TREATY RESEARCH REPORT
TREATY No. 11
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HISTORICAL INTRODUCTION

For a variety of reasons, most of them economic, the federal government refused to offer treaties to the Native people in the Canadian North until required to do so by national priorities. The Department of Indian Affairs seemed convinced that the Native people were best left as subsistence harvesters and saw no justification for any systematic attempt to restructure their lives. Thus, until after 1900, Native people inhabiting land outside the agricultural belt were regularly rebuffed when they attempted to initiate treaty negotiations.

This pattern of rejection was repeated on numerous occasions. Native people in northern Alberta, northern Saskatchewan, northern Manitoba, and northern Ontario sought, at various times, to initiate discussions about a treaty. Just as often, however, the federal government ignored their requests, offering only short-term palliative benefits rather than the modest guarantees of negotiated treaties. Eventually, however, agreements were negotiated – Treaties Eight, Nine and Ten and a major adhesion to Treaty Five – which brought thousands of Native people in non-agricultural districts under treaty. These were, however, significantly different from the agreements reached on the southern Prairies.

As recent historical work has demonstrated, the Native people in the west actively pursued negotiated treaties with the federal authorities. Historians have long assumed that the federal government imposed treaties on unwilling Natives who fought against the bounds imposed by reserves and legal agreements. It now appears clear that Native people in the new Province of Manitoba and on the plains saw the inevitability of economic and social change in the west and sought the means to adapt to the new order. They put forward their demands forcefully, requiring the government to offer far more than it had initially intended. The demands worked, if only because the government desperately wanted to pave the way for the peaceful settlement of the wheat lands of the west. Having been forced, in part, to accept the Native people's

demands, the government subsequently reneged on many promises, establishing a second, less positive, phase in the western treaty process.[1]

With Native land title in the southern districts alienated and the way paved for settlement, federal interest in treaty negotiations waned considerably. The expense and the administrative and legal difficulties of the reserve system made the process unattractive to the Department of Indian Affairs and to federal politicians. Though Native people in the north requested treaties, the government put their demands aside. But this did not mean an end to the treaty process.

The government continued to be concerned about aboriginal title, but only when development seemed imminent. The government wanted the Native people left as harvesters for as long as possible, believing that there was no alternative to hunting and trapping. If it appeared that non-Native development was possible, the government could and would move quickly to negotiate an end to Native title in the affected area. Again, the limits of government interest were obvious, for only those districts specifically facing economic change were dealt with. Contiguous areas were ignored, even if the Native people living there requested negotiations with the government.

The northern treaties, therefore, emerged directly out on non-Native concerns and priorities, and proceeded with only the most limited attention to the Native needs. Treaty Eight, signed in 1899, brought the Natives in the upper Mackenzie Valley into agreement with the government. The treaty originated in the rapid developments which followed the discovery of gold in the Yukon. As a minor sidelight to a major event, Edmonton touted itself as a logical, all-Canadian route to the Klondike. Subsequently, major improvements were made to the transportation system of the upper Mackenzie, and prospectors discovered some promising indications of mineral deposits in the Great Slave Lake region. The government, anxious to ensure that outstanding aboriginal title did not interfere with the potentially exciting opportunities, quickly arranged for treaty negotiations and the assignment of mixed blood land rights.[2]

A pattern for northern treaties had been set, one which placed priority on non-Native needs and which often ignored Native requirements. The negotiation of Treaty Nine in northern Ontario followed a similar process, as it too was designed to open the way for mineral development.

Treaty Ten, signed in 1906-07 with Native people in northern Saskatchewan, originated in somewhat different concerns. In this instance, the establishment of the new Province of Saskatchewan in 1905 had provided the impetus for treaty negotiations.[3] The government was now moving systematically to negotiate an end to aboriginal title in the non-agricultural districts below the 60th parallel. The one section in which this had not been done was northern Manitoba, then still a part of the Northwest Territories. Rather than arranging for a new treaty, the government convinced the Native people of northern Manitoba to sign an adhesion to Treaty Five, which had originally been signed in 1875. The agreement, which came along after the first Native request for such an accord, also opened the way for construction of a railway to Hudson Bay and anticipated mineral developments in the region.[4]

By 1910, Native land title in the provincial north had been extinguished through the treaty process. The fact that the treaties stopped at the 60th parallel was not an accident. The government had long been reluctant to sign agreements with Native people in non-agricultural districts; offering treaties to the Aboriginal inhabitants of the far north seemed, to many federal officials, to make no sense at all.

In the midst of discussions leading to Treaty Ten, Frank Pedley, Deputy Superintendent General of Indian Affairs, made note of the limits on the government's interest in treaties: "I think we should have a definite policy that the aborigines north of that line [the 60th parallel] should not be brought into treaty but that Indian Affairs should be administered in that far northern country as the needs of the case suggest."[5] Pedley was not suggesting that the Native people in the north be ignored - though that was often the effect. Rather, he argued that the government would deal with these people

on a case by case basis, reserving treaties for those time and places when non-Native needs advanced into unceded territories.

