was hostile. He had apparently been expecting, probably as a result of Anderson's trip the previous year, that this commission had been sent to conclude a formal treaty. When advised that the two men did not have that authority and that their's was a fact-finding mission only, he became openly suspicious that Anderson and Vidal had a hidden agenda. Reports from the Sault Ste. Marie region had reached Peau de Chat previously, warning him that Anderson was deceitful, and the commission's refusal to talk treaty terms seemed to confirm those reports. At first, therefore, the chief was unco-operative and refused to answer questions concerning his band's claims to the Lake Superior lands or the value that should be placed upon them. Two full days of meetings, however, apparently convinced him that Vidal and Anderson were acting honourably and the two groups parted "with a general shake of the hands".<sup>22</sup>

In attendance at the Fort William meetings was Fr. Frimeault, a Jesuit priest, whose presence disturbed Anderson who clearly distrusted him.

The Jesuit here as well as elsewhere tries to influence the Indians with his way of thinking not only as regards his erroneous creed, but also as regards the duties of our mission, not because he fancies he can direct the Indians and thus influence the Government into what he considers a good bargain for the natives and ultimately that he might get their cash to the exclusive benefit of his Priest craft, but of this the Government must be on their guard.<sup>23</sup>

Anderson advised Fr. Frimeault that "he had no business to interfere" which was

generally the government's approach to non-natives who involved themselves with Indian Affairs. It was the approach which the commissioners also adopted at Sault Ste. Marie when Shingaukouse, the principal chief there, announced that his band would negotiate only through Mr. Allan Macdonell. Macdonell was a lawyer and a mining promoter who had begun to develop sites on Lake Superior, and who had acquired considerable influence among the Garden River Indians. A few weeks later he would also head the party that would attack the mining installation at Mica Bay. Anderson and Vidal had been told at Fort William that Macdonell had also been responsible for spreading the rumours of Anderson's deceit. For that reason, also because it was accepted policy to deal only directly with the Indians, the commissioners refused to deal with him. When Macdonell urged on by Shinguakouse, proceeded to speak the commissioners adjourned the meeting. Vidal then left the chamber but Anderson remained to observe while Macdonell spoke "in a most inflammatory style".<sup>24</sup>

Two days later, on October 18, Chief Augustin, the eldest son of Skinguakouse, and three others from the Garden River band sought out Anderson and Vidal. The commissioners reported the subsequent meeting as follows.

We conversed freely with them on the position in which the Indians were placing themselves by refusing to talk with us, and insisting on Mr. Macdonell's agency, and pointed out the folly of such proceedings. Augustin said that he altogether also disapproved of Mr. Macdonell's saying anything against the Governor as he did at the Council, that the person who had interpreted his speech had not done so correctly, and further that he had misunderstood the question about Macdonell's being a better friend than the government, to which he had replied in the affirmative; he thought we had asked if they considered him better able to manage their business than they themselves were.

He did not wish us to tell Mr. Macdonell's words to the Governor as the words of the Indians for they were not so: He was then reminded that they had desired Mr. Macdonell to speak for them and that they had already in an address presented to His Excellency last summer, spoken very disrespectfully to him themselves.

Some portions of that address were then interpreted as literally as a composition containing ideas and words for which there are no corresponding expressions in their language, could be, upon which, with great earnestness, they denied having

said such things and wished their names rubbed out from it, saying that Macdonell had written the address and if it were the same that had been interpreted to them before they had not understood it; Augustin shrewdly remarking “an Indian *could* not speak such words.”

Before leaving us he sent to call a Council of his young men that night, and when we parted we told him that we intended to proceed on our journey early on the morrow, but that as they said there had been misunderstanding at the council, *if they asked us* to listen to any further statements or inquiries we would do so.

