

**TREATY RESEARCH REPORT  
TREATY THREE  
(1873)**

**by  
Wayne E. Daugherty  
Treaties and Historical Research Centre  
Self-Government  
Indian and Northern Affairs Canada  
1986**

The opinions expressed by the author in this report are not necessarily those of the Department of Indian and Northern Affairs Canada.

Les opinions présentés par l'auteur de ce rapport ne sont pas forcément ceux du Ministère des Affaires indiennes et du Nord Canada.

**TABLE OF CONTENTS**

Historical Background

Treaty Negotiations

The Administration of Treaty No. 3

Summary

Bibliography

## HISTORICAL BACKGROUND

In 1869, Canada acquired title to the North-West Territories and Rupert's Land from the Hudson's Bay Company. The acquisition was the first step toward realizing the dream of Confederation, the dream of a transcontinental nation. Underlying this vision were three political realities. The first was the withdrawal from North America of the British who were anxious to escape from the costs of their territorial obligations. It was felt by politicians in Britain and Canada that if the latter were to take over the British territories and establish itself from Atlantic to Pacific, it would have a better chance to survive.<sup>1</sup> The second reality, which was merely the opposite side of the coin, was the nascent threat of the ever-expanding American frontier, made even more dangerous by the doctrine of "Manifest Destiny" and the expansionist mood of the post-Civil War administration of President Ulysses S. Grant.<sup>2</sup> The third was British Columbia's terms for entry into Confederation, which included the demand for a transcontinental railway.<sup>3</sup> In order to overcome these problems and prepare for settlement, Canada had to establish its presence in the new territories, and make arrangements with the Métis and treat with the Native people who occupied the lands.

The immediate concern of the Canadian government, however, was to ensure its communications to the new territories. In order to achieve this, the government decided to revive what was, in essence, the old fur trade canoe route of the defunct North West Company. The plan was to build a road from Lower Fort Garry, 90 miles (145 kilometres) east to Lake of the Woods, and from Thunder Bay, 90 miles (64.5 kilometres) to Shebandowan Lake. Between the terminal points of the two roads was a series of lakes and rivers which were to be turned into a navigable waterway through the use of locks and dams.<sup>4</sup> Once completed, the route would eliminate the necessity of having to travel through American territory to reach the Red River settlement. Almost the entire line of the road-waterway system, as well as the route of any future transcontinental railway, traversed the as yet unceded territory of the Saulteaux tribe of Ojibway Indians.

The Saulteaux were one of four tribes (groups) of the Ojibway "Nation" the others being the Potawatomi, Ottawa and Mississauga. The tribe itself was divided by the Canadian-American border with the bulk of the population residing in the United States. The Canadian Saulteaux inhabited the territory extending from Lake Superior in the east to the edge of the Prairies in the west, south to Rainy River and Lake of the Woods along the international boundary, and north to the height of land from which the rivers commence to flow into Hudson Bay.<sup>5</sup>

The Saulteaux were a semi-nomadic people. In the winter, they scattered in small family groups to hunt moose. In the summer, they congregated along the rivers and lakes where they hunted beaver and smaller game, fished for pike and pickerel, and engaged in social activities such as feasts and games. In the autumn, they fished for trout and sturgeon. They also harvested and stored the wild rice which grew in the shallows of the lakes and was an important food source for the winter.<sup>6</sup> They participated in the fur trade and acted from time to time as voyageurs.<sup>7</sup> The Saulteaux were considered by observers of the day to be a people not to be taken lightly.<sup>8</sup>

In 1869, the work on the road-waterway system was begun under the auspices of the Department of Public Works. The chief engineer in charge of the project was Simon J. Dawson.<sup>9</sup> Dawson was familiar with western conditions, having journeyed with the exploration parties of Hind and Youle in the 1850s.<sup>10</sup> Politically astute, he became alarmed at the unrest occurring in the Red River settlement among the Métis, which had prevented William McDougall from taking up his post as Lieutenant-Governor.

No doubt noting the possible political, military and strategic ramifications of the Métis rebellion, Dawson forwarded a memorandum to Ottawa in December 1869 expressing his concern that the Métis of Red River might attempt to foster hostilities between the Saulteaux and the government.<sup>11</sup> Observing that the Indians had so far been friendly and had expressed their willingness to negotiate a right-of-way through their territory, he suggested that Robert Pither, a former Hudson's Bay employee, be sent to them as Indian agent with the express purpose of keeping them well-disposed toward the government.<sup>12</sup> Pither had spent a great deal of time among the Saulteaux and was well

acquainted with them. Dawson further suggested that Commissioners be dispatched to the Saulteaux the following summer to negotiate a treaty with them.<sup>13</sup>

Early in the new year 1870, Dawson received approval from Joseph Howe, Secretary of State for the Provinces, to appoint Pither as Indian agent.<sup>14</sup> In turn, Dawson wrote to Pither informing him of his appointment and authorizing him to employ as his assistant a Métis named Chatelaine. He instructed Pither that his duty would be “to establish and keep up such intercourse with the Indians who resort to that place (Fort Frances) as will ensure a continuance of friendly relations between them and the government.”<sup>15</sup>

Dawson also stated that a treaty would most likely be forthcoming with the Saulteaux early in the summer, though it is not clear whether he based this statement on official information or was merely speculating. He directed Pither to find out what the Indians desired in terms of a treaty and to assure them that they would be dealt with “liberally and fairly.”<sup>16</sup>

Before leaving for Fort Frances to take up his duties, Pither wrote Dawson confirming that he would to his utmost to ascertain what the chiefs of the Saulteaux desired and would impress upon them the benefits they would receive, though there had as yet been no indication from any quarter as to what these benefits might be.<sup>17</sup> Pither also stated that it was important for him to know before the opening of navigation when a treaty commissioner would be sent, for after the 1<sup>st</sup> of July, the Indians, with the exception of a few stragglers, left for their summer hunting grounds.<sup>18</sup> Pither did not receive a reply to his inquiry until March, by which time he had been at Fort Frances for about a month. The reply came direct from Secretary of State Howe, who stated that a commissioner would be sent to treat with the Saulteaux and that he would arrive no later than the 20<sup>th</sup> of June.<sup>19</sup>

Meanwhile, the incipient rebellion of the Métis at Red River came to dominate the attention of the government. In an effort to arrive at a political settlement, Parliament legislated the Manitoba Act, by which the Red River colony was constituted as the Province of Manitoba. The area remaining outside the boundaries of the province was

given the status of a territory. Adams G. Archibald was appointed Lieutenant-Governor of both Manitoba and the North-West Territories.<sup>20</sup> It was hoped that by making the Red River settlement into a province with a representative government, the fears of the Métis would be allayed.

The government also responded to the situation by organizing a military expedition to Red River to establish Canadian sovereignty. Since the troops would have to travel through the territory of the Saulteaux to reach Red River, it became imperative to ensure that their passage remained unhindered. The importance of this was stressed by a certain Captain Huyshe of the expedition who stated:

there is no doubt that a hundred determined men might have inflicted tremendous loss on the troops with comparative impunity; for, thoroughly acquainted with the vast network of lakes, they could have fired on the boats as they passed through narrow channels, or blocked up the portages, and done much mischief in a variety of ways, while to have attempted to pursue them through the woods and lakes would have been madness.<sup>21</sup>

In light of this consideration, on May 17, 1870, Secretary of State Howe telegraphed to Wemyss M. Simpson, Member of Parliament for Algoma, advising that he had been appointed to secure a right-of-way for the expedition.<sup>22</sup> In the more detailed instructions which followed, Howe stated:

I have the honour to inform you that His Excellency the Governor General is desirous to avail himself of your knowledge and experience of the Indians, for the purpose of aiding the Government to secure from the Indians the right of way for the troops about to be sent from Fort William to Fort Garry. You will do everything in your power to encourage and strengthen this favourable disposition on the part of the Indians, to calm any uneasy feelings that may exist among them and generally take such measures as may seem judicious with a view to facilitate as much as possible the passage of the troops and to prevent the

interruption of any surveying parties that may be sent into the settlement.<sup>23</sup>

The significant aspect regarding these instructions is that there is no mention of a treaty. Simpson was not authorized to sign a treaty and was given no terms of reference save that of securing a passage for the expeditionary force. It would seem that if it had been the intention of the government to sign a treaty with the Saukteaux, as intimated by Howe's letter to Pither in March, such intentions were superceded by the crisis at Red River.

Simpson left for Fort Frances on the 23<sup>rd</sup> of May and reached there on the 7<sup>th</sup> of June, where he awaited the arrival of the Indians.<sup>24</sup> Simpson's attitude toward the people he was to deal with, as evidenced by his subsequent report, was jaundiced to say the least. He stated that the Saukteaux had not changed at all since he had travelled through their territory in 1843. He commented, with obvious distaste, that they had refused Christianity, were extremely filthy in their habits, and like all Indians were incapable of gratitude.<sup>25</sup> Closely attuned to the nascent power possessed by the Saukteaux, however, Simpson warned that:

These people if ill used or provoked would become a most serious bar to the settlement of the North West and could prevent any but strongly armed parties from going through their lands.<sup>26</sup>

By the 19<sup>th</sup> of June, some 1,500 Saukteaux had gathered, and of this number, Simpson noted that some 600 were American Indians.<sup>27</sup> The following day, Simpson addressed the gathering. He told them that the troops would soon be passing through their territory, and he hoped that the Indians would not interfere with them. He said that the Indians had nothing to fear from the soldiers, and he offered to employ some of them to act as guides and labourers for the expedition.

The Indians, however, refused the offer of employment, a refusal Simpson credited to the fact that:

The Half Breeds and Indians of Red River had been tampering with them telling them that the Troops were going to the Settlement to take their lands from them by force and advising the Rainy Lake Indians not to assist the soldiers, make any treaty or receive any presents this year.<sup>28</sup>

The head chief of the Saulteaux replied to Simpson, stating that the Indians had no intentions of interfering with the troops. He emphasized, however, that if Dawson was going to build roads through their territory, the Indians expected to be paid for the right-of-way. The chief then laid out his terms, declaring that they had determined upon ten dollars per man, woman and child to be paid "as long as the sun shines".<sup>29</sup> In addition, the Indians wanted flour, pork, tea and tobacco to provide for a feast at the annual payments. The chief further stated:

that we expect an answer to our demand sent to Mr. Pither during the winter so that we may know how to act and when to assemble for the payment. For this we are willing to allow the Queen's subjects the right to pass through our lands, to build and run steamers, build canals and railroads and to take up sufficient land for buildings for Government use - but we will not allow farmers to settle on our lands. We want to see how the Red River Indians will be settled with and whether the soldiers will take away their lands - we will not take your presents, they are a bait and if we take them you will say we are bound to you.<sup>30</sup>

Simpson replied that the Saulteaux demands were excessive and that the government would not agree to them. He also declared:

That I considered it quite sufficient to pay for their lands in full there being from 800 to 900 Indians who would have to be paid merely for the right of way from Shabandowan to the N. West corner of the Lake of the Woods. That I knew what the U.S. government paid the Band on the other side of the River for the whole of their lands, that the treaty only lasted for 32 years 16 of which had gone past and that the amount was \$6,000 in goods and \$4,000 in cash paid - however in spite of all I could say the Indians seemed to think the Govt. would do as they wished and said the Council was now a closed book and that they would not say another word on the subject till they had the answer of the Govt.<sup>31</sup>

Though the wording of this part of Simpson's report is far from concise, it appears that he was saying the amount demanded by the Indians was more than enough to acquire the title to all their lands. In his reference to the American settlement with the Saulteaux

south of the border, he pointed out that the treaty encompassed all the Indian land and that the benefits were provided for a duration of 32 years only, of which 16 had past. By making this observation, Simpson was inferring that the Sauteaux in Canada could not expect a similar arrangement in perpetuity for a mere right-of-way.<sup>32</sup>

Simpson blamed Dawson for what he considered to be the Indians' high demands. He noted that Dawson had made an arrangement with a minor Sauteaux chief named Blackstone at Thunder Bay a short time before. Apparently, Dawson had given Blackstone presents of flour, pork, tea, tobacco and clothing and had asked permission from him for the passage of the troops through Sauteaux territory. Simpson felt that this action had been very harmful because the Indians at Fort Frances expected to be treated similarly.<sup>33</sup> Dawson's transaction may also account for the statement in some histories that Simpson had secured the passage of the expeditionary force in return for a few barrels of flour and pork. In point of fact, the Sauteaux whom Simpson dealt with at Fort Frances accepted nothing, not wishing to compromise themselves.<sup>34</sup>

The deliberations, however, revealed the Indian conception of a treaty. The Sauteaux were quite prepared to sign an agreement which would allow for a right-of-way through their territory and permit the government to undertake certain activities, for which the Indians were to be compensated. Thus, in their view, a treaty was defined as those specific items they were willing to grant. The fact that they flatly stated they would not "allow farmers to settle on their land" indicates clearly that they were not prepared to cede the title to their land. In this respect, they may have been influenced by the situation of their brethren south of the border. In essence, Simpson's mission to secure the unhindered passage of the expeditionary force was successful, though through no great effort of his own. For as the Sauteaux indicated at the beginning of the conference, they had no intention of interfering with the troops in any event.

In September 1870, Howe wrote to Lieutenant-Governor Archibald in Manitoba, requesting him to report upon the questions respecting the Indian claims referred to in Simpson's report.<sup>35</sup> Archibald replied, recounting his experience with the Indians at



Lower Fort Garry and the fact that he had delayed the negotiations for a treaty until the spring so as to allow time to familiarize himself with the complexities of their claims.<sup>36</sup> He also expressed the view that the Government could afford to be generous with the prairie Indians because the agricultural potential of their land would permit the recovery of costs from incoming immigrants.<sup>37</sup>

In contrast, Archibald felt that any treaty with the Woodland Saulteaux would have to be considered in relation to the route and the quality of the land which, in his opinion, consisted of extremely poor soil and was, therefore, incapable of supporting a large agricultural population.<sup>38</sup> Nor did he consider that forestry was a viable concern, noting that the trees were small and of poor quality. He concluded:

So far therefore as the question of value of Indian claim depends on the character of the soil between the North West Angle of the Lake of the Woods and the Eastern shore of the Shabandowan I should not consider the fee simple of the entire country, for agricultural purposes, with [sic; worth?] as much as 100 acres of the Prairie of Red River.<sup>39</sup>

This view was also shared by Simpson who declared there was not enough good agricultural land to form a township.<sup>40</sup>

In regard to the route, Archibald felt that any annuity paid to the Indians for a right-of-way would have to depend on the value of the system for commerce and general travel. In his opinion, however, the route was not viable because of the many portages occurring along the waterway. He noted that there were some twenty portages and that even if this number were reduced by half, along with the attendant high costs, the route would still not be commercially profitable.<sup>41</sup> Again, he concurred with Simpson who had stated:

...I think the route as a means of communications with Red River will never be used. The works which have been going on are the roughest kind and the Thunder Bay road is about as bad as it can be. The water reaches are for the most part so short and the transhipments will be so frequent that it will never pay to take goods to or transport produce from Red River.<sup>42</sup>

Archibald also pointed to the excellent rail and water connections to Red River existing south of the border that offered not only overwhelming commercial competition but also ease of travel. Until the development of the Canadian Pacific Railroad, settlers came to the Canadian west on American railroads rather than face the difficulties of the Dawson route, as it became known.<sup>43</sup> He stated:

Until it is finally concluded that this Route is to be kept up it would better to deal with the Indians on the Principle of compensating them for the injury we have done their fishing and hunting grounds in passing through them, on the late occasion, leaving it open to a new arrangement when a new necessity occurs.