This, therefore, was the context in which Treaty Eleven emerged. The government wanted to leave the Native people as hunters and trappers, and saw no need – and great expense – in a major intervention in Native life. In such districts as the Mackenzie Valley and nearby Yukon Territory, the plan was to leave the Natives off reserves and without treaty. Only if non-Native developments interfered would the government be interested in negotiating a treaty. The process, obviously, paid very little attention to the Native needs or desires and rested almost exclusively on federal government priorities. This condition, in turn, ensured that the treaty would serve federal and non-Native interests first and foremost and would not be structured to deal with the particular problems of the northern harvesters.[6]

Notes

1. John Tobias, "Canada's Subjugation of the Plains Cree, 1879-1885, *Canadian Historical Review* LXIV, 4, 1983, Wayne Daugherty, *Treaty Research Report: Treaty One and Treaty Two* (Ottawa: Treaties and Historical Research Centre, 1983).

2. For an explanation of federal motives in signing this treaty, see David Hall, *Clifford Sifton, Vol. 1: The Lonely Eminence* (Vancouver: University of British Columbia Press, 1985).

3. Ken Coates and W.R. Morrison, *Treaty Ten* (Ottawa: Treaties and Historical Research Centre, 1985).

4. Ken Coates and W. R. Morrison, *Treaty Five* (Ottawa: Treaties and Historical Research Centre, 1985).

5. Pedley to Superintendent General of Indian Affairs, 7 April 1906, Public Archives of Canada (PAC), Record Group 10, vol. 4006, file 241, 209-1.

6. Ken Coates, "Best Left as Indians: Federal Government - Native Relations in the Yukon Territory, 1894 - 1950," *Canadian Journal of Native Studies* (Winter 1985).

BACKGROUND TO NEGOTIATIONS

The northern Mackenzie River Valley received little attention from the federal government before the twentieth century. A few members of the Geological Survey of Canada had traversed the district, mapping the region and identifying mineral potential. Though signs were promising, the extremes distances, the high costs and the forbidding climate warned off most would-be developers, giving proof of the federal government's belief that the land north of the 60th parallel would remain as a fur trading district for the foreseeable future.

The limited attention changed in 1903, when the North-West Mounted Police established an outpost at Fort McPherson. The move was largely symbolic, designed to show the Canadian flag and provide firm proof of Canadian sovereignty. The effort was aimed primarily at the disruptive and exploitive whaling industry then flourishing in western Arctic, but the extension of police service northward brought the Canadian government for the first time, through the Mounted Police, into regular contact with the Native people in the Mackenzie Valley.[1]

Though the mandate of the police was primarily legal, the force had always been given a wide range of government responsibilities, including acting on behalf of the Department of Indian Affairs. Once police stations opened in the region, therefore, they provided a modest level of benefits to the Native people, primarily relief for the indigent and aged. Often they did so reluctantly, fearing that overly generous support would encourage the Native people to rely too heavily on the government for sustenance. The police also enforced Canadian laws and regulations, though they found little work in this regard among the Native people in the region.[2]

Initially, and in a fashion reminiscent of patterns established elsewhere in the west and the north, the Mounted Police served as the principal intermediaries between the government and the Native people. However, the Department of Indian Affairs was not long in following the police north.

In 1907, H.A. Conroy, Inspector for Treaty Eight, was sent to the non-treaty regions in the MacKenzie Valley with instructions to visit the various bands, report on their condition, and suggest the best means of handling the government's responsibilities in the area. Conroy was distressed with what he saw. Disease and hardship appeared to be widespread, and the Native people seemed, in Conroy's view, to be in desperate need of government help. Though conditions varied through the Mackenzie Valley, the situation from Fort Simpson to Fort McPherson (he did not visit the Fort Laird area) seemed to demand federal action. Conroy, who would later provide continuing evidence of his deep commitment to the Native people, recommended that the government immediately secure the Native people's adhesion to Treaty Eight, thus extending the modest treaty benefits to the unceded territory.[3]

At the time, the government refused, but through the continued intervention of Inspector Conroy and the missionaries, the issue remained under discussion. On an almost yearly basis, Conroy petitioned his superiors in the Department of Indian Affairs to change their policy.[4] The department's accountant had a quick and firm response to the suggestion:

> As there are no funds available and as it is a question of policy and of doubtful utility whether treaties should be made in this far northern district any more than in the adjoining territory in the Yukon, I think it might be allowed to stand for the present.[5]

The two cornerstones of federal policy toward the northern Native people – parsimony and a belief that they were best left as harvesters – remained very much in evidence.

Bishop Breynat of the Roman Catholic Oblate Order also petitioned the Department of Indian Affairs to "do something to help this poor miserable crowd the most disinherited in the Dominion, and practically the only [ones] who have not yet benefitted by the solicitude justly boasted with which the government of Canada has always watched with conservation [sic] the Indian races so interesting in his [sic] territory." Breynat urged the government to offer treaty before mineral developments opened up the territory or, as

seemed possible, the health of the Native people was seriously affected by increased contact with non-Natives. He strongly recommended that H.A. Conroy, noted regionally for his knowledge of and concern for the Native people in the north, be delegated to conduct treaty negotiations.[6] Conroy lent his support to the proposal, arguing again that the treaty coverage was essential to prevent widespread suffering and hardship.[7]

The proposal was again rejected, partially due to cost and partially due to the Department of Indian Affairs' conviction that it was already doing as much as was required for the Natives in the area. Once again, the department's Chief Accountant summarized the rationale for postponing treaty negotiations:

> I have elsewhere stated as my opinion that the northern limit of these Treaties should be the 60th Parallel of Latitude. The Department at present relieves destitution and endeavours to prevent suffering by the issue of supplies through the Hudsons [sic] Bay Company and this entails considerable expense from year to year. The fact of paying annuity in that country would be simply to enhance the receipts of the Hudsons Bay Company [sic]. It may be said that every dollar of our annuity would go into their coffers, either to pay bad debts or to cover new advances. It seems to me that our Indian policy in the Mackenzie River district should be about the same as it is in the Yukon. Extend to those Indians certain privileges of education and medical attendance when they are required, as is already being done at Ft. Providence where we support a Boarding School. By arrangements with traders, or by other means, relieve destitution wherever possible, and provide for occasional visits by our Inspectors.