On the following morning Augustin waited upon us and said that he and his young men had consulted together, and had determined on having nothing more to do with Macdonell, nor with his Father, so long as he continued to be guided by him and to oppose the Government, but they would regard the Government as their friend and deal only with its authorized agents.<sup>25</sup>

This rift in the opinions among the Garden River Indians suggested to the commissioners that a land sale could be achieved there. Since the Fort William Chippewas had already been placated, according to the Commissioners' report, and since the other bands they had encountered during their journey had also been generally in agreement with the idea of a land sale, the two men were emphatic in their recommendation that the government should proceed to secure such an agreement as quickly as possible. Moreover, they said, the lands purchased should not be restricted to the areas thought to be rich in minerals.

It will not be advisable to propose the cession of a narrow strip upon the lake shore, merely including the present mining tracts, as there is a general wish on the part of the Chiefs to cede the whole, with the exception of small reservations for the use of the respective bands. Little if any difference need be made in the terms offered, for all that is known to be of value is situated on the front, and they will still retain undisturbed possession of their hunting grounds in the interior: - in fact, whatever may be given to them for the surrender of their right, they must be gainers, for they relinquished nothing but a mere nominal title; they will continue to enjoy all their present advantages and will not be the poorer because the superior intelligence and industry of their white brethren are enabling them to draw wealth from a few limited portions of their territory, which never were nor could be, of any particular service to themselves.

The Vidal-Anderson Report, having concluded that the probability of successful negotiations was very high, that it should be done because fairness suggested it, and

that it should be done quickly, then set forth recommendations for the consideration of the government. Suggestions were made regarding the size of annuity payments, the preservations of hunting and fishing rights and the establishment of reserve lands (including locations and size). The report also provided information regarding the principal men and the location of the several bands claiming rights to specific locations. The population of these bands was estimated at about 2600 people.

Finally, Vidal and Anderson observed a few unique issues regarding the lands in the northwest. Throughout the region, but at the Sault in particular, there was a substantial number of half breeds who had close connections with the Indian bands, in some instances residing with them constantly. These persons could be expected to demand inclusion in any treaty arrangements that might be made. There were also problems concerning Indian deeds and leases. The Northwest Company had secured land as early as 1798<sup>26</sup>, missionaries had been granted land at Garden River, and several mining leases, including a 999-year lease to Macdonell for the Michipicoten Island, had also been made<sup>27</sup>. With respect to reserves, the bands requested locations which were traditional fishing or rendezvous spots. This was an understandable request, but it was observed that in some cases these choices involved either mining locations or lands that lay within the Hudson's Bay Company territory.

The list of reserved areas requested by the bands during the visits of Vidal and Anderson is included here as a means of comparing those requests with the schedule of reserves included in the two final treaties and with the present locations shown on the map which is included in this Research Report. The wording is taken from the Vidal-Anderson Report.

*The Fort William Band.* A tract on the banks of the River at about a mile from its mouth (NOTE: This is included in the old grant to the North West Company...). The Fort William Chief wished the *Nipigon* (Nipigon) and *Pic Bands* to be brought to this reserve, but their chiefs (whom we did not see) would probably desire a reserve at their respective haunts.

*The Michipicoten Band*, wish to reserve the tract about the Bay adjoining the Michipicoten River on the west, and extending from that river to Riviere aux Dorees, about 4 miles.

*The Sault Ste. Marie Band*, besides Michipicoten Island and the locations at Mamainse, leased to Macdonell, wish to reserve from Pointe aux Perdrix (R. St. Mary) to Squash Point, Lake George, - about 12 miles frontage and including six mining locations. They wish also to confirm the Hudson's Bay Company's claim at the Sault.

*The Mississagi Band*. A reserve at Riviere au Borne, to include the little lake and their farms; also they wish to confirm to Mr. Sayer a small tract on Mississagi River formerly sold to him.

*The Serpent Band*. A small reserve at the mouth of the Serpent River, where they have ground now cultivated.

*The La Cloche and Spanish River Band*. A reserve on the banks of the Spanish River, locality not determined upon.

*The Shebawaynawin Band*. A reserve at the head of the Bay near Wawgwoskenegong (East of and adjoining W.H. Boulton's mining location).