The idea of giving ten dollars a head yearly to the Indians on the Route for the Privilege of a right of way, seems to me to be quite out of the question. It would be enough if they were relinquishing their rights to the whole Territory. Let the payment apply only to one year and be treated as a consideration for the injury done them by the passage of the troops up and down, and it does not appear so exorbitant - though even in that light it is large enough.<sup>44</sup>

In his remarks regarding the nature of the country, the viability of the route and the question of an annuity for a right-of-way, Archibald was in sympathy with the views expressed by Simpson in his report. Indeed, both reports intimated that it would be more economical to acquire the whole territory rather than pay a high price for a right-of-way. Implicit in each was the suggestion that acquisition of the whole territory was the course of action the government should take, though Archibald differed somewhat by recommending annuities for one year only. Neither report gave credence to the Indian point of view, if indeed the Indian point of view was fully comprehended or appreciated.

Yet a third report was submitted in December 1870, by S. J. Dawson of the Department of Public Works. Dawson, who seems to have been more sympathetic to the Saulteaux, elaborated upon the Indians' lifestyle, economic activities and political and social customs, indicating that the Indians were still interested in a treaty:

As I returned from Red River last Fall, I had several meetings with the Chiefs and leading men of the Tribe at the Lake of the Woods and Fort Francis, they expressed themselves as being quite open to treat with the Dominion Government for right of way, or the Cession of their lands, under conditions to be

agreed on. At Fort Francis, the principal chief, who no doubt gave expression to the sentiments of the whole tribe, for the matters of which he spoke had been much discussed among them, remarked that the Indians were not averse to entering into negotiations with the Dominion Government. We want, he said, much that the Whiteman has to give, and the Whiteman on his part wants roads and land, when we meet next summer you must be prepared to tell us where your roads [are] to pass, and what lands you require.<sup>45</sup>

It is clear from the Indians' comments as related by Dawson, and despite the reference to the ceding of their lands, that the Saulteaux still retained the views they had presented to Simpson. Though obviously desirous of entering into negotiations, for the Saulteaux the term "treaty" still meant annuities for exchange for a right-of-way as well as certain sections of land for specifically defined purposes.

Either ignoring or misunderstanding the Indian viewpoint, Dawson recommended that certain lands be set aside for the exclusive use of the Saulteaux for fishing and gardening, adding the stipulation that if these lands were required for public use, they could be appropriated by the government.<sup>46</sup> There is no indication by Dawson that the Indians would receive compensation for any such appropriation. A second recommendation proposed that surrendered Saulteaux land be set aside for sale, the proceeds of which would be used to establish a fund for the benefit of the Indians. Such a system had been used in Upper Canada and Dawson felt it would be successful in this instance, remarking:

That in order to form a fund from which Indian Annuities could be paid, and all costs of administering Indian Affairs and payments to Indians, met, certain tracts, in the vast region which they occupy, as hunting grounds, should be marked off as Indian lands, to be administered by the Government, for and on behalf of the Indians, and that these tract, to a certain extent, should be in localities where the natural resources are such as to afford a reasonable prospect of their becoming productive at an early date. Thus, for example, several tracts (perhaps of the ordinary size of timber limits) should be on the upper tributaries of Sturgeon River, where valuable timber is abundant, some on Rainy Lake, where there is every indication of such minerals, and there should be a tract, embracing the length of a Township or town, on Rainy River, where there is good agricultural land. By selecting lands in this way, to be administered and sold for the benefit of the Indians the Government could soon have at its disposal ample funds to meet all charges connected with Indian affairs, without drawing on any other

source of revenue.<sup>47</sup>

Dawson further suggested that annuities should be paid in the form of goods which the Indians might require and concluded with an optimistic and perhaps misleading statement that if his ideas were implemented, “in consideration of these reserves of land, annual payment or gifts, and the general administration of their affairs, the Indians shall make over to the Government all the Territorial rights which they assume to hold.”<sup>48</sup>

It is difficult to determine to what degree these reports affected subsequent government policy, though some indication is given by contrasting their content with a report to the Privy Council in the Annual Report of the Indian Branch of the Department of the Secretary of State for the Provinces published in 1871. This report, which reviewed the events of 1870, stated:

In anticipation of the movement of troops across the country lying between Thunder Bay and Manitoba, in 1870, agents were employed to visit the Indian Tribes along the route, to conciliate them by presents, and to assure them that while a peaceful right of way for Troops and Emigrants only was required, the Government would be prepared, at a convenient season, to compensate them for their friendly co-operation, and to cover by a treaty any lands which they might be willing to part with and the Government deemed it politic to acquire.<sup>49</sup>

As a statement of events, this is not totally accurate. It will be remembered that when Simpson met with the Saulteaux at Fort Frances, his instructions contained no reference to a treaty. The statement may be, however, an indication of government intent before its attention was diverted by the rebellion at Red River. If so, it will be observed that the government’s plan for compensation, and what appears to be a limited acquisition of territory for the purpose of maintaining the route, very much coincided with the viewpoint expressed by the Saulteaux.

In the early part of 1871, however, there was a change in government policy, as evidenced by an Order-in-Council dated the 25<sup>th</sup> of April.<sup>50</sup> It was now the government’s intention to negotiate for the surrender of all Saulteaux territory. It may be assumed, therefore, that this change in direction was in part a result of the reports submitted by

the principal agents in the field, Simpson, Archibald, and in particular, Dawson.

In the meantime, the Indians continued to press for a treaty. Dawson wrote in February 1871 that the Saulteaux had complained to him about the lack of progress and observed that it would be unfortunate “if they had grievances real or imaginary to complain of.”<sup>51</sup> He noted, in addition, that there had been a scarcity of game which had resulted in some of the Indians being in distress.<sup>52</sup>

In March, Lieutenant-Governor Archibald wrote to Howe to inform him of the situation. He stated that his assistant, a prominent Métis trader Mr. James McKay, had just returned from the Lake of the Woods where he had hired some of the Indians to work on the roads. He related McKay’s concern that the Government should inform the Indians of their plans for opening steam communications on the route and provide a commissioner to deal with the Saulteaux claims.<sup>53</sup> McKay felt that unless this was done, the Indians would prevent the passage of the mail and travellers through the territory. In view of McKay’s concern, Archibald authorized him to inform the Indians that they would receive an answer to their claims in the spring.<sup>54</sup> In so doing, Archibald had anticipated the Government’s next move.

On the 5<sup>th</sup> of May, Wemyss Simpson was appointed Indian commissioner with the authority to make treaties with the Indians in the North-West.<sup>55</sup> His first duty was to journey to Fort Frances to negotiate a treaty with the Woodland Saulteaux. In this endeavour, he was to be assisted by S.J. Dawson and Robert Pither, who were also appointed commissioners for this specific treaty. The Secretary of State, Joseph Howe, sent the three commissioners the following instructions:

I have the honour to enclose a Commission under the Great Seal authorizing you jointly to treat with the Saulteaux and Lac Seul Indians of the Ojibbeway Nation, for the surrender of their lands to the Government.<sup>56</sup>

It may be seen from this statement how far the Government had moved from its intention of acquiring only those lands the Indian were willing to part with. It is also

perhaps a reflection of the reports the government had received during the latter part of 1870.

Howe continued:

Those lands are assumed to cover the area from the water shed of Lake Superior to the North West Angle of the Lake of the Woods, and from the American border to the height of land from which the streams flow towards the Hudson's Bay.

One object which the Government have in view in seeking the surrender of this tract of Country is to make the Route now being opened from Thunder Bay to Manitoba secure for the passage of Emigrants, and of the people of the Dominion generally. They also desire to throw open to settlement any portion of the Land included in this area which may be susceptible of improvement and profitable occupation.

As opinions vary very much as to the extent of arable land from which any income may be derived, the Government must depend very largely upon the exercise of your judgement in fixing the price to be given. The powers entrusted to you are large, and they should be used with constant reference to the responsibility which the Government owes to Parliament and to the country for the judicious and economical expenditure of the funds and supplies intrusted to your charge. It should therefore be your endeavour to secure the cession of the lands upon terms as favourable as possible to the Government, not going as far as the maximum sum hereafter named unless it be found impossible to obtain the object for a less amount.

The number of Indians assumed to inhabit this tract of Country, is estimated at about 2,500 and the maximum amount which you are authorized to give, is twelve dollars per annum for a family of five, with a discretionary power to add small sums in addition when the families exceed that number. In fixing this amount, you must not lose sight of the fact that it cannot fail to have an important bearing on the arrangements to be made subsequently with the tribes further West.<sup>57</sup>

Simpson and his fellow commissioners met with the Saulteaux in late June at Fort Frances and Shebandowan Lake. Simpson reported that the Indians had gathered in large numbers, which had afforded the commissioners the opportunity to explain the government's intention to acquire the title to the whole territory. But, as Simpson noted, the Saulteaux:

preferred claims in regard to promises which had heretofore been made to them, for "right of way" through their country. These we admitted to a limited extent and have made them presents in provisions and clothing, we are also to pay them a small amount of money, and it is fully and distinctly understood, by the Indians, that these presents and payments are accepted by them as an equivalent for all past claim whatever....The Government is thus, at the present moment, clear of any Indian claim for the past, in the section of country intervening between the Height of Land and the Lake of the Woods.<sup>58</sup>

Presumably, Simpson is speaking here of the presents he had brought with him the previous year to arrange for the right-of-way and which the Indians refused to accept at that time. The payment of money seems to have been the implementation of Archibald's suggestion that the Indians receive a one-time-only compensation for the passage of the expeditionary force.

Insofar as obtaining a treaty with the Saulteaux for the cession of their lands, Simpson was quite unsuccessful. One reason he cited for his failure to obtain an agreement was the necessity of proving the Indians time to deliberate the terms offered them.<sup>59</sup> As has been noted elsewhere, this largesse, which he did not extend to the Indians at Lower Fort Garry when he negotiated Treaties One and Two the following month, does not sound particularly convincing.<sup>60</sup> More likely, the Saulteaux had stuck to their original bargaining position and had simply refused the terms the commissioners presented.

A second reason given by Simpson was that there had been an outbreak of a disease which he likened to scarlatina and that to prevent the contagion from spreading, the Indians had dispersed.<sup>61</sup> Though disappointed with the results of the negotiations, Simpson left the meeting optimistic that he at least had arrived at an informal agreement with the Saulteaux.

The Indians fully comprehend the altered position in which they are placed by the opening of the communication, and expressed an earnest desire to meet the views of the Government, and we have parted with them with the understanding that we are to meet them early next summer and we are then to come provided with presents, and prepared to make such payments as may be determined on.<sup>62</sup>

This view was supported by Dawson, who wrote in 1895 that the signing of a treaty had

been prevented by the outbreak of measles, though he gives the year as 1872 rather than 1871.<sup>63</sup>

The most intriguing aspect of this statement, upon which he did not elaborate, was Simpson's reference to the "altered condition" of the Indians which it was implied would make them amenable to signing a treaty. However, Dawson noted that the Indian population was expanding, placing increased pressure on a relatively static resource base. He observed:

The trackers all agree in this, but while the number of hunters has increased the produce in furs, as a natural consequence, has diminished - besides which petty traders now get among the Indians, and manage to possess themselves of their furs, without leaving them any adequate return, and the Hudson's Bay Company, when they do not get the furs as formerly, cannot provide for their wants as they used to do when the trade was wholly in their hands. They are worse clad now than when I first saw them upwards of eleven years ago.<sup>64</sup>

Another possible interpretation of this remark, somewhat sinister in nature, was that the improved communications had rendered the Sauteaux susceptible to military force, should they prove obstinate or disruptive.

On the other hand, it may be that Simpson was merely trying to gloss over any potential difficulties his failure to obtain a treaty might entail and to assure the government that he had achieved sufficient progress to ensure that the route westward was safe.

Indeed, he stated:

We have much pleasure in saying that the Indians have evinced a most friendly disposition, and look upon the emigrants and others now passing through their country, not only without distrust, but with evident satisfaction, and we have no doubt but that by careful and prudent management, these friendly relations may be permanently maintained.<sup>65</sup>

Upon the completion of his meetings with the Sauteaux at Fort Frances, Simpson went to Lower Fort Garry where he participated with Governor Archibald in the successful negotiation of Treaties One and Two. The treaty with the Woodland Sauteaux, which



the government had intended to be the first of the numbered treaties, was left for another year.

In June 1872, Simpson and his fellow Commissioners Dawson and Pither met again with the Saulteaux and were rebuffed, once more, in their efforts to negotiate a treaty. Simpson reported the Indians would not discuss the provisions of the treaty, despite the understanding he thought he had reached with them the previous year. Though they had been paid for their claims, the Saulteaux now put forward new and more extravagant demands, as Simpson termed them, for compensation for roads and wood taken for the steamboats and buildings.<sup>66</sup> The fact that they made these demands was a clear indication that the Saulteaux viewpoint had not changed; to them, the term “treaty” still meant an annuity and the restriction of government activity to certain specific areas.