A superior scrawled on the letter, "The question of making treaty can stand."[8]

The government had long granted relief through fur traders and had also faced considerable pressure from the Hudson's Bay Company in particular to negotiate treaties with the northern Native people, largely because they claimed their expenses for relief exceeded the government payments.[9] The government was saying, very simply, that they were doing all they could or wanted to do to assist the Native people of the Mackenzie Valley. Need alone, therefore, was not sufficient justification for extending treaty rights to the Natives in the region.[10]

Yet the government was not totally ignoring the Native people; the fact that they were without treaty did not mean that the government withheld services, supervision or assistance. As in the Yukon Territory, the Department of Indian Affairs established an Indian Agency in advance of the treaty, extended modest relief and medical benefits and supported missionary education.[11] In 1910, an Indian agent was assigned to Fort Simpson; two years later, a second agent was sent to Fort Norman to deal with Native affairs in the northern Mackenzie Valley. But the support offered remained very limited and the government withheld its support from any major programmes to alter Native lifestyles or economic activities, still holding to the belief that the Natives were best left as harvesters.

As had become characteristic of Native-government relations across the north, the Native people's interest in treaty rights exceeded that of the federal authorities. The Department of Indian Affairs wished to maintain its moderate level of activity, keeping its formal and legal obligations to a minimum.

In 1912, Native people in the Mackenzie sent word to the government of their desire for a treaty. Both Hudson's Bay Company and the Catholic missionaries had for years advocated a treaty for the Native people of the Mackenzie, so their enthusiasm for it was based on long-standing policy. It appears likely, however, given the history of treaties elsewhere in the north, that the Native people needed no prodding from clerics or traders, and sought on their own initiative the guarantees and formal commitments provided under treaty.[12]

Though the federal government held off, the issue of a Mackenzie Valley treaty had at least been added to the agenda. A report was commissioned on conditions in the area covered by Treaty Eight on unceded lands farther north. The survey provided considerable detail on development potential, saying that "in all probability, a large reservoir of oil will soon be tapped, as geological indications prove that in the Athabasca valley the oil discoveries are merely the seepage or pockets of oil that have been stored in the domes of the limestone antic lines." But it offered no comment on the prospects

for a treaty, devoting instead considerable time to the allegedly negative effects of providing easy access to government relief.

In commissioning the survey, the government appeared to be laying the groundwork for a treaty, following a pattern established elsewhere in the north.[13] Internal correspondence confirms that the Department of Indian Affairs had discussed a treaty for the unceded districts of the Mackenzie Valley, though no decision had yet been taken on the best time to proceed.[14]

To the Native people, the increased government activity represented an unwelcome intrusion and carried warnings of dramatic changes in the offing. Responding to the warnings issued by Bishop Breynat, the government decided in 1913 to send Thomas Fawcett, Chief Surveyor for the Department of Indians Affairs, to survey Native settlements along the Mackenzie River. The purpose of this survey was to protect both Native and non-Native inhabitants of the district from incursions by later settlers. As Frank Oliver, Minister of the Interior, commented:

> I may explain that the region referred to, that is to say, between Great Slave Lake down the Mackenzie to Fort Good Hope, has not been covered by any treaty, but it is considered to be very desirable in order to secure the good will of the Indians and to avoid friction that at least all the lands near the settlements to which the Indians are entitled or are necessary for their reasonable wants, should be secured to them by having them regularly surveyed in the same manner as the remainder of the settlements.[15]

The Natives in these fur trading centres typically inhabited small parcels of land on a seasonal basis and had indicated little desire to have their holdings surveyed and "guaranteed".

While department officials and missionaries debated the size of the allotments given to Native people, the Natives themselves questioned the whole procedure. Thomas Harris, Indian agent at Fort Simpson, noted their displeasure:

> There is considerable curiosity evinced by the Indians as to why a Survey is being made of the various settlements in this district, and I have several times been asked by them for an explanation of the Government's intentions in having the said Survey made. I have answered that so far as I know it is to protect the rights of the settlers who are already in the country, both Whites and Indian, against those who may come in a future date. This does not seem to satisfy them and all sorts of absurd rumours are current, and a certain amount of dissatisfaction is expressed. I would respectfully suggest to your Department that the time has come to give Treaty throughout this northern country, and that by so doing all trouble and annoyance would be obviated.[16]

Harris also noted that the Native people were not unanimous in desiring a treaty, but believed that an agreement was necessary to prevent future disruptions of development activity. Regarding possible dissension, he said, "I am not prepared to say that all the Indians are ready to take Treaty, but if it is offered, and given to those who will take it, I feel assured that the others will fall into line."[17]