*The French River Band*. A reserve where they now cultivate the land, at the head of the deep bay near their village, and distant from it about 4 miles.

*Mishaguongays and Paynequenaishoum's Band*, wish a small reserve on the south side of Mangonetawong River, about five miles from the mouth.

*Shauwainagaw Band*. A small reserve at Pointe au Baril.

*Nawbequaybezhik*. A reserve between Moose River and Parry's Sound and extending

half a day's journey back.<sup>28</sup>

## Notes

1. A complete copy of the Royal Proclamation can be found in Jack Stagg, *Anglo-Indian Relations in North America to 1763 and An Analysis of the Royal Proclamation of October 1763*, Ottawa: Research Branch, Indian and Northern Affairs, 1981, pp. 394-400.
2. One exception to this statement was the 1805-6 agreement with the Mississaugas of the Credit River. In that, the Indians retained the land, and the fisheries, at the mouths of the Credit river, Twelve Mile Creek and Sixteen Mile Creek. See Robert J. Surtees, "Indian Land Cessions in Ontario, 1763-1862: The evolution of a System", Ph.D. Thesis, Carleton University, 1982, pp. 122-126.
3. *Ibid.*, pp. 122-5, and 149-52.
4. A.G. Doughty, ed., *The Elgin-Grey Papers 1846-1852*, 4 vols., Ottawa: King's Printer, 1937, vol. 1, p. 61, Elgin to Grey, July 27, 1847.
5. E.M. Ellwood, "The Robinson Treaties of 1850", B.A. Thesis, Wilfrid Laurier University, 1977, p. 19.
6. D.M. Watson, "Frontier Movement and Economic Development in Northeastern Ontario, 1850-1914", M.A. Thesis, University of British Columbia, 1971, p. 119.
7. Ellwood, "The Robinson Treaties of 1850", p. 20.
8. Franz M. Koennecke, "The History of Parry Island an Anishnabwe Community in the Georgian Bay 1850-1920", M.A. Thesis, University of Waterloo, 1984, p. 76.
9. Ellwood, "The Robinson treaties of 1850", p. 23.
10. Koennecke, "The History of Parry Island...", p. 76.
11. Ellwood, "The Robinson Treaties of 1850", p. 24.
12. Doughty, ed., *The Elgin-Grey Papers*, vol. 4, p. 1485, Elgin to Grey, 23 November, 1849.
13. The phrase was used in the *Toronto Globe*, 22 November, 1849.
14. Doughty, ed., *The Elgin-Grey Papers*, vol. 4, pp. 1485-6, Elgin to Grey, 23 November, 1849.
15. Toronto Public Library (T.P.L.), Baldwin Room (B.R.), T.G. Anderson Papers, Box One, "Diary of Thomas Gummorsol Anderson, a visiting Supt. Of Indian Affairs at this time, 1849, at Cobourg", pp. 2-3. (Hereafter referred to as the "Anderson Diary").
16. *Ibid.*, p. 4.
17. Provincial Archives of Ontario (P.A.O.), Irving Papers, MU1464, 26/31/04. "Report of Commissioners, A. Vidal and T.G. Anderson, 1849." (Hereafter referred to as the "Report of Commissioners.")
18. *Ibid.*

19. For example, see Koennecke's M.A. thesis, above, note 8, and "The Robinson Huron Treaty", file prepared by and held at the Union of Ontario Indians Office, Toronto, Ontario.
20. See no. 15, n. 17, and "A Journal of Proceedings on my mission to the Indians of Lake Superior and Huron, 1849 by Alexander Vidal" (and a short biography) transcribed by and published by George Smith, Bright's Grove, Ontario, 1974. (Hereafter referred to as the "Vidal Journal.")
21. Report of commissioners, p. 4.
22. "Vidal Journal", p. 4.
23. "Anderson Diary", p. 9-10.
24. "Report of Commissioners", from the Notes taken at the Conference with the Indians at Sault Ste. Marie October 15<sup>th</sup> and 16<sup>th</sup>, 1849, p. 4.
25. *Ibid.*, Appendix C, pp. 1-2 ("Extract from Memoranda made at the Indian Village, Garden River, on the Second Day after the Conference at Sault Ste. Marie").
26. "Report of the Commissioners". Appendix E.
27. *Ibid.*, Appendix B.
28. *Ibid.*, Appendix B.