The recent discovery of gold and silver in their territory also produced a negative effect. The Indians claimed the value of the precious minerals was worth far more than the three dollars per head Simpson was offering. One chief, on whose territory the discoveries had been made, stated emphatically that he would keep prospective miners out until he was paid for his land.<sup>67</sup>

Simpson reported that there had also been a great deal of discussion among the various Saulteaux bands which had prevented any sort of agreement. In addition, the meeting was attended by a large number of Saulteaux from the American side of the border. These Indians, Simpson noted, had signed a treaty with the United States which paid them considerably more than he was empowered to offer and that these American Saulteaux were not lax in pointing out the disparity to their Canadian brethren. Though Simpson offered to make the treaty retroactive to 1871, thus doubling the payment, the Indians refused to consider it.<sup>68</sup>

Obviously alarmed at the somewhat bellicose attitude of the Saulteaux, Simpson recommended that a military force be stationed at Fort Frances, declaring that in the

opinion of the three commissioners this step was required to ensure the safety of future settlement and mining operations.<sup>69</sup> Simpson concluded his report on a pessimistic note:

We have made them liberal presents of provisions, tobacco etc. and have parted with them on amicable terms, with the understanding that we are not to negotiate with separate bands, but that, if further propositions are to be made, we are to call a general council of the chiefs, but we do not believe that under existing circumstances any good could arise from further councils.<sup>70</sup>

The government, however, was not as dismayed and persisted in its efforts to obtain a treaty before 1872 came to a close. Simpson was ordered to make another attempt at negotiation, and a tentative arrangement was made to meet with the Indians during October at Fort William.<sup>71</sup> In an effort to fortify Simpson's bargaining position, an Order-in-Council dated October 16, 1872 permitted him to offer annual salaries to chiefs and headmen at the rate of twenty-five dollars and fifteen dollars respectively.<sup>72</sup> This action was probably taken in response to the Indians' unflattering comparison of Simpson's previous offer to the treaty benefits received by their American kin from the United States government. It was also made as a result of complaints from the chiefs of Treaties One and Two that their annuities (salaries) were too small and had placed them on the same level with their people.<sup>73</sup> The offer to raise the annuity to the chiefs of the Woodland Saulteaux was calculated to appeal to the Indian notion of social hierarchy, and to induce the Indian leaders to be favourably disposed toward the government.<sup>74</sup>

The Commissioner, however, was unable to put this latest offer to the test. Though a few Indians did show up at Fort William, Simpson was prevented from organizing a general council due to the lateness of the season. The negotiation of the treaty was therefore placed in abeyance.<sup>75</sup>

The following June, 1873, efforts were again undertaken to negotiate a treaty with the Woodland Saulteaux. In this instance, there may have been some urgency to the effort,

spurred by plans to develop the Canadian Pacific Railway. On the 17<sup>th</sup> of July, Sir John A. Macdonald telegraphed Lieutenant-Governor Archibald that the railway from Pembina to Red River would be completed by December 31, 1874, and the section from Lake Superior to Red River by the same day in 1876.<sup>76</sup> Since the latter section would have to pass through the as yet unceded territory of the Saulteaux, it became imperative that this area be secured. Oddly enough, there is no mention of this in the subsequent correspondence between Morris and the Ministry of the Interior, but one cannot think that the prospective railway loomed in the background as an important, if not paramount, consideration.

The government agents in the field had by now recognized that the terms presented to the Indians thus far were inadequate and would have to be changed. In a memorandum addressed to the Minister of Public Works, Dawson advised the government that if they expected to be successful they would have to authorize the Indian commissioner to make a more generous offer than they had been able to do in the past. He pointed out that the Saulteaux on the American side of the border received an annual payment of fourteen dollars per head consisting of four dollars in cash and ten dollars in goods.<sup>77</sup> In addition, the American government had provided agricultural implements, schools, and, in some cases, mechanical (technical) institutions. Dawson remarked:

In view of these arrangements on the opposite side of the line, it is hardly to be expected that the Indians on the Canadian side would accept \$3 per annum as an equivalent for their territorial rights; more especially, when the only standard they have by which to estimate the value of that small donation is the merchandise that can be purchased with it at the Hudson's Bay Company's Posts, where all articles are at extravagantly high rates, as compared to prices in settled districts.<sup>78</sup>

Dawson recommended that the Indians be given a present of fourteen dollars per person for the surrender of their territory and that the commissioner(s) be given the discretion to offer an annuity within a limit of ten dollars, expressing the opinion that the Indians would probably be satisfied with six dollars per person in perpetuity.<sup>79</sup> He added the suggestion that a general council be called with the Indians in the second week of

July at the North-West Angle of the Lake of the Woods, and that it be attended by the Lieutenant-Governor of Manitoba.<sup>80</sup>

Upon the receipt of Dawson's memorandum, the Secretary of State for the Provinces replied, requesting him to ascertain the feasibility of meeting with the Indians in September rather than July. It was explained that the extra time would afford the government the opportunity to consider his proposals.<sup>81</sup>

The government now turned its attention to the question of the annuity. Indeed, on the 16th of June, an Order-in-Council had been passed raising the amount to be paid for a present to four dollars per head and for an annuity to five dollars per head.<sup>82</sup> Clearly, however, in light of Dawson's memorandum, this sum was quite inadequate.

The Minister of the Interior, Alexander Campbell, undertook to remedy the situation. On the 31<sup>st</sup> of July, he wrote to Lieutenant-Governor Morris outlining Dawson's suggestions and said that he would present these to the Privy Council that very day.<sup>83</sup> Campbell, apparently, was successful, though the Privy Council modified somewhat the amounts recommended in the memorandum. Even before a formal Order-in-Council had been passed, Campbell sent Morris instructions regarding its contents, advising him:

The Order-in-Council, you will observe, gives the Commissioners discretionary power to go as high as \$15.00 per head as a cash payment, and as high as \$7.00 per head as an annuity to each Indian. While, however, it has been thought desirable (with a view to prevent the possible failure of the negotiations) to give the Commissioners such large discretionary powers, the Government rely that every effort will be made by the Commissioners to secure a treaty on more favourable terms than the maximum figures mentioned in the Order-in-Council.<sup>84</sup>

This caution indicated that the government realized fully the tremendous effect the increased amount for cash payment and annuities would have in future as well as past treaties, for Campbell continued:

It must be borne in mind that in the Treaties made in 1871, with the tribes in Manitoba, and its vicinity, the sums given were \$3.00 gratuity and \$3.00 a head

annuity. Should these sums be much exceeded in the Treaty now about to be negotiated the effect no doubt will be not only to occasion dissatisfaction among the Indians with whom the two last Treaties were concluded, but also proportionally to raise the expectations of the Indians in the far West with whom Treaties have yet to be made.<sup>85</sup>

In the meantime, the Deputy Superintendent-General of Indian Affairs, William Spragge, was ordered to investigate the true nature of the American treaty of which the Saulteaux had spoken so highly and used so effectively as a lever to get the Canadian government to extend its terms.<sup>86</sup> Spragge discovered that the amount per capita for the annuity given the American Saulteaux was not as high as that now contemplated by Canada. In addition, while the Canadian annuity was to be perpetual, the American annuity was limited by a time period of fifteen to twenty years, and in some cases was at the pleasure of the President.<sup>87</sup>

It may have been with some degree of chagrin that Campbell wrote to Lieutenant-Governor Morris:

Letters are being sent to you today showing that we have been under a misapprehension as to the amount given by the Americans to the Indians South of the International Boundary line, which is by no means as high as has been represented to me, and which also consists of annuities terminable at the end of fifteen or twenty years or shorter periods - These letters will explain these matters and now that we know we were in error in thinking that the United States Government had given so much as \$14. by way of a cash payment, and \$10. by way of annuity, but that on the contrary they give smaller sums than we originally contemplated giving. I cannot press upon you too earnestly that the maximum sums mentioned in the Order-in-Council should not be given. I cannot think in the face of the facts which these letters reveal that you will find any occasion to go so high as the sums mentioned in the Order-in-Council, and I am quite confident that you will use every exertion to make the treaties on the most favourable terms possible.<sup>88</sup>

Another issue that preoccupied the government that summer was the provision of a military escort to the treaty commission. In his June memorandum, Dawson noted that the Indians were much given to display and ceremony:

They feel and know that the treaty is a matter of the greatest importance to them,

and when they see the Commissioners coming unattended, as they have so far done, to treat with them, and observe the utmost parsimony, manifested even in dealing them out a few days rations, as has hitherto been the case, they are led to the belief that the Government of Canada attaches but little importance to negotiations which are to them the gravest moment.<sup>89</sup>

Dawson recommended that the Commissioner be attended by one or two companies of troops from the garrison at Lower Fort Garry. Campbell readily agreed with this, feeling that the presence of the troops would lend circumstance and dignity to the negotiations, and he authorized Morris to take a company of troopers from Lower Fort Garry as an escort.<sup>90</sup> Morris later recorded that the troops greatly assisted in preventing illicit trade (that is, whiskey traders) and that their presence exerted a moral influence which contributed to the success of the negotiations.<sup>91</sup>

While the government was occupying itself with the question of annuities and troops, other aspects of the forthcoming treaty were neglected. Incredibly, only two weeks before the negotiations were to commence, Morris telegraphed Campbell:

Presume reserves to be granted to Indians but have no instruction - What about support of Schools? Indians generally anxious I learn, on this subject, I believe it to be good policy to promote education of children especially if limited annuities be adopted.<sup>92</sup>

Spragge, apparently, had noted that the reserves were to be the same size as those granted in Treaties One and Two.<sup>93</sup> This view or advice, however, did not become official policy nor was Morris ever appraised of the subject.<sup>94</sup> Spragge did tell Morris that because the cash payment and annuities had been raised, presents such as agricultural implements should not be granted.<sup>95</sup>

On September 20, 1873, three days before he was to depart for the North-West Angle, Morris received a telegram from Campbell authorizing him to grant reserves not to exceed one square mile per family of five or in that proportion.<sup>96</sup> Outside of the question of the annuity, this was the extent of the government's instruction. All other aspects of the treaty, Spragge's admonitions notwithstanding, were left to the discretion of Morris and his fellow commissioners.

## Notes

1. Donald Creighton, *Canada's First Century 1867-1967* (Toronto: 1970), p.14.
2. *Ibid.*, p. 15. See also George F.G. Stanley, *The Birth of Western Canada: A History of the Riel Rebellions* (Toronto: 1957), pp. 25-27.
3. *Ibid.*, p. 20.
4. Manitoba, Provincial Archives, MG12, A1, Adams George Archibald. Correspondence and Papers, 1871-72 (hereafter cited as PAM, MG12, A1), John Page, Chief Engineer, Public Works to Thomas Munro, 13 August 1869.
5. Diamond Jenness, *The Indians of Canada* (Ottawa: National Museums of Canada, 1955), p. 277.
6. *Ibid.*, p. 279.
7. David T. McNab, "The Administration of Treaty #3: The Location of the Boundaries of Treaty #3 Indian Reserves in Ontario," in *As Long As The Sun Shines and Water Flows* (Vancouver: 1983), eds. Getty and Lussier, pp. 1-2.
8. PAM, MG12, A1, Wemyss M. Simpson to Secretary of State, Joseph Howe, 19 August 1870. See also PAM, MG12, A1, S.J. Dawson to Minister of Public Works, H.L. Langevin, 19 December 1870.
9. George F.G. Stanley, *The Birth of Western Canada: A History of the Riel Rebellions* (Toronto: 195), p. 129.
10. John Leonard Taylor, "The Development of an Indian Policy for the Canadian North West, 1869-1879," (Ph.D. History thesis, Queen's University, 1975), p. 29.
11. PAM, MG12, A1, Memorandum from S.J. Dawson, 17 December 1869. See also Public Archives of Canada (hereafter cited as PAC), RG10, vol. 448, file 184,248.
12. *Ibid.*
13. *Ibid.*
14. PAM, MG12, A1, Secretary of State Joseph Howe to S.J.Dawson, 3 January 1870.
15. PAC, RG10, vol. 448, file 184,248, S.J. Dawson to Robert Pither, 6 January 1870.
16. *Ibid.*
17. PAM, MG12, A1, Robert Pither to S.J. Dawson 8 February 1870.
18. *Ibid.*
19. Wayne Daugherty, "Treaty Research Report: Treaty One and Treaty Two" (Ottawa: Indian and Northern Affairs Canada, 1983), p. 3.
20. *Ibid.*
21. Stanley, p. 136.

22. PAC, RG 10, vol. 448, Dispatch No. 244, Secretary of State Joseph Howe to Wemyss M. Simpson, Esq., M.P., 17 May 1870.
23. PAM, MG12, AI, No. 249, Secretary of State Joseph Howe to Wemyss M. Simpson M.P., 17 May 1870.
24. PAM, MG12, AI, Wemyss M. Simpson to Secretary of State Joseph Howe, 19 August 1870.
25. Ibid.
26. Ibid.
27. Ibid.
28. Ibid.
29. Ibid.
30. Ibid.
31. Ibid.
32. Ibid.
33. Ibid.
34. Ibid.
35. PAM, MG12, AI, No 372, Secretary of State Joseph Howe to Lieutenant-Governor of Manitoba A.G. Archibald, 23 September 1870.
36. PAM, MG12, AI, Adams G. Archibald to Secretary of State Howe, 12 November 1870.
37. Ibid.
38. Ibid.
39. Ibid.
40. PAM, MG12, AI, Wemyss M. Simpson to Secretary of State Joseph Howe, 19 August 1870.
41. PAM, MG12, AI, Adams G. Archibald to Secretary of State Howe, 12 November 1870.
42. PAM, MG12, AI, Wemyss M. Simpson to Secretary of State Joseph Howe, 19 August 1870.
43. Stanley, p. 187.
44. PAM, MG12, AI, Adams G. Archibald to Secretary of State Howe, 12 November 1870.
45. PAM, MG12, AI, Memorandum from S.J. Dawson to Minister of Public Works H.L. Langevin, 19 December 1870.
46. Ibid.
47. Ibid.



48. Ibid.
49. Canada, Department of Indian Affairs (DIA), *Annual Report*, 1871, Secretary of State Joseph Howe to His Excellency the Right Honourable Lord Lisgar, Governor-General of Canada, 17 April 1871, pp 3-4.
50. Taylor, p. 41.
51. PAM, MG12, AI, Memorandum from S.J. Dawson to Minister of Public Works H.L. Langevin, 7 February 1871.
52. Ibid.
53. PAC, RG 10, Vol. 448, file 184, 242, No. 118, Lieutenant-Governor Archibald to Secretary of State Howe, 7 March 1871.
54. Ibid.
55. DIA, *Annual Report*, 1871, Secretary of State Joseph Howe to Wemyss M. Simpson, 5 May 1871, p. 5. See also PAM, MG12, AI, Secretary of State Howe to Lieutenant-Governor Archibald, 9 May 1871.
56. Ibid., p. 6. Secretary of State Howe to Simpson, Dawson & Pither, 6 May 1871.
57. Ibid.
58. PAC, RG10, Vol. 1864, file 375, Commissioner Simpson to Secretary of State Howe, 11 July 1871. See also DIA, *Annual Report*, 1871, pp. 9-10.
59. Ibid.
60. Taylor, p. 65.
61. PAC, RG10, Vol. 1864, file 375, Commissioner Simpson to Secretary of State, Howe, 11 July 1871.
62. Ibid
63. PAC, RG10, Vol. 3800, file 48,542, S.J. Dawson to Deputy Minister of Indian Affairs Hayter Reed, 26 April 1895.
64. PAM, MG12, AI, S.J. Dawson to Minister of Public Works H.L. Langevin, 19 December 1870.
65. PAC, RG10, Vol. 1864, file 375, Commissioner Simpson to Secretary of State Howe, 11 July 1871.
66. PAC, RG10, Vol. 1868, file 377, Commissioner Simpson to Secretary of State Howe, 17 July 1872.
67. Ibid.
68. Ibid.
69. Ibid.
70. Ibid.
71. PAC, RG10, vol. 1868, file 577, Commissioner Simpson to Deputy Superintendent of Indian Affairs William Spragge, 21 September 1872.