The Natives' response mirrored that of other northern Native peoples to surveying activity conducted in advance of a treaty. Rumours circulated about imminent development and federal government designs on Native lands and, therefore, the Native way of life. Fawcett, the Department's Chief Surveyor, was not overly generous in his allocations for the non-treaty Natives of the Mackenzie, providing only small residential lots – set aside for the entire band rather than individual families – in often unfavourable locations. Henry J. Bury, sent to complete Fawcett's work two years later, wrote that "As far as the reserves surveyed are concerned, I do not think that he [Fawcett] consulted with the Indians in any manner whatever except possibly at Fort Good Hope and Fort Simpson."[18] The Fawcett and Bury surveys had exactly the opposite effect from that intended. Instead of confirming Native control over their land holdings, the process raised serious questions among the Native population about the government's intentions in the non-treaty areas of the Mackenzie Valley.

The surveys did, nonetheless, provide the government with more substantial information on the region than they possessed before 1913. Harris' report stirred the government to action, though the long-standing argument that "it has not been the desire of the

Government to make a treaty with the Indians too far in advance of settlement by white people" remained very much in evidence.

H.A. Conroy, Inspector of Indian Agencies, was ordered to visit the non-treaty areas of the Mackenzie Valley and investigate the Natives' concerns. Conroy travelled north as directed and, as he had done in the past, offered a strong recommendation that a treaty be offered to the Native people in the Mackenzie region. He suggested that the Native people strongly supported the idea, noting that "They take the stand that they wish to be treated the same as the other Indians."[19]

Conroy's recommendations could not alter the government's course, for the Department of Indian Affairs remained committed to postponing treaty negotiations in the north until development was imminent. Though the various surveys made note of the economic potential of the McKenzie River Valley, there were few indications that the fur trading districts were likely to develop in the near future. As a consequence, requests by the Native people and recommendations by Department of Indian Affairs officials and local Roman Catholic missionaries were ignored, and the government held to its rigid course. The federal government was not opposed to a treaty in the area; rather, it believed that such an agreement should be postponed until it served southern, non-Native development interests. When the treaty finally came, it would arrive on the government's terms and, if the experience in the Mackenzie River Valley revealed anything, would not place much priority on the needs and wishes of the Native population.

Notes

1. W.R. Morrison, *Showing the Flag: The Mounted Police and Canadian Sovereignty in the North, 1894-1925* (Vancouver: University of British Columbia , 1985).

2. W.R. Morrison, "Native Peoples on the Northen Frontier," in Hugh Dempsey, *Men in Scarlet* (Calgary: McClelland and Stewart West, 1974).

3. Conroy Memorandum, 18 December 1907, PAC, RG 10, vol. 4042, file 336,877. See also the brief comments in Department of Indian Affairs, *Annual Report,* 1907 and 1908.

[4.] Conroy to Frank Pedley, February 1908, *ibid*.

[5.] Accountant to Deputy Superintendent General, 18 February 1909, *ibid*.

[6.] Breynat to Frank Oliver, 27 December 1909, *ibid*.

[7.] Conroy to Deputy Superintendent General, 7 February 1910, *ibid*.

[8.] Chief Accountant to Deputy Superintendent General, 17 February 1910, *ibid*.

[9.] A.J. Ray, "Periodic Shortages, Native Welfare, and the Hudson's Bay Company, 1670-1930," in S. Krech III, ed., *The Subarctic Fur Trade: Native Economic and Social Adaptations* (Vancouver,1984).

[10.] McLean to Breynat, 4 June 1910; Pedley to Oliver, 23 February 1910, PAC, RG 10, vol. 4042, file 336,877.

[11.] On the Yukon, see Ken Coates, "Best Left as Indians: The Federal Government and the Indians of the Yukon Territory, 1894-1950," *Canadian Journal of Native Studies* (Winter 1985); and "A Very Imperfect Means of Education: Native Day School Education in the Yukon," in J. Barman, Y. Herbert and D. MacCaskill, eds., *Indian Education in Canada; Historical and Contemporary Perspectives* (Vancouver: University of British Columbia Press, 1985).

[12.] Gerald Card to Secretary, Department of Indian Affairs, 9 March 1912, PAC, RG 10, vol. 4042, file 336,877.

[13.] Report of the Territory Covered by Treaty No. 8, and the District North of Fort Simpson Along the Valley of the Mackenzie R., (1913), *ibid*.

[14.] Deputy Superintendent General to Dr.Roche, 21 January 1914, *ibid*.

[15.] R. Fumoleau, *As Long as this Land Shall Last: A History of Treaty 8 and Treaty 10* (Toronto: McClelland and Stewart, 1975), 115.

[16.] Thomas Harris to Assistant Deputy and Secretary, Department of Indian Affairs, 12 February 1914, PAC, RG 10, vol. 4042, file 336,877. For a more detailed discussion of the reaction to the Fawcett survey, see Rene Fumoleau, *As Long As This Land Shall Last.*

[17.] *Ibid*.

[18.] Fumoleau, 118.

[19.] Deputy Superintendent General to H.A. Conroy, 7 May 1914 and Conroy to Deputy Superintendent General, 7 October 1914, PAC, RG 10, vol. 4042, file 336,877.