## THE MAKING OF THE ROBINSON TREATIES

The Vidal-Anderson Report urged speed in reaching a land cession agreement with the Indians of Lake Huron and Lake Superior. The Mica Bay Incident intensified that urgency. And the provincial government determined to settle the northwestern land question quickly. The man chosen to do the job was William Benjamin Robinson. His appointment and his task were recommended by the Executive Council on January 8, 1850, and approved by Lord Elgin, in council, on January 11<sup>th</sup>. It was a happy appointment, for Robinson was a competent individual who had served as a government commissioner of public works from 1846 to 1848.<sup>1</sup> He also had experience in the Indian trade, with the attendant knowledge of Indian language and custom that that endeavour provided. He was also closely connected to the Tory party. His brother, John Beverly Robinson, had been a pillar of the Family Company and was currently serving as Chief Justice; and his brother-in-law was Samuel P Jarvis, a recent Chief Superintendent of Indian Affairs. This association, however, created anger among the Reformers who charged patronage at the appointment. Robinson's position was delicate, therefore, for he was expected to save the government from further embarrassment in the northwest; and he had to do so under close scrutiny from the Reformers. He was also the first person, outside the Indian Department, appointed to take a major Indian land surrender.

His instructions, issued by order-in-council on April 16, 1850, provided him with some problems too. He was to buy as much land as possible, but not settle for less than "the north shore of Lake Huron and the mining sites along the eastern shore of Lake Superior". To accomplish this he was given a budget of about £7500 which was expected to cover the cost of the negotiations as well as any annuity payments that would grow out of them.<sup>2</sup> He was also admonished against using gifts in order to promote the negotiations. Since gifts had been a standard practice for over a century, this condition was awkward, for it could easily - as it had before - cause a breach of wilderness protocol and thus retard negotiations.

Armed with the approval of the Governor, his own experience, the Vial-Anderson report and his instructions from the Executive Council, Robinson made an initial trip into the Indian country in April and May of 1850. This journey which took him as far as Michipicoten was simply an exploratory exercise to meet some of the bands, to acquaint himself with the country, and to announce his intention of returning for formal negotiations during the summer.

The actual negotiations began at Sault Ste. Marie in August. Before the formal council was held, Robinson visited the bands of the area, and greeted the chiefs from Lake Superior as they arrived for the council. He was assisted in his task by friendly fur traders, and also by the visit of the Governor General on August 31<sup>st</sup>.<sup>3</sup> Lord Elgin had also pardoned Chiefs Shinguakouse and Nibina-goo-ging and the two Métis leaders for their parts in the Mica Bay affair. Apparently these efforts had dissipated some of the bitterness of the previous fall for Robinson noted that “all seem well disposed to treat on fair terms.”<sup>4</sup>

By the time that formal and final negotiations began on September 5<sup>th</sup>, Robinson had in fact determined to seek all the lands on both Lake Huron and Lake Superior but agreement did not come easily. When he made his offer of £4000 in cash and a perpetual annuity of £1000<sup>5</sup> for the entire region, the principal chiefs (i.e. Peau de Chat and Shinguakouse) proved reticent, and requested time to consider the terms. In formal sessions on the 6<sup>th</sup>, Robinson stressed that the bands would continue to enjoy their hunting and fishing rights, and since extensive settlement was unlikely in the barren regions of the Canadian Shield, those pursuits would not be hampered as they had been in the eastern regions of Upper Canada.<sup>6</sup>