- <sup>72</sup>. PAC, RG10, vol. 1875, file 870, Order-in-Council, 16 October 1872.
- <sup>73</sup>. Manitoba, Provincial Archives, MG12, B1, Alexander Morris, Lieutenant-Governor Collection, (hereafter cited as PAM, MG12, B1), Memorandum from the Deputy Superintendent of Indian Affairs William Spragge, 5 June 1873.
- <sup>74</sup>. Ibid.
- <sup>75</sup>. PAC, RG10, vol. 1868, file 577, Commissioner Simpson to Secretary of State Howe, 12 December 1872.
- <sup>76</sup>. PAM, MG12, B1, Telegram from Prime Minister Macdonald to Lieutenant-Governor Morris, 17 July 1873.
- <sup>77</sup>. PAM, MG12, B1, Memorandum from S.J. Dawson to Minister of Public Works H. L. Langevin, 2 June 1873. See also PAC, RG10, vol. 1904, file 2235.
- <sup>78</sup>. Ibid.
- <sup>79</sup>. Ibid.
- <sup>80</sup>. Ibid.
- <sup>81</sup>. PAM, MG12, B1, Acting Secretary of State J.C. Aitkins to S.J. Dawson, 21 June 1873.
- <sup>82</sup>. PAC, RG10, vol. 1904, file 2235, Order-in-Council, 16 June 1873.
- <sup>83</sup>. PAM, MG12, B1, Alexander Morris Papers, Ketcheson Collection, Lieutenant-Governor Morris to the Minister of the Interior Alexander Campbell, 31 July 1873.
- <sup>84</sup>. PAC, RG10, vol. 1904, Minister of the Interior Campbell to Lieutenant-Governor Morris, 5 August 1873.
- <sup>85</sup>. Ibid.
- <sup>86</sup>. Taylor, p. 118.
- <sup>87</sup>. Ibid.
- <sup>88</sup>. PAM, MG12, B1, Ketcheson Collection, Minister of the Interior Campbell to Lieutenant-Governor Morris, 14 August 1873.
- <sup>89</sup>. PAM, MG12, B1, Memorandum from S.J. Dawson to Minister of Public Works H.L. Langevin, 2 June 1873.
- <sup>90</sup>. PAC, RG10, vol. 1904, file 2235, Minister of the Interior Campbell to Acting Minister of Militia and Defence H.L. Langevin, 9 August 1873.
- <sup>91</sup>. Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories* (Toronto: 1880; reprinted 1971, Coles Publishing Company), pp. 51-52.
- <sup>92</sup>. PAM, MG12, B1, No. 439, Lieutenant-Governor Morris to Minister of the Interior Campbell, September 1873.
- <sup>93</sup>. Taylor, p. 120.

<sup>94.</sup> Ibid.

<sup>95.</sup> PAM, MG12, B1, Memorandum from Deputy Superintendent of Indian Affairs, William Spragge, 5 June 1873

<sup>96.</sup> PAM, MG12, B1, No. 490, Minister of Interior Campbell to Lieutenant-Governor Morris, 20 September 1873.

## TREATY NEGOTIATIONS

Lieutenant-Governor Morris left Lower Fort Garry with a military escort on September 23, 1873, arriving at the North-West Angle two days later, where he was joined by his fellow commissioners. The composition of the commission had already been altered by the resignation of Lindsay Russell. He was replaced by S.J. Dawson, now Member of Parliament for Algoma and a major participant in the negotiations to date. The third commissioner was Lieutenant-Colonel J.A.N. Provencher, who had been appointed Commissioner of Indian Affairs in place of Wemyss Simpson.<sup>1</sup> The Indian agent at Fort Frances, Robert Pither; the Honourable James McKay, who had assisted at the signing of Treaty One; and Molyneux St. John of the Indian Commissioner's Office, were also in attendance.<sup>2</sup>

Originally, the negotiations had been scheduled for the 10<sup>th</sup> of September. The Indians, however, had apparently changed their minds and requested a change of venue to Fort Frances. Morris refused to accede to this request or demand, as he termed it, fearing that if he did so it would prove inimical to the success of the negotiations.<sup>3</sup> Obviously, Morris felt that if he granted their request, the Indians might perceive him to be weak and pliable, thus encouraging them to be intransigent. He sent them an ultimatum to meet at the appointed place on the 25<sup>th</sup> of September or not at all.<sup>4</sup> The Indians eventually, and one must assume grudgingly, accepted his terms. Upon his arrival at the North-West Angle, Morris found himself engaged in another test of wills. The Saulteaux, who were eventually to number 1,400 at the negotiations representing eleven bands, had not yet fully assembled.<sup>5</sup> Having no other choice, Morris granted a short delay to allow them to gather. Once this had been accomplished, the Indians then declared they had business to conduct among themselves and refused to meet until they had finished, leaving the Lieutenant-Governor and his commissioners to cool their heels.<sup>6</sup>

Morris attributed the delay to divisions and jealousies among the Saulteaux, noting:

The nation had not met for many years, and some of them had never before

been assembled together. They were very jealous of each other, and dreaded any of the Chiefs having individual communications with me, to prevent which they had guards on the approaches to my house and Mr. Dawson's tent.<sup>7</sup>

It may have been quite legitimate, given these divisions and jealousies, that the Saulteaux needed extra time to arrive at a common bargaining position in order to present a united front to the commissioners. The fact that they had not assembled for some time may also have added to the delay, for a Manitoba newspaper reported that the Indians were having difficulty selecting a principal chief to speak for them.<sup>8</sup> They may also have relished the thought of keeping the Commission on tenterhooks to assuage their pride after having been rebuffed in their request to meet at Fort Frances.

The objectives of the two sides were by now very specifically defined. The goal of the government was the unequivocal surrender of the Saulteaux lands for the purpose of establishing a transcontinental transportation route. In order to achieve this aim, the government was prepared to be somewhat more generous in regard to the annuity, though within certain limitations.<sup>9</sup>

The objectives of the Saulteaux appear to have been twofold. As J.E. Foster has indicated:

Both goals envisaged a "better" future for Indian people in a world in which the white man was an increasingly significant factor. One goal emphasized the physical and cultural survival of the Indian people; the other goal emphasized improved material well-being. One strategy underlined the need for an alliance with the white; the other strategy suggested the hard bargaining of horse-traders in the market-place.<sup>10</sup>

The negotiation finally got underway on the 1<sup>st</sup> of October, though only after Morris had intimated that if they did not meet by that date, he would break camp and go home.<sup>11</sup>

The Saulteaux opened the proceedings, expressing their pleasure at meeting the commissioners. They then proceeded to issue an ultimatum of their own, declaring that they would not consider a treaty until they received compensation for the use of the Dawson route, and for the wood used in building and fuelling the steamboats that plied the waterway.<sup>12</sup> It would appear from the presentation of these demands that the

Indians still contemplated the treaty as a form of lease by which they would still retain ultimate control of the territory and its resources. The Indians further alleged that certain promises made to them by Dawson, the nature of which they did not specify, had not been kept.<sup>13</sup>

Dawson replied to their pronouncement, directing his rebuttal to the question of the wood. He stated that the Indians had always been paid for the wood they had supplied. He asserted that Her Majesty's subjects had a common right to the forest and the waterway, and challenged the Indians to name the promises which had not been kept. This, however, they were unable to do.<sup>14</sup>

At this point, Lieutenant-Governor Morris intervened to make unequivocally clear to the Saulteaux that the commission was not there to negotiate individual items or grievances. He stated that he had come as a representative of the Queen and the Government of Canada to treat for their land and settle all other matters, past and future. If the Indians refused to hear him, he declared, they "had closed his mouth," and he would be unable to carry out his instructions.<sup>15</sup> The Saulteaux reiterated that they would not consider a treaty until the issue of compensation had been resolved and pointedly remarked that it was the "Indian's country, not the white man's."<sup>16</sup> After a short deliberation, however, they relented and agreed to listen to Morris, stating they would present their demands later.<sup>17</sup>

Morris then outlined the government's terms:

I want to settle all matters both of the past and the present, so that the white and red man will always be friends. I will give you lands for farms, and also reserves for your own use. I have authority to make reserves such as I have described, not exceeding in all a square mile for every family of five or thereabouts. It may be a long time before the other lands are wanted, and in the meantime you will be permitted to fish and hunt over them. I will also establish schools whenever any band asks for them, so that your children may have the learning of the white man. I will also give you a sum of money for yourselves and every one of your wives and children for this year. I will give you ten dollars per head of the population, and for every other year five dollars a-head. But to the chief men, not

exceeding two to each band, we will give twenty dollars a year for ever. I will give to each of you this year a present of goods and provisions to take you home, and I am sure you will be satisfied.<sup>18</sup>

At a meeting among themselves prior to this presentation, the commissioners had decided that the sums offered were the minimum they could make within the bounds of their instructions and still be successful in obtaining a treaty.<sup>19</sup> At this point, the deliberations were ended, to be resumed the following day.

The next day, the 2<sup>nd</sup> of October, the Saulteaux presented their case. The principal spokesman of the Saulteaux, Chief Ma-We-Do-Pe-Nais, addressed Morris, emphasizing the Indian ownership of the land:

...All this is our property where you have come. We have understood you yesterday that Her Majesty has given you the same power and authority as she has, to act in this business; you said the Queen gave you her goodness, her charitableness in your hands. That is what we think, that the Great Spirit has planted us on this ground where we are, as you were where you came from. We think where we are our property. I will tell you what he said to us - is when he planted us here; the rules that we should follow - us Indians. He has given us rules that we should follow to govern us rightly... I want to talk about the rules that we had laid down before. It is four years back since we have made these rules. The rules laid down are the rules that they wish to follow - a council that has been agreed upon by all the Indians. I do not wish that I should be required to say twice what I am now going to lay down.<sup>20</sup>

The Saulteaux then put forward their demands which they presented in written form. They wanted fifty dollars a year for each chief and twenty dollars a year for each council member. For each band member, they demanded a cash payment of fifteen dollars and an annuity of ten dollars. Each first and second "soldier," as they termed them, was to receive an annuity of fifteen dollars. The Indians also asked for agricultural implements, farm animals, suits of clothing, guns and ammunition, twine for fishing nets, horses and buggies, carpenter's tools, seed and provision such as flour and sugar, and household utensils including stoves.<sup>21</sup> Morris calculated the cost of these goods and financial awards at \$125,000 per year.<sup>22</sup>

It is difficult to ascertain whether or not these demands came as a shock to Lieutenant-

Governor Morris, though there is little doubt that they were intended to do so by the Indians. Morris notes somewhat drily in his report that the demand were those they (the Indians) has urged since 1869.<sup>23</sup> There is certainly no mention of them in the official correspondence, though Simpson did state in his first report that the Indians' demands were too high, but he never elaborated. There is no indication that these demands had been considered by the government in the formulation of its policy.

Morris was undoubtedly aware of at least some of these demands since he would have had advice of the former Lieutenant-Governor Archibald and possibly former Commissioner Simpson, as well as that of Dawson and Pither, both of whom were present at the previous negotiations.<sup>24</sup> There is also some question as to whether these demands were presented to Morris in their original form. The request for agricultural assistance may very well have been influenced by the "outside promises" made in Treaties One and Two some two years previous.<sup>25</sup> There can be no doubt, however, that many of their demands were influenced by treaty terms being offered in the United States. In 1877, James McKay wrote of the Cree:

It was also on account of their seeing the Sioux chiefs on their American Reserves furnished with Horses and Buggy's; - that prompted them to request the same from our Government, and knowing also that, although the Sioux are naturally hostile to the Americans nevertheless, the Government of that country has aided the chiefs of the Sioux to build their houses and even partly furnished them. It is the knowledge of these facts which induced our Indians to make the demand for aid to build their houses in the North West, and get them equipped - as I said before, the Cree Indians are perfectly aware of everything going on, the other side.<sup>26</sup>

Morris immediately refused their demands, stating that what had been offered was fair and just. He tried to shame them into acceptance, saying:

I am very sorry to see that your hands were very wide open when you gave me this paper. I thought what I promised you was just, kind and fair between the Queen [sic] and you. It is now three years we have been trying to settle this matter. If we do not succeed today I shall go away feeling sorry for you and for your children that you could not see what was good for you and for them. I am ready to do what I promised you yesterday. My hand is open and you ought to



take me by the hand and say, "yes, we accept of your offer". I have not the power to do what you ask of me...<sup>27</sup>

Morris also pointed out that the treaties with the Saulteaux in the United States were of twenty years' duration while the benefits he was offering were to be perpetual. He asked them if it was just that they should demand in perpetuity what the American Indians received for a twenty year period only.<sup>28</sup>

The Saulteaux spokesmen, however, were totally unmoved by Morris' plea and remained adamant. Chief Ma-We-Do-Pe-Nais replied:

I lay before you our opinions. Our hands are poor but our heads are rich, and it is riches that we ask so that we may be able to support our families as long as the sun rises and the water runs.<sup>29</sup>

In the face of this obstinance, Morris switched tactics and attempted not only to intimidate them, but also to sow dissension among their ranks:

I am very sorry; you know it takes two to make a bargain; you are agreed on the one side, and I for the Queen's Government on the other. I have to go away and report that I have to go without making terms with you. I doubt if the Commissioners will be sent again to assemble this nation. I have only one word more to say; I speak to the chief and to the head men to recollect those behind them, and those they have left at home, and not go away without accepting such liberal terms and without some clothing.<sup>30</sup>

The Indians, however, still refused to budge from their demands. Chief Ma-We-Do-Pe-Nais indicated that they knew their land contained valuable minerals such as gold and reiterated that the Great Spirit had given them the land and that it belonged to them. He further stated that the white man had robbed them in the past, and they would not sign the treaty unless they received something in return. The negotiations had reached an impasse.<sup>31</sup>

At this juncture, Chief Ka-Katche-way, representing the Lac Seul and English River bands, came forward and said that his people wanted a treaty. Morris noted that the other chiefs tried to prevent the Lac Seul Chief from speaking but that he was given a

hearing.<sup>32</sup> This was perhaps due to the presence of the troops from Lower Fort Garry.

Though a seemingly spontaneous action on the part of Ka-Katche-way, there is every indication that Morris had prior knowledge of the attitude of this particular chief and the people he represented. An unsigned document, headed "North-West Angle, Lake of the Woods" and dated October 1<sup>st</sup>, 1873, apparently recounts an address to or a conversation between Chief Ka-Katche-way and Morris. The document states:

#### Ka-Katche-way

The Indian Chief representing the English River and Lac Seul Indians say that his own particular Band numbers about 400 individuals.