INSTRUCTIONS ISSUED TO TREATY COMMISSIONERS: TREATY TERMS

The early experience of Native-government relations in the northern Mackenzie River Valley demonstrated that the treaty process was largely outside the control, or even the influence, of the local Native people. Though they had, like Native people elsewhere in the non-agricultural north, indicated their interest in being covered by treaty, their requests had gone unanswered. The Department of Indian Affairs provided emergency care, education and other federal assistance programmes as its national obligations demanded, but shied away from the more formal, technically binding commitments of a treaty.

Intermittently, after 1912, Indian agents, North-West Mounted Police officers and missionaries continued to lobby the government for a treaty. When Indian agent T.W. Harris visited Fort Providence late in 1919, he reported that "the Indians of that place waited on me, and requested me to make application of the Department to have Treaty with them, and thus place them on the same footing as the Indians of the neighbouring points of Hay River and Fort Resolution, on Great Slave Lake."[1] It was a familiar refrain, and the response from the government remained the same: there was as yet no need for a treaty.[2] However, that apparent resolve was already being re-thought.

Native people, fur traders and government surveyors had long observed the seepage of oil residues along the banks of the Mackenzie River.[3] For years, these preliminary discoveries had been noted but not acted upon. The advance of the oil exploration frontier proved to be slow and cautious, limited by poor initial returns on investment in southern districts. By 1905, though, exploration crews were active in southern Alberta and, more notably along the Athabasca River, some 350 kilometres north of Edmonton. The initial pessimism disappeared in 1914 with the discovery of the Turner Valley oil field near Calgary, and exploration activity across the west picked up.[4]

After World War I, even greater attention was paid to the promising fields around the Athabasca tar-sands and farther north along the Mackenzie River. The expansion into

the non-treaty areas raised some important new questions. The increased human activity threatened Native and mixed-blood hunting. Of even greater importance, the lack of a treaty meant that Native title remained in place, posing a possible threat to future drilling activities. As early as February 1920, H.A. Conroy, Inspector for Treaty Eight, noted that "In my opinion it would be desirable to take a surrender of this territory from the northern chiefs as soon as possible in order to avoid complications with respect to the exploitation of the country for oil." He suggested further that the most expeditious means of doing this was to secure the Native people's adhesion to Treaty Eight.[5]

The promoters of a northern treaty were finally speaking a language federal politicians could understand. The position for years had been that no treaty would be extended north of the 60th parallel unless non-Native development justified the expense and increased government commitments. The matter of a treaty, so consistently rejected by the government, now moved to centre stage. Indeed, the issue would soon assume even greater importance. The Imperial Oil Company led the advance into the non-treaty areas and began drilling operations in the Great Slave Lake and Fort Norman area. The company's efforts were rewarded, for on 25 August 1920, a discovery well blew in at Norman Wells.

The initial find would subsequently prove uneconomic; but, in the short-term, the strike was greeted with tremendous enthusiasm. A feature article in *Saturday Night* reported the development of the new field would all but eliminate Canada's national debt. Industry and government officials lauded the discovery as the most important step in the development of Canadian oil resources since the strike at Petrolia, Ontario the previous century. There was talk of building a pipeline to exploit what appeared to be a huge oil field. The optimism seemed well-founded, for projected production from the Norman Wells discovery well alone far exceeded returns from southern Alberta's stagnating fields.

The find also allowed Canada – spurred on by the British Admiralty which was anxious

to have the Empire retain control of its vital resources – to redress an error it had made in managing the Turner Valley reserve, where Imperial Oil had been permitted to gain almost total control of the field. Norman Wells would be handled differently; thus new regulations were promulgated to ensure that the national interest was protected. Because the new strike was in the Northwest Territories rather than in a province, the federal government had an almost completely free hand in the setting the legislative framework for exploitation of the field.[6] Arranging for a treaty with the Native people in the Mackenzie Valley would be an important component of the federal government's plan for the development of the Norman Wells field.

H.A. Conroy again petitioned the Canadian government in October 1920 for permission to arrange for a treaty. He pointed to the new oil discoveries as the main rationale for proceeding immediately. His interest in the rights of the Native people was also clearly evident. As he wrote, "Already lands which might, with great advantage, have been claimed by Indians have been secured by whites." He expanded, in a fashion that would not have endeared him to oil developers, by saying:

> The most important point of all is the fact that the rapid and unprecedented encroachment of white people means that the Indians, unless protected, will be robbed of their fair share of the best land. It must be taken into consideration that the aboriginal owners are entitled to their share of oil bearing lands as well as agricultural but to obtain this it is necessary to make Treaty, otherwise great injustices will be done them.[7]

Conroy's defence of aboriginal entitlement, notably to resource revenues as well as land, was years ahead of its time. More telling to officials in Ottawa were the Treaty Inspector's representations that a treaty would make it easier to control the Native people and, through the assignment of reserves, would prevent disputes over land rights in the oil field. He suggested again that Treaty Eight simply be extended north along the Mackenzie. He also noted that the effort, estimated to cost $39,000 in the first year, would finally settle the aboriginal land issue:

> There may be some in the barren lands who will not be included but as these

> lands will not be wanted for many generations I think this is the last charge that will be asked from the Dominion Government and it will give title to all the land which will be needed for probably a century.[8]

Conroy's earlier appeals on similar grounds of justice and humanitarianism had gone unheeded; his comments in 1920, appended to reports of oil discoveries, found a much more receptive audience.