These arguments satisfied Chief Peau de Chat, and the Lake Superior bands followed his lead and signed the treaty on September 7<sup>th</sup>. Shinguakouse remained unconvinced, however, and the other Lake Huron bands followed him in refusing to sign. It would appear that Shingaukouse felt more money could be gained, for he had demanded an annuity of \$10 per head<sup>7</sup>, which would have translated into a total \$20,000. He also

attempted to secure reserve land for the half breeds at the rate of 100 acres per head. Robinson stood firm. He would do nothing for the half breeds, because his instructions ordered him to treat with Indians, not whites. He did suggest that they could be given land on the Indian reserves if the band agreed.<sup>8</sup> He was equally firm with respect to the money, and stated candidly that without a treaty he would simply take the money back to Toronto. Perhaps it was this threat that convinced Shingaukouse. More likely, he was convinced by other chiefs over the weekend of September 8<sup>th</sup> for, as has already been observed, some (including his son Augustin), did not share his strong feelings. In any event on Monday, September 9<sup>th</sup> Shinguakouse and the other Lake Huron chiefs present signed the agreement that Robinson had prepared for the surrender of the Lake Huron shore.<sup>9</sup>

Through these two agreements signed in September of 1850 at Sault Ste. Marie, W.B. Robinson secured virtually the whole of the Upper Canadian northwest for government use. Generally referred to as the Robinson-Huron Treaty, the agreement of September 9<sup>th</sup> called for the cession of the Lake Huron shoreline, including the islands, from Matchedash Bay to Batchewans Bay, and inland as far as the height of land. The agreement of September 7<sup>th</sup>, known as the Robinson-Superior Treaty, gave the Crown the shoreline of Lake Superior, including islands, from Batchewana Bay to the Pigeon River, inland as far as the height of land. The first contained 35,700<sup>10</sup> square miles of land, sold by a total Indian population of 1240<sup>11</sup>; the latter was occupied by 1422<sup>12</sup> people and contained 16,700<sup>13</sup> square miles of territory.

The terms and conditions of the Robinson Treaties were based on previous land cession agreements, but they also contained several innovations. Both treaties provided a schedule of reserves. Three were specified on Lake Superior under the Robinson-Superior Treaty and twenty-one under the Robinson-Huron agreement. In most cases, the individual band chiefs were allowed to choose their own sites which were usually locations of longstanding usage such as a summer encampment where limited agriculture was practised. This practice of having chiefs select specific reserve areas had been used in earlier agreements, such as the Credit River Treaty of 1806 or

the Long Woods surrender in 1822; but the practice was formalized and extended in the Robinson agreements. It would be formalized further in the 1862 Manitoulin Treaty when an allotment formula of 100 acres per family of five was adopted.

The Robinson Treaties contained significant clauses regarding three other features of Indian-white relations: the questions of mineral rights, the rights of half-breeds, and hunting and fishing rights. Both treaties contained a clause stating that the reserves could not be sold or leased without the consent of the Chief Superintendent of Indian Affairs. It was not new in that such a clause was simply an acceptance of a principle that dated back to the Royal Proclamation of 1763 and had been tacitly followed since then, but it was new in that the principle was actually written into the treaty.

It seems likely that the original purpose of government in seeking these land sales, i.e. the promotion of mining activity - inspired its inclusion at this time. By signing these treaties the Indians agreed to refrain from interfering with mining activities in the ceded area. But if valuable deposits were found on any of the Indian reserves, and if the band chose to sell it off, the sale would be conducted by the Chief Superintendent of Indian Affairs "for their sole use and benefit and to the best advantage."<sup>14</sup>

Another consideration which grew from this stipulation in these agreements was the issue of half-breed rights, which was raised by the Indians both with the Vidal-Anderson commission and with Robinson. If the bands were forbidden from selling or leasing their land, could they give it to half breeds by permitting persons of mixed blood to join the band and/or to share in the annuity money? Robinson suggested that this could be done. The matter was resolved by requiring that half-breeds declare themselves as either Indian or non Indian. It could be argued that by requiring this choice, the government effectively prevented the development of Métis communities in Ontario similar to those that grew in Western Canada.