That he is authorized to speak for them as well as for the Lac Seul Indians - He is prepared on the part of himself and the people he represents to enter into a Treaty with the Government on the terms they [sic] may be proposed.

His Band, he says, have little farms on English River about a day's journey below the outlet of Lac Seul, and that they are particularly anxious to get things necessary for these farms.<sup>33</sup>

This information placed Morris in a very powerful negotiating position. He was thus able to take a very strong stance in the bargaining on the second day, secure in the knowledge that if the principal Saulteaux spokesmen rejected his offer, there were at least two bands willing to break ranks to accept it. Indeed, Morris' oratory may have been precisely calculated to encourage Ka-Katche-way to openly break with the majority. Morris alluded to his foreknowledge, stating that immediately after Ka-Katche-way came forward, he told them that he had known all the time that they were not as unified as they claimed.<sup>34</sup>

Morris was quick to exploit the situation, telling the assembly that:

I have heard and I have learned something. I have learned that you are not all of one mind. I know that your interests are not the same - that some of you live in the north far away from the river; and some live on the river, and that you have got large sums of money for wood that you have cut and sold to the steamboats; but the men in the north have not this advantage. What the Chief had said is

reasonable; and should you want goods I mean to ask you what amount you would have in goods, so that you would not have to pay the traders prices for them. I wish you were all of the same mind as the Chief who has just spoken. He wants his children to be taught. He is right. He wants to get cattle to help him to raise grain for his children. It would be a good thing for you all to be of his mind, and then you would not go away without making this treaty with me.<sup>35</sup>

Morris told them he wished to treat with them as a nation rather than as separate bands, but that he would do so if they forced him to it. He urged them to reconsider his proposals and in this was seconded by the minor chief named Blackstone.<sup>36</sup>

The Indians retired to reconsider the Commissioner's proposals and were joined in council by four Métis, the Honourable James McKay, Pierre Leveillé, Charles Nolin and a certain Mr. Genton. There are conflicting statements regarding the presence of these men at the council. In the newspaper account, it is stated that the Métis were invited by the chiefs, while in his report, Morris says he requested them to go to the council and provide the Indians with "friendly advice."<sup>37</sup>

What transpired at the meeting is unknown nor is it known how much influence the Métis exercised with the Sauteaux. After the conclusion of the negotiations, Chief-Ma-We-Do-Pe-Nais told Morris that "you owe the treaty much to the Half-breeds; a debt which Morris acknowledged."<sup>38</sup> On the other hand, it has been suggested that the Métis had little influence with the Sauteaux, with the exception of having the Indians request that they also be included in the treaty.<sup>39</sup> Whatever the case, the Indians did return to the negotiations.

In the meantime, the commissioners had a conference of their own at which it was decided to raise the amount of the cash payment or present from ten dollars to twelve dollars, but only on the provision it was necessary to obtain a treaty.<sup>40</sup> This, of course, was still three dollars under the maximum they were permitted to offer. The annuity was to remain the same. The commission also took steps to meet some of the Indian demands, agreeing to provide a sum of money for ammunition and twine for nets, and agricultural implements and seeds for any band actually farming.<sup>41</sup>

The Saulteaux returned to the negotiations on Friday, October 3<sup>rd</sup>, stating they were determined to adhere to their demands but would see if the Governor had anything more to offer.<sup>42</sup> Morris responded by saying he was glad the Lac Seul band had taken up agriculture, for this would provide them with food when the hunting and fishing were poor. He then promised to supply agricultural implements to any band which settled down and commenced farming.<sup>43</sup> In addition, he told them he would provide \$1,500 per year for ammunition and twine. Finally he stated:

Now I will mention the last thing that I can do. I think that the sum I have offered you to be paid after this year for every man, woman and child now, and for years to come, is right and is the proper sum. I will not make any change in that, but we are anxious to show you that we have a great desire to understand you - that we wish to do the utmost in our power to make you contented, so that the white man and the red man will always be friends. This year, instead of ten dollars we will give you twelve dollars, to be paid you at once as soon as we sign the treaty. This is the best I can do for you.<sup>44</sup>

The Indians appeared to be impressed by this latest proposal, but continued to press for further advantages. They wanted a fifty dollar annuity for chiefs, carpenter's tool, guns, suits of clothing for all band members, boards from a local sawmill for houses, and lifetime passes on the steamboats and the soon-to-be-built Canadian Pacific Railway.<sup>45</sup> Morris promised a box of common tools to the chief of each band and a suit of clothing to each chief every three years.<sup>46</sup> The other requests were refused, especially those such as railway passes which were not in Morris' power to grant.

The Saulteaux asked if they would be conscripted to fight in Canada's wars and were assured that they would not.<sup>47</sup> As to the question of liquor on the reserves, Morris told them that regulations would be formulated prohibiting its sales. The Indians were also informed that the peace and tranquility of the reserves would be protected by law.<sup>48</sup>

The Saulteaux raised questions regarding the allotment of reserves and mineral rights. Commissioner Provencher told them they would receive reserves for farming and other lands as well, and any land they had already under cultivation would be respected. Insofar as mineral rights were concerned, Morris indicated that any mines established

on the reserve would be for their benefit, but not mineral development outside of reserve land.<sup>49</sup>

The Indians also raised the question of eligibility with regard to the treaty. They stated that many of their children had married and gone to live in the United States, and that they wanted these people to be included in the treaty. Morris explained to them that the treaty was only for British Indians, but that if any of these people returned to reside in Canada within a two year time limit, the government would recognize them.<sup>50</sup>

The Saulteaux then asked that some twenty Métis families who lived with them be recognized as Indians and be included in the treaty.<sup>51</sup> Though it cannot be proven, this request was probably instigated by the Métis who joined their council the previous night. Morris told them that the treaty was for Indians only, but that he would make known their wish to the government and recommend it be adopted. After asking a few more questions regarding an Indian agent, medals and flag for the chiefs and headmen, and a minor dispute over land with the Hudson's Bay Company at Fort Frances, the Saulteaux agreed to accept the commission's terms.<sup>52</sup>

Treaty Three was signed on Friday, October 3, 1873, the text of the treaty having been duly read and explained to the Indians in their own language. The Saulteaux were then paid their annuity and gratuity and the presents brought by the Commissioner for the occasion were distributed. The Treaty was subsequently confirmed by Order-in-Council on October 31, 1873.<sup>53</sup>

By the terms of the treaty, Canada acquired a territory of some 55,000 square miles (14,245,000 hectares) containing valuable mineral and timber resources.<sup>54</sup> In addition, Canada had achieved its goal of opening a gateway to the west, as the Dawson route and the line of the Canadian Pacific Railway were now secure. The significance of the treaty in obtaining this objective in a peaceful manner was emphasized by Morris:

It is fortunate, too, that the arrangement has been effected, as the Indians along

the lakes and rivers were dissatisfied at the use of the waters which they considered theirs, having been taken without compensation, so much so indeed that I believe if the treaty had not been made, the Government would have been compelled to place a force on the line next year.<sup>55</sup>

The signing of Treaty Three was a personal triumph for Morris, as he had succeeded where Simpson had failed. The pride he took in his achievement and the fact that it had been accomplished within the framework of his instructions, as well as the impact it had on future developments, is evident from a letter which he wrote to the Governor-General in 1877:

I would further state, that, when, in the year 1873, I proceeded to the North West Angle to make a Treaty, after two previous failures, I felt that the terms of that Treaty, would largely shape those that were to follow. I had confidential instructions then, while at Fort Carlton, I was unfettered in that way. I spent twelve days in endeavouring to come to an understanding with the Indians, and at length succeeded, having the satisfaction of knowing that I had fixed the rate of annuities within the limit of my instructions, at a scale which has since governed in all the other Treaties, and which has thereby resulted in a very large saving to the Dominion.<sup>56</sup>

The Saulteaux also appear to have been satisfied with the treat. It has been suggested that the Indians did not really understand the meaning of the surrender clause, but this contention is contradicted by the closing address of Chief Ma-We-Do-Pe-Nais:

Now you see me stand before you all, what has been done here today has been done openly before the Great Spirit, and before the nation, and I hope that I may never hear anyone say that this treaty has been done secretly; and now, in closing this Council, I take off my glover, and in giving you my hand, I deliver over my birth-right and lands; and in taking your hand, I hold fast all the promises you have made, and I hope they will last as long as the sun goes round and the water flows, as you have said.<sup>57</sup>

The view of the contemporary Saulteaux is that they uphold the treaty but feel that it needs to be modernized and updated to reflect the conditions of the late twentieth century.<sup>58</sup>

Upon the conclusion of the treaty, Commissioner Dawson journeyed to Shebandowan Lake to obtain the adhesion of two bands who were unable to attend the negotiations at

the North-West Angle. These bands had indicated in advance that they would accept whatever terms were negotiated. Dawson outlined the terms of the treat and notes in his report:

They took some time to deliberate over the provisions of the Treaty and asked me occasionally to explain certain passages, more especially those in relation to the reserves.

Before signing it, they comprehended perfectly the nature of the obligations into which they were about to enter - that the surrender of their territorial rights would be irrevocable, and that they were to stand forever afterwards in new relations to the white man.<sup>59</sup>

The adhesion was signed on October 13, 1873 and confirmed by an Order-in-Council dated January 5, 1874.<sup>60</sup>

The following spring, Indian Agent Pither obtained the adhesion of the Indians at Lac Seul. It was signed on June 9, 1874 and confirmed by Order-in-Council on July 18, 1874, thus completing Treaty Three.<sup>61</sup>

## Notes

1. DIA, *Annual Report*, 1874, Lieutenant-Governor Morris to the Minister of the Interior, 14 October 1873, p. 15.

2. Ibid.

3. Ibid.

4. Ibid.

5. Alexander Morris, *The Treaties of Canada with the Indians*, pp.53-55. See also David T. McNab, "Hearty Co-operation and Efficient Aid: The Metis and Treaty #3," *Canadian Journal of Native Studies* 3 (No. 1, 1983), p. 140.

6. Ibid., p. 47. See also David T. McNab, p. 141.

7. DIA, *Annual Report*, 1874, pp. 15-16

8. Morris, p. 54.

9. McNab, p. 140.

10. J.E. Foster, "The Saulteaux and the Numbered Treaties: An Aboriginal Rights Position," in *The Spirit of the Alberta Indian Treaties* (Montreal: 1980), ed. Richard Price, p. 163.

11. Morris, p. 54.
12. DIA, *Annual Report*, 1874, p. 15.
13. Ibid, pp. 15-16.
14. Ibid.
15. Morris, p. 48.
16. Ibid, p. 57.
17. DIA, *Annual Report*, 1874, p. 16.
18. Morris, p. 58.
19. DIA, *Annual Report*, 1874, p. 16.
20. Morris, pp. 59-60.
21. PAC, RG10, vol. 1918, file 2790B, Demands by the Indians as to their terms for Treaty, 2 October 1873.
22. DIA, *Annual Report*, 1874, p. 16. See also RG10, vol. 1918, file 2790B, Demands by the Indians as to their terms for Treaty, 2 October 1873. In this document, the amount is calculated at \$123,112.00.
23. DIA, *Annual Report*, 1874, p. 16.
24. McNab, p. 143.
25. Taylor, p. 128.
26. PAM, MG12, B1, James McKay to Lieutenant-Governor Morris, 28 March 1877.
27. Morris, p. 60.
28. Ibid., p. 61.
29. Ibid.
30. Ibid.
31. Ibid., p. 62.
32. DIA, *Annual Report*, 1874, p. 16.
33. PAC, RG10, vol. 1918, file 2790B, Account of an address or conversation by Chief Ka-Katche-way with Lieutenant-Governor Morris, 1 October 1873.
34. DIA, *Annual Report*, 1874, p. 16.
35. Morris, pp. 63-64.
36. DIA, *Annual Report*, 1874, p. 16.



37. Ibid.
38. Morris, p. 74.
39. McNab, pp. 145-146.
40. DIA, *Annual Report*, 1874, pp. 16-17.
41. Ibid. p. 17.
42. Ibid.
43. Morris, pp. 65-66.
44. Ibid., p. 67.
45. DIA, *Annual Report*, 1874, p. 17.
46. Morris, p. 68.
47. Ibid., p. 69.
48. Ibid., pp. 70-73.
49. Ibid., p. 70.
50. DIA, *Annual Report*, 1874, p. 17.
51. Ibid.
52. Ibid.
53. PAC, RG10, vol. 1918, file 2790B, Order-in-Council, 31 October 1877.
54. Ibid., p. 18.
55. Ibid.
56. PAM, MG12, B1, No. 251, Ketcheson Collection, Lieutenant-Governor Morris to the Governor-General in Council, 29 March 1877.
57. Morris, p. 75.
58. In possession of the Claims & Historical Research Centre, Indian and Northern Affairs, Canada, "Summary of the Meeting of the Standing Committee on Indian Affairs, 8 November 1973."
59. PAC, RG10, vol. 1918, file 2790D, S.J. Dawson to the Minister of the Interior, 26 December 1873.
60. PAC, RG10, vol. 1918, file 2790D, Order-in-Council, 5 January 1874.
61. PAC, RG10, vol. 1918, file 2790A, Order-in-Council, 18 July 1874.

## THE ADMINISTRATION OF TREATY NO. 3

The signing of Treaty Three concluded four years of exhaustive negotiations. Under the terms of the treaty, the Saulteaux tribe of the Ojibway Indians ceded, released, surrendered and yielded to the Dominion of Canada forever all rights, titles, and privileges to a tract of land 55,000 square miles (14,245,000 hectares) in extent. The Indians were pledged to obey the laws, observe the treaty and refrain from molesting the property or persons of Her Majesty's subjects either inhabiting or travelling through the territory.<sup>1</sup>

In return, the Government of Canada was obligated to provide reserves for farming and other purposes, it being stipulated that lands already under cultivation would be respected. The reserves, for whatever purposes, were not to exceed one square mile (259 hectares) per family of five or in like proportion for larger or smaller families. Reserve land could be sold, leased or disposed of by the government for the use and benefit of the Indians, but only with their consent.<sup>2</sup>

In terms of monetary awards, each Indian received an immediate cash payment of twelve dollars and an annuity of five dollars. Each chief was to receive an annual salary of twenty-five dollars and each subordinate officer (headman), not exceeding three to each band, would receive fifteen dollars per year.<sup>3</sup> This was in conformity with the Order-in-Council passed in 1872. In addition, an amount of \$1,500 per annum was provided for the purchase of ammunition and twine for nets, which was one of the demands on the list the Indians had presented.