Duncan Scott, Deputy Superintendent General of Indian Affairs, who had been instrument in rejecting earlier representations on a MacKenzie Valley treaty, was suddenly convinced it was time to act.[9] He did not, however, accept Conroy's suggestion that Treaty Eight be extended northward. Under Treaty Eight, adherents had been permitted to take land "in severalty", meaning that individuals could hold and own reserve land. That provision, designed to permit personal agricultural holdings, had caused considerable administrative difficulties and internal dissension. Scott had no desire to see those problems repeated in the north. Treaty Eight also made provision for gifts of cattle and implements; Scott believed that providing nets, traps, twine, snaring wire and other "hunting material" would be more appropriate in the Mackenzie Valley. He was, however, prepared to recommend that a treaty be negotiated immediately, and asked the federal cabinet for an allotment of almost $44,000 for "once and for all" expenditures and a continuing commitment of some $25,000 for annuity payments.[10] After years of procrastination, the decision to proceed had finally been taken.

Duncan Scott forwarded his recommendations through the civil service, and on 3 March 1921, the Committee of the Privy Council authorized the signing of a treaty with the Native people inhabiting unceded territories in the Mackenzie River Valley north of the 60th parallel. The provision in the draft treaty that the boundary commence "at the northwesterly corner of the territory ceded under the provision of Treaty Number Eight, thence northeasterly along the height of land to the point where it intersects the boundary between the Yukon and the Northwest Territories" meant that a section of Yukon Territory-- the upper reaches of the Mackenzie River basin – were included in

the accord.

The new treaty, numbered Treaty Eleven, covered an area of approximately 620,000 square kilometres and was expected to affect almost 3,400 people. Treaty Eleven provided for a reserve amounting to one square mile for each family of five, “or in that proportion for larger or smaller families.” Reserve lands could be sold by the government “for the benefit of the said Indians” with their consent. The Native People were to retain their hunting, fishing, and trapping rights throughout the territory covered by the treaty, except over tracts that the government required for mining, lumbering, settlement, trading, or other purposes. A one-time payment of thirty-two dollars per chief, twenty-two dollars per headman, and twelve dollars per person was to be made, and an annual payment of twenty-five dollars per chief, fifteen dollars per headman, and five dollars per person. A suit of clothing was to be given the chief and headman every three years, and medals and flags when the treaty was signed. Schools were to be provided as the government deemed necessary. Agricultural tools were to be provided, and fifty dollars worth of hunting and fishing equipment to each family after the treaty was signed. Hunting and fishing equipment to the value of three dollars was to be provided to each family annually.

The empowering document stated that “It is not proposed to grant these Indians lands in severalty as was done in the case of Treaty No. 8 and the cattle and agricultural implements provided for in that Treaty will not be of great use owing to the non-agricultural character of the country, but in lieu thereof it is proposed to substitute as far as practicable hunting, trapping and fishing equipment.”[11]

Notes

1. T.W. Harris to Secretary, Department of Indian Affairs, 24 January 1920, PAC, RG 10, vol. 4042, file 336,877. See also J. Thomson, Fur Trade Commissioner, Hudson’s Bay Company to Secretary, Department of Indian Affairs, 3 February 1920, *ibid*.

2. J.D. McLean to J. Thomson, 7 February 1920, *ibid*.

[3.] Robert McConnell of the Geological Survey of Canada had noted potential oil-bearing formations along the Mackenzie as early as 1888. See Robert McConnell, *Report on an Exploration in the Yukon and Mackenzie Basins, N.W.T. (*Ottawa: Government Printing Bureau, 1889). For a general description of these early developments, see Morris Zaslow, *Reading the Rocks: The Story of the Geological Survey of Canada, 1842-1972* (Ottawa: Macmillan, 1975), 160.

[4.] David Breen, "Anglo-American Rivalry and the Evolution of Canadian Petroleum Policy to 1930," *Canadian Historical Review,* vol. 2, no. 3 (September 1981).

[5.] H.A. Conroy to Mr. Scott, 6 February 1920, PAC, RG 10, vol. 4042, file 336,877.

[6.] David Breen, "Anglo-American Rivalry".

[7.] Conroy, Memorandum to Duncan Scott, 13 October 1920, PAC, RG 10, vol 4042, file 336,877.

[8.] *Ibid*.

[9.] For a description of Scott's activities vis-a-vis the Plains Cree, see Shelagh Grant, "Indian Affairs under Duncan Campbell Scott: The Plains Cree of Saskatchewan, 1913-1931," *Journal of Canadian Studies,* vol. 18, no. 3 (Fall 1983), 21-39.

[10.] Duncan Scott to Honourable Sir James Lougheed, 23 November 1920, PAC, RG 10, vol. 4042, file 336,877.

[11.] Order in Council, No. 686, 14 March 1921, PAC, RG 2, No.1, vol. 1622.

SIGNING THE TREATY

The Treaty process started even before formal approval to negotiate it had been granted. On 6 January 1921, a public notice was issued, informing the Indians and the mixed blood people in the Mackenzie River Valley that a treaty party would visit the area the forthcoming summer to secure adhesions to Treaty Eight (subsequently changed to Treaty Eleven).[1] Preparations continued through the winter and spring, as the Department of Transportation attempted to secure suitable transportation for the treaty party.[2] Initial plans called for negotiations to begin the 5th of July at Fort Providence, with Conroy's group then circling through the region, to finish at Fort Rae by the 23rd of August.