Hunting and fishing rights for Indians in the ceded area had been implied in the very early land cessions (e.g. the Crawford Purchases in 1783-84) and had formed part of

the negotiations a generation later in such agreements as the Rice Lake agreement in 1819. The Robinson Treaties were the first to include these provisions directly. That is the Indians were to have “the full and free privilege to hunt over the territory now ceded by them and to fish in the waters thereof as they have heretofore been in the habit of doing”<sup>15</sup> except in areas that would become private property.

The actual remuneration for the lands, although it included the use of annuities which by 1850 had been in place for over three decades, was unique in several ways. Each group of Indians received an initial sum of £2000. An annuity of £500 was to follow each year. And for the first time, these sums were to be paid in cash.<sup>16</sup> As in some previous arrangements, the annuities would decrease with a decline in population. In this case the crucial figure was two-thirds of the population at which point the annuity would be reduced proportionately. But if the sale of lands surrendered produced a greater than expected return, the annuities might be increased at the Crown’s pleasure.<sup>17</sup>

A post script should be added regarding the boundaries of the Robinson-Huron Treaty. Robinson himself, and the Indians of the north shore of Lake Huron were satisfied that the lands described in the treaty had been duly sold. The Lake Simcoe bands, however, were not. On his return from Sault Ste. Marie, Robinson stopped at Manitoulin Island. There, on September 16, 1850, he was met by the three Chiefs, Yellowhead, Aisence and Snake, who registered their claims to the land near the Severn River. The recently concluded treaty included that territory, and at this meeting Robinson responded to the Chippewa’s claim by promising to make inquiries “at the land and Indian offices in Toronto”.<sup>18</sup> After the success of his mission the commissioner likely considered this claim to be a minor irritant which could be easily resolved by providing the chiefs with expense money. But it was not. The claim would be repeatedly raised over the decades until the investigations and negotiations surrounding the Williams Treaty of 1923 established the rights of the Lake Simcoe Chippewa bands to the lands laying north and east of their village. In order to clarify this situation, the

shoreline between Matchedash Bay and the French River, inland to the height of land, was included in the 1923 arrangements.<sup>19</sup>

## Notes

1. Douglas Leighton, "The Historical Significance of the Robinson Treaties of 1850," a paper presented at the annual meeting of the Canadian Historical Association, Ottawa, June 9, 1982, p. 9. See also J. Jarvis, "William Benjamin Robinson", *Dictionary of Canadian Biography*, vol. X, Toronto: University of Toronto Press, 1972, pp. 622-624.
2. Leighton, "The Historical Significance of the Robinson Treaties of 1850", p. 10.
3. Ellwood, "The Robinson Treaties of 1850", pp. 36-7.
4. Leighton, "The Historical Significance of the Robinson Treaties", pp. 12.
5. Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*, Toronto: Blefords, Clarke and Co. 1880, pp. 17-21. Reprinted Toronto: Coles publishing, 1971.
6. *Ibid.*, p. 17.
7. *Ibid.*, p. 18.
8. *Ibid.*, p. 20.
9. *Ibid.*, p. 18.
10. Robert J. Surtees, *The Original People*, Toronto: Holt Rinehart and Winston, 1971, p. 49.
11. Morris, *The Treaties of Canada with the Indians...*, p. 16.
12. *Ibid.*
13. Surtees, *The Original People*, p. 49
14. *Ibid.*, vol. 1.no. 60, pp. 147-9 and no. 61, pp. 149-52.
15. *Ibid.*
16. *Ibid.*
17. *Ibid.*; Leighton, "The Historical Significance of the Robinson treaties", p. 13.
18. P.A.O., J.C. Robinson Papers - 1850. Diary of W.B. Robinson, April 19, 1850 to September 24, 1850. p. 7
19. Leo Johnson, *History of the County of Ontario*, Whitby, Ontario, 1973, pp. 27-37.

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