As was seen during the negotiations, the commissioners yielded to the demands of the Saulteaux with regard to agricultural implements and farm animals. The treaty provided that those families which undertook farming would receive two hoes, a spade and a scythe with a plow for every ten families and five harrows for every twenty families. Equipment placed in charge of the bands included axes, cross-cut saws, a pit saw, an auger, grindstone, a chest of carpenter's tools as well as seed for wheat, barley,

potatoes and oats. Each band was also to receive a yoke of oxen, one bull and four cows. All those items and livestock were to be provided on a one time only basis rather than every few years as the Indians had wanted.<sup>4</sup>

Other articles provided included a flag and a medal of suitable quality to each chief to commemorate the signing of the treaty as well as a suit of clothing every three years to each chief and subordinate officer.<sup>5</sup>

As promised, a provision was included to ban the sale of liquor on the reserves and to strictly enforce all liquor laws in the North-West Territories pertaining to Indians. The educational requirements of the Saulteaux were to be met by the provision of schools whenever the Indians so desired.<sup>6</sup>

The Treaty further contained an expropriation clause which permitted the government to take reserve lands for public works, with compensation being given for the value of any improvements which had been made beforehand.<sup>7</sup> This provision had been recommended by Dawson in his report of 1870, though there had never been any indication that the government had given it consideration. Interestingly enough, the account of the negotiations in the *Manitoban* makes only passing reference to it, quoting one of the chiefs to the effect that he understood the Indians could be shifted if the Department of Public Works required a particular piece of reserve land.<sup>8</sup> Exactly when, during the course of the negotiation, this issue was discussed with the Saulteaux and under whose initiative this particular clause was inserted in the treaty is unknown, but one must assume that Dawson, keeping the interests of his former department in mind, was responsible for its inclusion.

The Commission also included a provision in the treaty permitting the Indians to hunt and fish on unoccupied Crown land until such time as the land was required for settlement, mining, lumbering or other purposes.<sup>9</sup> A verbal promise to this effect had been made by Lieutenant-Governor Archibald to the Indians in Treaties One and Two, but it had never been written into the text. This time, care was taken to ensure there

was no such omission.

Despite its seeming care to enumerate all articles to be included in the treaty, the Commission nonetheless omitted a number of items which had been discussed during the negotiations and were apparently agreed upon. One issue involved was that of military conscription. The Saulteaux had requested that they be exempted from fighting in British wars and were assured by Morris that the government would not require them to do so.<sup>10</sup> Yet there was no clause or provision in the treaty which reflected this assurance. As a result, the Saulteaux, particularly during World War II, found themselves liable for conscription.

The question of mineral rights was raised by the Saulteaux, and Morris told them that if any important minerals were found on their reserves, the minerals would be sold with their consent for their benefit.<sup>11</sup> Again, there was no provision in the terms of the treaty to cover this eventuality. Perhaps the commissioners felt the clause applying to the sale of lands would be sufficient; though, as will be seen, when it came time to select the reserves, the government took precautions to ensure the matter of mineral rights did not arise.

A third issue involved Canadian Saulteaux who had migrated to the United States but whom the Indians wanted to include in the treaty. Though Lieutenant-Governor Morris emphasized that the treaty was for Canadian Indians only, he agreed that any children of the Saulteaux who returned within two years would be included in the treaty and that he would obtain a list of their names.<sup>12</sup> There was, however, no clause in the treaty referring to this situation. It is not known what administrative machinery, if any, was established to deal with returnees or whether the list of names was ever obtained. The Indians further requested that they be supplied with rations at treaty payment (annuity) time, and it was implied by Lieutenant-Governor Morris that they would receive them.<sup>13</sup> This item is not covered in the treaty either.

The Saulteaux have long maintained that the printed version of Treaty Three is incorrect

and that they have the true version, which they refer to as the “Paypom Treaty.” This document was apparently obtained in 1906 from a photographer, C.E. Linde, by tribal member Allan Paypom, who allegedly paid an unspecified sum of money for it. It is not known if Linde was present at the treaty negotiations or how he came to acquire the document.<sup>14</sup>

The “Paypom Treaty” is actually a copy of the notes taken by Joseph Nolin, who was employed by the Saulteaux to make a written record on their behalf. Morris noted in his report that the notes were to be taken in French and that he had obtained a copy of these notes to forward to Ottawa.<sup>15</sup> The copies now extant, however, are in English only. The “Paypom Treaty” is also in English but unlike the other copies it has the signatures of both Joseph Nolin and August Nolin.<sup>16</sup>

The “Paypom Treaty” as well as the other copies of Nolin’s notes were written or at least translated into colloquial English (presumably reflecting the original French) with the items of agreement enumerated. The document covers the points stated in the printed version of Treaty Three, with the addition, however, of the four items mentioned below. The “Paypom Treaty” states:

8. If their children that are scattered come inside of two years and settle with you, they will have the same privilege as you have.
10. The English Government never calls the Indians to assist them in their battles but he expects you to live in peace with red and white people.
12. If some gold or silver mines be found in their reserves, it will be to the benefit of the Indians but if the Indians find any gold or silver mines out of their reserves they will surely be paid the finding of the mines.
16. You will get rations during the time of the payment every year.<sup>17</sup>

In addition to these four items, the document further states that:

11. Mr. Dawson said he would act as by the past about the Indians passage in his road. The Indians will be free as by the past for their hunting and harvest.<sup>18</sup>

The first part of this statement is somewhat obscure and misleading. One of the

Saulteaux chiefs had made reference to the roads, the steamboat on Rainy Lake and Rainy River as well as the anticipated railway and requested that the Indians receive free passage on them. Morris denied free passage on the railway. The question was then directed to Dawson as the perceived representative of the Department of Public Works. Dawson replied:

I am always happy to do anything I can for you. I have always given you a passage on the boats when I could. I will act as I have done though I can give no positive promise for the future.<sup>19</sup>

It is clear from the tenor of Dawson's statement that free passage along the Dawson route, combined road and water system, was granted to the Indians as a favour. It was not intended as a binding treaty commitment.

The second part of the statement referring to hunting was, of course, included in the terms of the treaty. There is, however, no reference to the harvesting of wild rice in either Morris' report or the account of the *Manitoban*. Yet the harvesting of wild rice was, as indicated by Dawson himself in his 1870 report, an important part of the Indian economy. It is almost inconceivable that this issue did not arise during the course of the negotiations, but there is no indication in the available records, outside of the "Paypom" document, that it did. Thus, this important Indian economic activity was left unprotected by the treaty.

Morris stated in his report that the conference was adjourned while the text of the treaty was completed to reflect the understanding obtained.<sup>20</sup> Yet the "Paypom Treaty" (Nolin's notes) and the account in Morris' book, *The Treaties of Canada with the Indians of Manitoba and the Northwest Territories*, make it clear that issues were discussed and agreed to that were not included in the terms of Treaty Three. It is interesting to note in this context that although the terms of Treaty Three make no reference to the harvesting of wild rice, it does allow for fishing throughout unoccupied Crown land. The "Paypom Treaty" on the other hand makes no reference to fishing whatsoever.

Why these particular items were left out of the treaty is unclear, although Dawson later provided a tantalizing hint. Writing in 1895 to the Deputy Minister of Indian Affairs Hayter Reed regarding hunting and fishing rights in the Treaty Three areas, he stated:

I was one of the commissioners appointed by the Government to negotiate a Treaty with the Saulteaux tribe of the Objibbeway Indians and as such was associated with Mr. W.M. Simpson in 1872, and subsequently acted in the same capacity with Lieut: Governor Morris and Mr. Provencher in 1873. The Treaty was practically completed by myself and Mr. Simpson in 1872, and it was the draft we then made that was finally adopted and signed at the Northwest Angle of the Lake of the Woods in 1873.<sup>21</sup>

This is a most revealing statement and is in contradiction to that made by Morris in his report. If true, it would seem that the commissioners, perhaps in their haste to conclude the agreement, used as a finalized version the draft treaty from the previous year which would not reflect the new items of agreement in the negotiations just concluded. If so, this is a possible explanation as to why the above items were not included in the terms of Treaty Three.

Assuming this to be the case, another question is raised. Morris states in his report:

At the expiration of that period the conference was resumed, and after the reading of the treaty, and an explanation of it in Indian by the Hon. James McKay, it was signed by the Commissioners and by the several Chiefs, first signature being that of a very aged hereditary Chief.<sup>22</sup>

One wonders why the Indians, having had the treaty read and explained to them in their own language, did not object at that time to the missing points of agreement, but they apparently failed to do so. The only document bearing the signature of both federal and Saulteaux representatives, signifying agreement to terms, is Treaty Three.

In July 1874, S.J. Dawson and Robert Pither were appointed by Order-in-Council to select, in conference with the Indians, the reserves provided for by the terms of Treaty Three.<sup>23</sup> The two commissioners were also informed that:

The Minister submits that while he has no objection to have one of the wild land Reserves at the locality on Rainy River designated by Mr. Dawson, he thinks that the other Reserves of that class apt to be selected should be removed as much as possible from the probable line of future settlement, and should not include any land known to the Commissioners to be mineral lands or any lands for which as Mineral lands bona fide applications have been filed with either the Dominion or Ontario government.<sup>24</sup>

In order to aid the commissioner, the Ministry of the Interior supplied two maps showing, as far as was known, the location of mineral deposits within the Treaty Three area as well as a schedule of all applications filed with the Dominion Lands Office for mineral lands.<sup>25</sup>

Dawson and Pither worked throughout the summer and by mid-October telegraphed from the North-West Angle that the reserves for the Lake of the Woods and Rainy River areas had been selected.<sup>26</sup> In January 1875, Dawson submitted a complete report to E.A. Meredith, the Deputy Minister of the Interior. Dawson stated that the commissioners had followed their instructions carefully, removing the wild land reserves as far as possible from the area of future settlement as well as excluding all known mineral lands or areas known as mineral lands for which applications had been filed with the Ontario or Federal Governments.<sup>27</sup>

The conferences with the Indians regarding the selection of reserves went rather smoothly, though there was some difficulty as Dawson noted:

There was no great difficulty experienced in dealing with the Indians to the eastward of Fort Frances, but the Bands of Rainy River had formed a deep laid scheme of bringing their brethren from the Lake of the Wood to join with them in occupying the fertile belt which extends along the banks of that river from Fort Francis to Hungry Hall. They had probably been incited to this by some half-breeds and white men who had their own interests to serve; but, however this may be they were so persistent in their object that they for some time refused to accept their annual payments, unless their demands were acceded to and seemed prepared to go so far as to repudiate the Treaty of the former year.

The Commissioners, however, by the exercise of a little patience, and appealing to the good sense and honor of the Indians, brought them to see that their views were untenable and they finally consented, in the most amicable spirit, to accept



the areas marked out for them and relinquish their intention of bringing Bands from the Lake of the Woods.<sup>28</sup>

A similar situation occurred at the North-West Angle with the Saulteux from the Lake of the Woods, but was eventually resolved to the satisfaction of both parties. Dawson noted that in this case both classes of reserve, farming and wildlands, were located on islands and were thus some distance from white settlement.<sup>29</sup> By 1880, the reserves had been selected and most, though not all, were surveyed.<sup>30</sup>

At the time the reserves were being selected, Canada and the Province of Ontario were in dispute over the latter's western boundary. This dispute was resolved in 1889 by British Imperial Legislation known as the Canada (Ontario Boundary) Act, which placed Ontario's western boundary in its location.<sup>31</sup> This meant that the bulk of the Treaty Three areas now lay inside the boundaries of Ontario and that the province had a beneficial interest in the land. In fact, Ontario's beneficial interest in the lands of Treaty Three had been determined the previous year, 1889, in the case of *St. Catherines Milling and Lumber Company v. The Queen*, in which it had been declared:

that the entire beneficial interest in the land ceded by Treaty No. 3 was in the Province of Ontario, and the fact that the federal government had legislative jurisdiction of "Indians, and lands reserved for the Indians" [s.91(24) of the BNA Act] was not inconsistent with Ontario having ownership of the land.<sup>32</sup>

The acquisition of a beneficial interest by the province meant that it had to concur in the selection, location and extent of the reserves. In 1894, the Government of Canada and the Province of Ontario entered into agreement to settle outstanding issues regarding the granting of Indian lands in Ontario. The Province was dissatisfied with what it considered to be the disproportionate amount of land granted in the Treaty Three area. Ontario's position was stated in a letter from Aubrey C. White, Assistant Commissioner, Crown Lands, Ontario to Hayter Reed, Deputy Superintendent-General of Indians Affairs. White wrote:

These selections front generally on navigable waters, and it is reported they are injuriously located with reference to the development and opening up of the

contiguous territory.

As the Reserves have been made, the Government of Ontario is unwilling, I am to add, to disturb the expectation of the Indians, and therefore would probably be disposed to acquiesce in the selection, on suitable compensation to Ontario, in view of a larger area having been located for Reserves within Ontario than is fair in proportion to the whole territory surrendered in the Treaty and the retardation which may be expected in the settlement of the Provincial lands, cut off by the appropriation of lands to purposes which may cause their undevelopment indefinitely.<sup>33</sup>

This excess acreage was the product of two factors. The first was that the commissioners had selected the reserves on the basis of areas indicated by the bands, insofar as they remained at a distance from white settlement and the Dawson route, rather than a strict adherence to the entitlement provided for by treaty.<sup>34</sup> The second factor involved the original surveys of the reserves. A Department of Indian Affairs memorandum dated December 1890 states:

The surveyor explained that these excesses are due to the large areas of water and morass included within the boundaries of the Reserves and that these areas were not surveyed so as to exclude them from the areas of the Reserves in consequence of the large additional cost of such surveys.<sup>35</sup>

As a result of these incomplete surveys, some bands received more than their entitlement while other received less.<sup>36</sup>

The negotiations between Canada and Ontario regarding this issue proceeded at a leisurely pace from 1894 to December 1913, when an agreement was reached to confirm the reserves of the Treaty Three area. According to notes taken by D.C. Scott, the Deputy Superintendent-General of Indian Affairs:

Ontario shall confirm the reserves in Treaty No. 3, with the exception of Reserve 24C [the land identified as Sturgeon lake Indian Reserve #24 located in Quetico Provincial Park] which is cancelled. Ontario is to draft for submission a memorandum to her Excellency the Lieutenant-Governor in Council, confirming the reserves, which memorandum shall safeguard the legal rights of Ontario, the memorandum to receive the concurrence of the Dominion and to be the basis of joint Orders-in-Council. The Dominion will endeavour to obtain a surrender for sale of the Wild Lands reserve and an amalgamation of the Indian Bands and

Rainy River with a surrender for sale of their reserves, with the exception of the reserve at Manitou Rapids.<sup>37</sup>

The following year, Canada and Ontario reached a compromise agreement. Ontario claimed the number of acres in excess of treaty entitlement was 24,283 [9,834.6 hectares] while Canada claimed the excess to be 19,273 acres [7,805.6 hectares]. Canada maintained that the population at the time of selection was larger than the figures on which the reserves were allotted, and argued that Ontario should grant the Dominion a credit of 2,211 acres [895.5 hectares], thus reducing Ontario's claim to 22,072 acres [8,939 hectares]. It was then agreed to split the difference between the Dominion's reduced estimate, to arrive at a figure of 20,672 (8,372 hectares) acres, for which the province would receive compensation at the rate of one dollar per acre [.405 hectares], for a total sum of \$20,672.<sup>38</sup> This compensation was paid to Ontario in 1916. In return, Ontario passed legislation in 1915 (5 Geo. V, cap. 12) confirming the reserves.<sup>39</sup>

The administration of Treaty Three, as in the case of Treaties One and Two, encountered difficulties, at least in the early stages. In an effort to alleviate the problems which had arisen in the first treaties, the government, at the suggestion of Lieutenant-Governor Morris, had appointed J.A.N. Provencher as resident Indian commissioner. Provencher became, in essence, the administrative officer of a three member board charged with the task of administering the treaties.<sup>40</sup> The other members were Lieutenant-Governor Morris and Lindsay Russell of the Land Branch of the Department of Indian Affairs.