Changes occurred before the expedition started. The Hudson's Bay Company informed J.D. McLean, Secretary of the Department of Indian Affairs, that the scheduled trip to Fort Laird could not be made at the allotted time, owing to difficulties in navigating the Laird River other than at high water. Unless the treaty party travelled to the post with the regular spring steamer, a more expensive canoe trip would be involved. The matter resolved by simply striking Fort Laird off the first year's itinerary.[3] The matters of schedules and transportation having been decided, H.A. Conroy, carrying a commission to receive applications for half-breed scrip and to negotiate a treaty, left Edmonton for the Mackenzie Valley in June 1921.[4]

The treaty party arrived at Fort Providence on the 24th of June. They found the Native people already on site and turned immediately to the task of negotiating the treaty. Conroy was assisted in this task by Bishop Breynat who joined the treaty group at Fort Providence and stayed with them for the remainder of the 1921 expedition. This initial meeting went quickly; a chief was elected and the treaty was signed. A band from Trout Lake arrived two days later, and their acceptance of the terms was quickly achieved.

Conroy had more difficulty at Fort Simpson. He described his efforts to convince the Native people to sign: "At first the Indians at this point were nearly unanimous in their

decision to let 'well enough' alone and to remain in the condition in which they had been heretofore, but after several talks and explanations, they all entered into Treaty."[5] Bishop Breynat's services again proved extremely valuable. As he later commented, "I may say that I am responsible for the treaty having been signed at several places, especially Fort Simpson."[6]

The hesitation at Fort Simpson and, according to oral testimony collected by Rene Fumoleau some years later, at Fort Providence rested on a concern about hunting and trapping rights. Like those who signed the other northen treaties, ensuring a continuation of harvesting practices was of primary importance to the Native people in the Treaty Eleven area. As Fumoleau commented on the negotiations at Fort Providence, "all the witnesses stress the fact that it was only after complete freedom to hunt, to trap, and to fish had been promised to the Indians, that they accepted the treaty."[7]

The weight of Fumoleau's evidence, particularly the consistency of Native accounts of the negotiations, lack of substantive discussions and repeated promises concerning Native hunting and fishing rights, suggests that Treaty Commissioner Conroy and his party were determined to secure Native adherence to Treaty Eleven, but were less concerned about the niceties of actual negotiations. Conroy was successful in his mission, for all the Native groups except the Fort Liard band had accepted the treaty by the end of the summer of 1921. It is obvious from later testimony that he was much less successful in explaining the significance of the document or making the Native people true partners in the process. Conroy and Breynat, both committed to assisting the Native people of the Mackenzie, demonstrated the paternalism typical of the day. They "knew" what was best for the Native people and, in their interests, used what tactics were required to secure their signatures on the document.

The Native leaders signed, as they had elsewhere, because there was little to be gained by remaining outside of treaty. They specifically asked if their hunting rights would be respected and having received heartfelt assurance on this account, accepted the other

provisions of the treaty. The monetary benefits of the treaty, plus the provision of supplies to the Native people gathered for the negotiations, were welcomed, as was the government's apparent commitment to protect them from the expected incursions of non-Native prospectors and developers on the heels of the Norman Wells strike.

Notes

1. Public Notice, 6 January 1921, PAC, RG 10, vol. 4042, file 336,877.

2. There is extensive correspondence in *ibid*. _on these preparations. The treaty party organizers ran into numerous difficulties, particularly over the seemingly minor matter of securing a permit from the Marine Department for the vessel carrying the party north.

3. Brebant, Fur Trade Commissioner to J.d. McLean, 2 April 1921, *ibid*.

4. Conroy's authorization to proceed can be found in N.O. Cote to Duncan Scott, 21 April 1921 and J.D. McLean to H.A. Conroy, 13 May 1921, *ibid*.

5. Conroy to Scott, 11 July 1921, *ibid*.

6. Fumoleau, *As Long As This Land Shall Last,* 173.

7. Fumoleau, 170.

THE EARLY ADMINISTRATION OF TREATY ELEVEN

Conroy had not completed the treaty negotiations that first year, as he had been unable to visit the Liard Indians. Even as the treaty party left the region, therefore, plans were made to return the following year. The government was now obliged to send an official north each year to pay the annuities and conduct business relating to Treaty Eleven. It was obvious that the man returning in 1922, scheduled the Treaty Inspector Conroy, would include a visit to the Liard band in order to complete the treaty process.