Provencher was instructed by E.A. Meredith, Deputy Minister of the Interior, to gather sufficient quantities of seed grain and agricultural implements by the opening of navigation so that the Indians actually engaged in cultivation could plant their spring crops. He was also advised to provide uniforms and flags for the chiefs and headmen at treaty payment as well as a portion, if not the full amount, of ammunition and twine for fishing nets. In addition, he was told to gather sufficient but not excessive amounts of flour, pork and other supplies to maintain the Indians at treaty payment.<sup>41</sup> This had

been promised by Morris, but had not been included in the terms of the treaty. It appears, however, that the government was nonetheless prepared to honour the commitment.

There was an aura of parsimony reflected in the communication from Meredith which was perhaps indicative of the financial situation of the government at that time, and, in particular, the Department of the Interior which administered Indian Affairs. Provencher, for instance, was told that this estimate of the number of ploughs, harrows and agricultural implements was, in the opinion of the Ministers (Cabinet), in excess of the Indians' present requirements and that the costs quoted were very high.<sup>42</sup> It was suggested that only a small number of these items be purchased wholesale at a lower cost and distributed only to those Indians actually engaged in cultivation. Provencher was further advised that only \$20,000 was available for the purchase of implements of all kinds and \$6,000 for the purchase of cattle and farm animals.<sup>43</sup> It was thought that this amount was sufficient given proper management.

Meredith concluded his instructions with the following advisement:

In conclusion the Minister desires me to state that the expenses connected with the administration of Indian Affairs in the North West has already reached very formidable proportions and he desires strongly to press upon you the necessity of using every effort to reduce the expenditure to the lowest amount consistent with the honest discharge of Treaty obligations.<sup>44</sup>

Financial constraint was not the only factor involved in the delay of the distribution of goods. Indian agent Pither complained that the goods for the Indians were not being sent in time from Red River. He suggested that the items be sent to him by the 15<sup>th</sup> or 20<sup>th</sup> of July [1874] so that he could pay the annuities and distribute the goods by the 1<sup>st</sup> of August.<sup>45</sup>

Pither also complained that some of the articles and animals he received were substandard. He noted that oxen sent for the Indians of the Lake of the Woods had been driven so hard and were in such poor condition that he had to return them to Red

River. The harness for the oxen was also shoddy and Pither requested quality harnesses as the Indians were only entitled to one issue under the terms of the treaty. Similarly, thirty head of cattle for the Indians at Rainy River were not forwarded from Winnipeg. The situation was such that Pither had to resort to the Hudson's Bay Company to obtain the necessary supplies and even cash for the annuities, in order to meet the treaty obligations to the Indians.<sup>46</sup>

This state of affairs soon led to complaints from the Indians. Dawson reported:

the Chiefs complained that the stipulation of the Treaty in respect to clothing, flags and medals had not been carried out, that the cattle and other stock promised had not been sent to those prepared to receive them and that the tools contained in the carpenters boxes were inferior in quality and insufficient in quantity.<sup>47</sup>

Dawson suggested a report be prepared regarding the deficiency and inferior quality of the merchandise and, by implication, that remedial action be taken.<sup>48</sup>

Remedial action was taken, though it was perhaps somewhat slow in coming. In 1878, Pither reported that the chiefs had at least received their medals.<sup>49</sup> Farm animals were delivered as the Indians were ready to receive them, so that by 1888 only two bands, the Nickickcominescan Band of Rainy Lake and the Sturgeon Lake Band, had not received their full complement. The Nickickcominescan Band were still entitled to one cow while Sturgeon Lake had yet to receive its full entitlement of four cows, two oxen and a bull.<sup>50</sup> The disbursement of agricultural implements is more difficult to determine owing to the lack of records. In 1889, however, the Superintendent General of Indian Affairs, Edgar Dewdney, wrote:

... in consideration of that fact that, in some districts, the quantity of game and the number of fur-bearing animals had considerably diminished as white settlement advanced, more articles than the treaty stipulated for were given to the Indian bands whose members had to give their attention to the cultivation of the soil and to the raising of cattle as means whereby to supplement their other resources for obtaining a subsistence.<sup>51</sup>

By 1907, according to the Schedule of the Statement of Expenditures, the Department of Indian Affairs had spent \$77,745 of the purchase of animals, implements and seed for the Indians of Treaty Three. This would seem to be a reasonably accurate gauge of the fulfilment of treaty commitments.<sup>52</sup>

A major consequence of Treaty Three was the effect it had on the Indians in Treaties One and Two. In a report to the Minister of the Interior, Indian Commissioner Provencher noted that the Indians were not only upset at the situation regarding the “outside promises” in Treaties One and Two, but also at the disparity in terms granted under Treaty Three in comparison to those granted to them.<sup>53</sup> This observation was echoed by Indian Agent Molyneux St. John, who wrote:

This [the outside promises], it should be remembered, was prior to the negotiations of the Treaty at the North-west angle of Lake of the Woods, and looking to the extraordinary disparity between the terms granted in treaties No. 1 and 2, and that at the North-west angle I do not entertain the least hope of being able to satisfy the Indians of the former Treaties under the altered conditions of affairs. Not an item granted to the Indians eastward of the Province will be forgotten by the others, not will the latter omit to point out, as Lieutenant-Governor Archibald’s printed dispatch had already told them, that they are giving up valuable prairie lands, while the Indians of the east are surrendering rock and muskeg.<sup>54</sup>

St. John recommended:

Should the Government decide that it will be necessary to re-open Treaties No. 1 and 2, for as they deal with one, so they must deal with the other. I would respectfully recommend that no discussions on the subject of a new Treaty should be permitted, but that whatever is to be said should be merely an announcement of the Government’s benevolence and liberality, and now made to the Indians assembled for the purpose of hearing it, with the object of its being written down in their presence and for their satisfaction and assurance, we now know better than do the Indians themselves what should be given to them and what should not.<sup>55</sup>

In 1875, the government resolved the issue of the “outside promises” and the disparity between the treaties by following St. John’s advice. While not admitting to any claim regarding the promises, it was conceded that there had been a misunderstanding. In order to make amends, the government raised the annuity per band member from \$3 to

\$5 per year and that of Chief to \$20 per year, similar to that in Treaty Three.<sup>56</sup> Though the government portrayed this move as a measure of its benevolence, any Indian receiving the increased annuities had to relinquish any claim against the government with regard to the “outside promises.” The land entitlement in Treaties One and Two, however, was not raised to match that of Treaty Three and remained at 160 acres per family of five. Thus, the government was able to diffuse the issues of the “outside promises” and the monetary disparity between the treaties simultaneously. Whether this action would have been taken had Treaty Three not existed is a matter of conjecture, but once having been made, the government would have been hard pressed to deny its higher benefits to others. Treaty Three became the benchmark against which Treaties One and Two were revised and the remainder of the numbered treaties negotiated.

A unique feature of Treaty Three was the adhesion of the Métis in 1875. The question of the Métis proved to be a vexatious one for the government. Indeed, it was in large part the government’s neglect of Métis concerns, particularly with regard to land, which helped foster the first Riel Rebellion in 1870. In order to diffuse the situation and placate the Métis, the government legislated the Manitoba Act, which not only created the Province of Manitoba but also provided recognition that the Métis like the Indians had a usufructuary right to the land.<sup>57</sup> Section 31 of the Act reserved 1,400,000 acres (567,000 hectares) to be granted to the children of Métis heads of families through the redemption of scrip (that is, land certificates). The terms of the Act, however, did not apply beyond the boundaries of the original Province of Manitoba.<sup>58</sup>

Despite the provisions of the Manitoba Act, some Métis preferred to regard themselves as Indians and sought to be included in the Indian treaties. During treaty payment in the Treaty One and Two area, Commissioner Simpson noted:

During the payment of the several bands, it was found that in some, and most notably in the Indian settlement and Broken Head River Band, a number of those residing among the Indians, and calling themselves Indians, are in reality half-breeds, and entitled to share in the land grant under the provisions of the

Manitoba Act. I was most particular, therefore, in causing it to be explained, generally and to individuals, that any person now electing to be classed with Indians, and receiving the Indian pay and gratuity, would I believed, thereby forfeit his or her right to another grant as half-breed; and in all cases where it was known that a man was a half-breed, the matter, as it affected himself and his children, was explained to him, and the choice given him to characterize himself.<sup>59</sup>

In Treaty Three, it was the Indians themselves who asked that the Métis be included. This request followed the early morning meeting between the Saulteaux and the Métis on the third day of the negotiations and was likely influenced by the latter. Morris replied that the treaty was not for whites, but undoubtedly wishing to placate the Indians, and perhaps with Simpson's precedent in mind, stated he would recommend that the Métis be granted the option of taking status as either Indians or whites.

In 1874, Dawson informed the Ministry of the Interior that the half-breeds of Rainy River numbering about one hundred wished to join the treaty and inquired whether they should be treated as an Indian band with respect to the allotment of a reserve.<sup>60</sup>

The reply sent to Dawson stated:

Provencher notified 21 April no objection to allowing few families of Half breeds outside of Manitoba who have married Indian women and adopted Indians habits to elect whether they shall be treated as Half breeds or Indians.<sup>61</sup>

In that letter of 21 April 1874 to Provencher, Deputy Minister of the Interior E.A Meredith had stated:

It is further represented that, outside of Manitoba, especially about Fort Frances, there are a few families of half-breeds who have married Indian women and adopted the habits of Indians and who desire to be included in the band and treated as Indians.

There can be no objection to allowing these half breeds to elect whether they shall be treated as half breeds or Indians, but it should be explained to them that, in the event of their electing to be considered Indians altho they will not thereby forfeit a claim to an allotment of land like the half breeds of Manitoba, they would render themselves minors and be unable to acquire or alienate property except



with the consent of the Band and the Government and would also lose the right of voting at elections.<sup>62</sup>

In 1875, while engaged in surveying Indian reserves, Surveyor-General J.S. Dennis was approached by Nicholas Chatelaine, recently appointed chief of the Métis, who indicated that the Métis now wished to join the treaty. Dennis met with Chatelaine and the principal men of the Métis group and read them the provisions of the treaty. The Métis proclaimed themselves satisfied with the terms of the treaty, with the exception of the \$1,500 allotted annually for the purchase of ammunition and twine for nets. The Métis felt that the money should be exclusively for the Indians, fearing the latter would be dissatisfied if the Métis were given a share of it. The Métis requested instead that they be given a "pro rata" amount for the same purpose. After calculating the amount at only forty dollars per year, Dennis agreed and the adhesion was signed.<sup>63</sup>

The adhesion stated that the Métis would surrender any and all claim, right, title or interest which they by virtue of their Indian blood have or possess in the land or territories described in the Treaty Three area. In return, the Métis were to receive land, payments, annuities and presents in the same manner as the Indians, with the exception of the money for ammunition and nets, which was to be provided on a pro rata basis.<sup>64</sup> Two reserves, marked as 18A and 18B, were set apart for them on the shore of Rainy Lake adjacent to the reserve of the Little Eagle Band.<sup>65</sup>

The adhesion of the Métis in Treaty Three was a departure from all previous treaties in that the Métis were admitted as an identifiable group and given reserve lands. Though this action has been cited as an example of government recognition of Métis rights, it is, perhaps, a debatable point.

As John Taylor has noted:

The Indian policy of the Dominion in the North-West was only being developed during the 1870's. The Government still knew little about the area and its people. Under such circumstances, anomalies such as this example can be expected.<sup>66</sup>

An indication of the confusion that existed at the time is provided by the reply sent to Dawson in 1874, when he was told that the Métis could elect to be treated as Half-breeds or Indians. At that time the only place the Métis could receive recognition as such as was in Manitoba under Section 31 of the Manitoba Act. There was no other legal mechanism by which such recognition could be extended anywhere else in Canada.<sup>67</sup>

A second point is that it was the Indians who had originally requested the inclusion of this particular group of Métis in the treaty. The Métis fear that if they shared in the \$1,500 for twin and nets the Indians might become dissatisfied or even hostile was a tacit admission that their inclusion was due to the Saulteaux and the commitment the latter had received from Morris rather than any over recognition of their position per se.

A third point which bears further investigation is the fourth paragraph of the adhesion:

It is now hereby agreed upon by and between the said parties hereto (this agreement, however, to be subject in all respects to approval and confirmation by the Government without which the same shall be considered as void [and] of no effect)...<sup>68</sup>

As indicated elsewhere, it is not known whether the government ever approved of this agreement through an Order-in-Council or some other device.<sup>69</sup>

As for the Métis, they were eventually absorbed by the Little Eagle Band and are now part of the Couchiching reserve.<sup>70</sup>

## Notes

<sup>1</sup> Canada, Department of Indians Affairs, *Treaty No. 3 Between Her Majesty the Queen and the Saulteaux Tribe of the Ojibway Indians at The North West Angle on the Lake of the woods with Adhesions*, p. 4-6. (Hereinafter cited as DIA, Treaty No. 3.)

<sup>2</sup> Ibid, pp. 4-5.

<sup>3</sup> Ibid., pp. 5-6.

<sup>4</sup> Ibid.

5. *Ibid.*, p. 6.
6. *Ibid.*, p. 5.
7. *Ibid.*
8. Morris, p. 71.
9. DIA, Treaty No. 3, p. 5.
10. Morris, p. 69.
11. *Ibid.*, p. 70.
12. *Ibid.*, pp. 68-69.
13. *Ibid.*, p. 72.
14. Grand Council Treaty No. 3, Press Release, 25 May 1982. See also PAM, MG12, No. 512, Nolin's Notes, 3 October 1873.
15. DIA, *Annual Report*, 1884, p. 15.
16. David T. McNab, "Hearty Co-operation and Efficient Aid, The Métis and Treaty No. 3," *Canadian Journal of Native Studies* 3 (No. 1, 1983), p. 135.
17. PAM, MG12, B1, No. 512, Nolin's Notes, 3 October 1873.
18. *Ibid.*
19. Morris, p. 70.
20. DIA, *Annual Report*, 1874, p. 18.
21. PAC, RG10, vol. 3800, file 48,542, S.J. Dawson to Deputy Minister of Indians Affairs Hayter Reed, 26 April 1895.
22. DIA, *Annual Report*, 1874, p. 18.
23. PAM, MG12, Minister of the Interior David Laird to Lieutenant-Governor Morris, 14 July 1874; see also PAM, MG12, B1, Order in Council 841, 8 July 1874.
24. PAM, MG12, B1, Order in Council 841, 8 July 1874.
25. PAC, RG10, vol. 1918, file 2790D, Ministry of the Interior to S.J. Dawson, 28 July 1874.
26. PAC, RG10, vol. 1918, file 2790D, S.J. Dawson to Minister of Interior, 9 October 1874; see also S.J. Dawson and J.N. Pither to E.A. Meredith, 15 October 1874.
27. PAC, RG10, vol. 1918, file 2790D, S.J. Dawson to Deputy Minister of the Interior E.A. Meredith, 28 January 1874.
28. *Ibid.*
29. *Ibid.*

- <sup>30</sup>. David T. McNab, "The Administration of Treaty 3. The Location of the Boundaries of Treaty 3 Indian Reserves in Ontario 1873-1915," in *As Long As The Sun Shines and Water Flows* (Vancouver: 1983), eds. Ian. A.L. Getty and Antoine S. Lussier, p. 143.
- <sup>31</sup>. Ibid.
- <sup>32</sup>. Angela Emerson, "Research Report On Policy of the Government of Ontario Re: Headland to Headland Question, Treaty No. 3, 1873-1915". (Toronto: Ontario Ministry of Natural Resources, 1978), p. 12.
- <sup>33</sup>. PAC, RG10, vol. 3830, file 62,509, part 2, Assistant Commissioner, Crown Lands, Ontario, Aubrey White to Deputy Superintendent General of Indian Affairs Hayter Reed, 26 February 1896.
- <sup>34</sup>. McNab, p. 147.
- <sup>35</sup>. PAC, RG10, vol. 6844, Memorandum from Samuel Bray to the Deputy Minister of Indians Affairs, 17 December 1890.
- <sup>36</sup>. PAC, RG10, vol. 6844, Memorandum from Samuel Bray to the Deputy Minister of Indians Affairs, 17 December 1890.
- <sup>37</sup>. PAC, RG10, vol. 2314, file 62, 509, part 1, Minutes of Meeting taken by D.C. Scott, 10 December 1913. See also McNab, "The Administration of Treaty Three," p. 151.
- <sup>38</sup>. PAC, RG10, vol. 2314, file 62, 509, part 1, Memorandum of proposed settlement between the Dominion and Ontario with reference to Treaty 3, 26 August 1914.
- <sup>39</sup>. McNab, "The Administration of Treaty Three," p. 153
- <sup>40</sup>. Daugherty, "Treaty Research Report: Treaty One and Two" (Ottawa, 1983), p. 15.
- <sup>41</sup>. PAM, MG12, B1, Deputy Minister of Interior E.A. Meredith to Indian Commissioner J.A.N. Provencher, 18 March 1874; see also Minister of Interior Laird to Lieutenant-Governor Morris, 18 March 1874.
- <sup>42</sup>. Ibid.
- <sup>43</sup>. Ibid.
- <sup>44</sup>. Ibid.
- <sup>45</sup>. PAC, RG10, vol. 1918, file 2790C, Memorandum to the Minister of the Interior, 1 November 1875.
- <sup>46</sup>. Ibid.
- <sup>47</sup>. PAC, RG10, vol. 1918, file 2790D, S. J. Dawson to the Minister of the Interior, 29 January 1875.
- <sup>48</sup>. Ibid.
- <sup>49</sup>. PAC, RG10, vol. 2028, file 8908, R. Pither to the Deputy Minister of the Interior E.A. Meredith, 3 January 1878.
- <sup>50</sup>. PAC, RG10, vol. 3739, file 29,187, Inspector E. McColl to Deputy Superintendent-General L. Vankoughnet, 8 May 1888.
- <sup>51</sup>. DIA, *Annual Report*, 1888, p. xliii, Superintendent General of Indian Affairs E. Dewdney to Governor General Stanley, 1 January 1889.

- <sup>52</sup>. The Legislative Assembly of Ontario, "Return To an Address to His Honour the Lieutenant-Governor; praying that he will cause to be laid before this House a return of copies of the statement of the Case of the Dominion filed on Indian Claims arising out of the North-West Angle Treaty No. 3" (Toronto: 1905), pp. 13-14.
- <sup>53</sup>. DIA, *Annual Report*, 1874, p. 55, J.A.N. Provencher, Indian Commissioner, to the Minister of the Interior, 31 December 1873.
- <sup>54</sup>. Ibid., p. 61, Molyneux St. John, Indian Agent, to Indian Commissioner J.A.N. Provencher, 22 October 1873.
- <sup>55</sup>. Ibid., pp. 61-62.
- <sup>56</sup>. Daugherty, p. 18.
- <sup>57</sup>. John Leonard Taylor, "An Historical Introduction to Métis Claims in Canada," *Canadian Journal of Native Studies* 3 (No. 1, 1983), p. 156.
- <sup>58</sup>. Ibid.
- <sup>59</sup>. Morris, p. 41.
- <sup>60</sup>. PAC, RG10, vol. 1918, file 2790D, S.J. Dawson to the Minister of the Interior, 9 October 1874.
- <sup>61</sup>. PAC, RG10, vol. 1918, file 2790D, Message S.J. Dawson, 9 October, 1874.
- <sup>62</sup>. PAM, MG12, B1, Deputy Minister of the Interior E.A. Meredith to Indian Commissioner J.A.N. Provencher, 21 April 1874.
- <sup>63</sup>. PAC, RG10, vol. 1918, file 2790C, J.S. Dennis to Minister of the Interior David Laird, 1 November 1875.
- <sup>64</sup>. Ibid.
- <sup>65</sup>. DIA, Treaty No. 3, p. 10.
- <sup>66</sup>. Taylor, p. 161
- <sup>67</sup>. Ibid., p. 160.
- <sup>68</sup>. DIA, Treaty No. 3, p. 9.
- <sup>69</sup>. David T. McNab, "Hearty Co-operation and Efficient Aid: The Métis and Treaty No. 3," *Canadian Journal of Native Studies* 3 (No. 1, 1983), p. 139.
- <sup>70</sup>. Wendy Moss, "Métis Adhesion to Treaty No. 3" (Ottawa : Native Council of Canada, 1979), pp. 32-3.

## SUMMARY

In its desire and ambition to incorporate the territories administered by the Hudson's Bay Company, the Canadian government had of necessity to deal with the Native people who inhabited the region. The nascent threat posed by the large Native population to settlement made it a matter of extreme self-interest that the government accommodate them. The instrument by which this accommodation was to be achieved was the exercise of the Indian policy extant since the British acquisition of Canada, the essence of which was outlined in 1876 by the Deputy Superintendent-Governor of Indian Affairs, L. Vankoughnet:

The policy of the Canadian Government in its management of the Indians is similar to that pursued by the Mother Country, while their management was under her control, that is to say, entirely conciliatory.

In accordance with the principle, Indian Tribes or Bands are never deprived of recognized rights without compensation, or previous to a clear understanding being arrived at between the Government and them (as the contracting parties) relative on the one hand, to the rights to be relinquished, and on the other, to the compensation to be given. All stipulations included in any Treaty or Contract made are strictly fulfilled...<sup>1</sup>

Canada had also a commitment to Britain with regard to the Indians. The Canadian Parliament when applying for the admission of the Northwest Territories to Confederation pledged to settle the claims of the Indians in "conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines."<sup>2</sup>

As the treaty-making process in the west expanded, it went beyond mere compensation to encompass assimilative and protective aspects as well. This feature was summarized by Alexander Morris, who felt that the establishment of reserves was most beneficial because it provided the Indians with "tract of lands, which cannot be interfered with, by the rush of immigration and afford the means of inducing them to establish homes and learn the arts of agriculture."<sup>3</sup> Such sentiments were also echoed by Vankoughnet:

The improvement and elevation of the Indian Race, socially and morally also engages the earnest attention of the Government. With this object in view, religious, educational and industrial ideas are promulgated; and the machinery for carrying the same into effect is systematically kept in motion among such of the Bands as the circumstances in which they are placed will warrant the same being done with any fair possibility of success.<sup>4</sup>

The expansion indicated by Vankoughnet not only of treaty terms but other areas of government concern as well is in contrast to all previous treaties entered into prior to 1871.

As George F.G. Stanley has stated:

There was an important difference between the Indian surrenders in Eastern Canada and the treaties in Western Canada. The latter were more formal, ceremonious, and imposing; the areas to be ceded were larger; and the number of Indians to be treated with more numerous and warlike. Moreover, the early negotiations involved only a simple surrender for cash or annuities, with perhaps, the promise of a reserved area. The later treaties contained, not only the details of the cession, but the expressed obligation of the Canadian Government to make provision for the instruction, health and civilization of the native tribes.<sup>5</sup>

The policy of the government in relation to the western treaties was basically formulated on the precedent of the agreements signed earlier in eastern Canada, that is to say, surrenders obtained with a minimal commitment. That the government was obliged to expand its obligations was due partly perhaps to the paternalistic altruism of the time, but more so to the tough bargaining skills of the Indians, especially those of Treaty Three.

The Saulteaux were fortunate in that they held a very strategic position on the only feasible transportation route to the west.<sup>6</sup> A second advantage of the Saulteaux was that they did not, like the Plains Indians, rely on the buffalo for their existence.<sup>7</sup> The stability of their food supply and the sanctity of their environment permitted them to adopt a far more independent and at times almost intransigent stance than might otherwise have been the case. This is not to say that the Indian position was absolutely dominant. They were more than aware of the tide of white settlement stretching

westward; and if the government shuddered at the thought of fighting an Indian war in northwestern Ontario, the Indians were no less reluctant to engage in hostilities. Their refusal to join in the Red River rebellion and their non-interference with the passage of the expeditionary force is proof of that. The fact is that the Saulteaux wished to treat with the government. The tribe was to use their strategic position and nascent military threat to extract the maximum benefits without actually pushing the government to the point of calling their hand.

In this endeavour, they succeeded admirably. The terms they succeeded in obtaining far exceeded those any previous treaty and had an impact far beyond their own treaty area. During negotiations for Treaty Four in 1874, the Indians there requested the same terms as those granted in Treaty Three.<sup>8</sup> In addition, the signing of Treaty Three forced the government to revise the terms of Treaties One and Two as well as honour the “outside promises.” Treaty Three, therefore, became the definitive treaty, and all the subsequent numbered treaties in the Canadian west were based upon it.

### Notes

<sup>1</sup>. PAC, RG10, vol. 1995, file 6886, Memorandum relative to the Policy of the Government of the Dominion of their administration of Indian Affairs by L. Vankoughnet, Deputy-General of Indian Affairs, 26 August 1876.

<sup>2</sup>. Maurice Ollivier, *British North America Acts and Selected Statutes* (Ottawa, 1966), p. 165

<sup>3</sup>. Morris, pp. 287-288.

<sup>4</sup>. PAC, RG10, vol. 1995, file 6886, Memorandum by L. Vankoughnet, 26 August 1876.

<sup>5</sup>. Stanley, p. 207.

<sup>6</sup>. *Ibid.*, p. 210

<sup>7</sup>. J.E. Foster, “The Saulteaux and the Numbered Treaties: An Aboriginal Rights Position,” in the *Spirit of the Alberta Indian Treaties* (Montreal: 1980), p. 166.

<sup>8</sup>. Stanley, p. 211.



## BIBLIOGRAPHY

### Primary Sources

Canada, Department of Indian Affairs and Northern Development (DIAND)

*Annual Reports, 1871, 1874, 1888.*

*Treaty No. 3, Made October 3, 1873 and Adhesions, Report, etc., Ottawa:*

Queen's Printer, 1966.

Canada, Public Archives (PAC)

RG10, Records relating to Indians Affairs (1869-1915).

Grand Council Treaty No. 3, Press Release, 25 May 1982.

Manitoba, Public Archives (PAM)

MG12, A1 - Adams George Archibald, Correspondence and Papers 1871-72

MG12, B1 - Alexander Morris, Lieutenant-Governor Collection

MG12, B1 - Alexander Morris Papers, Ketcheson Collection

Ontario, Legislative Assembly. Return to an Address to His Honour the Lieutenant-Governor, praying that he will cause to be laid before this House a return of copies of the statement of the Case of the Dominion filed on Indian Claims arising out of the North-West Angle Treaty No. 3. Toronto, 1905.

### Secondary Sources

Creighton, Donald. *Canada's First Century 1867-1967*. Toronto: Macmillan of Canada, 1970.

Daugherty, Wayne. "Treaty Research Report: Treaty One and Treaty Two." Ottawa: Treaties and Historical Research Centre, Indian and Northern Affairs Canada, 1983.

Emerson, Angela. "Research Report on Policy of the Government of Ontario Re: Headland to Headland Question Treaty No. 3, 1873-1978." Toronto: Ontario Ministry of Natural Resources, 1978.

Foster, J.E. "The Saulteaux and the Numbered Treaties: An Aboriginal Rights Position," in *The Spirit of the Alberta Indian Treaties*, edited by Richard Price. Montreal: Institute for Research on Public Policy, 1979.

Jenness, Diamond. *The Indians of Canada*. Ottawa: National Museums of Canada, Bulletin 65, Anthropological Series, No. 15, 1955.

McNab, David T. "Hearty Co-operation and Efficient Aid: The Métis and Treaty 3." *Canadian Journal of Native Studies* 3 (1983): 131-149.

\_\_\_\_\_ "The Administration of Treaty #3: The Location of the Boundaries of Treaty #3 Indian Reserves in Ontario 1873-1915," in *As Long As The Sun Shines and Water Flows*, edited by Ian A.L. Getty and Antoine S. Lussier. Vancouver: University of British Columbia Press, 1983.

Morris, Alexander, *The Treaties of Canada with the Indians*. Toronto, 1880; reprinted Toronto: Coles Publishing Company, 1971.

Moss, Wendy. "Métis Adhesion to Treaty No. 3." Ottawa: Native Council of Canada, 1979.

Ollivier, Maurice. *British North America Acts and Selected Statutes*. Ottawa: Queen's Printer, 1966.

Stanley, George F.G. *The Birth of Western Canada: A History of the Riel Rebellions*. Toronto: University of Toronto Press, 1961.

Taylor, John Leonard. "An Historical Introduction to Métis Claims in Canada."  
*Canadian Journal of Native Studies* 3, (1983): 151-183.

\_\_\_\_\_. "The Development of an Indian Policy for the Canadian North-West,  
1869-1879." Ph.D. thesis, Queen's University, 1975.