Conroy had learned a great deal about northern navigation during the summer 1921; in particular, he now knew that Fort Rae had to be visited at the beginning of the season in order to avoid the autumn storms on Great Slave Lake, and that any effort to reach Fort Liard would also have to come in early summer before the Liard River became impassable. A schedule drawn up in early November 1921 called for the annuity party to visit Fort Rae and Fort Providence before travelling to Fort Liard. From there, Conroy was to travel down-river, finishing Fort McPherson in early August.[1]

Although the schedule remained intact, Conroy's death early in 1921 necessitated other changes. Thomas W. Harris, the Indian agent at Fort Simpson, was assigned the task of paying the first year's annuities and completing the signing of the treaty. Like his predecessor, Harris was cautioned to avoid exceeding the promises laid down in the treaty and was to "ascertain whether the Indians are ready and able to use" the tools promised them in the original accord. If so, he was instructed to order such supplies for the following year.[2] Harris was also requested to arrange for the dispersal of the triennial clothing allotment and was to take the measurements of all chiefs and headmen entitled to a suit of clothing.[3]

Before Harris left on his trip, it was decided to use a Royal Canadian Mounted Police officer to pay the annuities for the bands at Fort Providence and Fort Rae. Since Indian Agent Harris was already at Fort Simpson, this arrangement promised a sizeable saving both in time and money. Accordingly, Inspector G.F. Fletcher, Commanding Officer at Fort Smith, visited the two bands in July 1922.[4] He found more than 300 Fort Rae band

members and eighteen from Fort Providence who had not taken treaty the previous year. They were formally admitted into treaty, and annuities were paid to the remaining band members.[5]

Harris proceeded to Fort Laird, where on 17 July 1922 he signed Treaty Eleven with the assembled Native people. The conditions were the same as for the other signatories – a seven dollar gratuity combined with the first year's annuity of twelve dollars. The Fort Liard band quickly registered their displeasure. Although Harris noted that he "had no authority to pay them for 1921," the Native leaders

> brought to my notice that fact it was not their fault that the treaty had not been made in 1921, as they were there awaiting your representative who failed to put in an appearance. I think it only just that these Indians should receive arrears for 1921.[6]

Harris submitted a formal request that money be set aside in the next budget to set right this irregularity.

The remainder of Harris' trip parallelled Fletcher's experience at Fort Providence and Fort Rae. Many Native people had been missed by Conroy's party the previous year and were, therefore, taken into treaty. The number of late adherents was substantial. At Fort Wrigley, eighty-one people signed; there were 136 additional members at Fort Norman, 134 at Fort Good Hope, three at Arctic Red River and thirty-six at Fort McPherson. There were also a series of requests, often rather imprecise, that treaty promises made by Conroy the previous year be honoured. At Fort Simpson, Harris reported that

> There was some difficulty at first with the Chief, who said that he had been promised by the Commissioner, that whatever he asked for would be given him, and that this promise had not been kept. I replied that I had been present when the Treaty was made, and that I had heard not such promise, and that further,

> anyone making such a promise had gone beyond his powers and beyond his ability to fulfill such promise.[7]

Harris' trip proceeded expeditiously and without major incident. He had been instructed by his superiors in Ottawa to investigate the lots allocated during the survey which began in 1913 at Forts Wrigley, Norman and Good Hope and "to report whether you consider the Department should make an effort to obtain these different lots as reserves." The government appeared to be considering a system of residential reserves, small land allocations and nonviable economic zones, according to the pattern adopted earlier in the Yukon Territory. The Department's records provide no indication of whether or not Harris completed this task.[8]

Harris's expedition in 1922 marked the end of the formal treaty negotiations. Many Native people in the area covered by Treaty Eleven remained outside the treaty and were accepted into treaty in subsequent years. When Harris paid the annuities in 1923, dozens of people came forward to accept the treaty. At Fort Norman, twenty-five people accepted their first payment. There were two at Arctic Red River, twenty-seven at Fort McPherson, thirty-three at Fort Good Hope, four at Fort Simpson and seventy-one at Fort Liard.[9] Even this did not complete the task, for a few people came forward in the following years as well.[10] The government had been less than thorough in completing the adhesions, counting on its formal notices of treaty and annuity times, plus the assistance of missionaries and police offers to spread the word. The people in the upper Liard basis, for example, were long ignored. They lived inside the Yukon Territory, but because of the treaty boundary were automatically included under Treaty Eleven. No effort was made in either 1921 or 1922 to reach these bands, as the government required them to travel to Fort Liard if they wished to take treaty.

The policy of having a treaty party move rapidly through the region in the summer months, when individuals and groups were often away from the main settlements, proved unsatisfactory in several respects. In several instances, it meant that the natural leader of a band was supplanted by someone who happened to be at the settlement

when negotiations commenced. More often, band members who missed the initial negotiations had no chance to voice their objections or to make suggestions for additions to the original treaty package. It is clear through official correspondence that the government had no intention of allowing modifications to the draft treaty, making Native protests or suggestions nearly meaningless. Those Native people who did not attend the first treaty signing were faced with little option beyond accepting the terms and collecting their annuities.

The entire process actually involved little, if any, negotiation. Native requests regarding payment dates for annuities and, to a certain extent, the provision of treaty supplies and equipment were listened to and often accepted. On the more substantial matters, the treaty terms had been set in advance. From Fumoleau's evidence, it is apparent that the Native people did not hesitate to register their opinions on the treaty. Their preoccupation with hunting and trapping rights was clearly evident in the leaders' repeated requests for guarantees that their way of living would not be disrupted and their access to game assured. Treaty Commissioner Conroy, with the assistance of Bishop Breynat, provided those assurances, although their responses appeared to have been couched in language sufficiently vague to leave the matter subject to misinterpretation.

The federal government had proceeded with Treaty Eleven in a particularly single-minded fashion. After ignoring for years their entreaties that treaty rights be extended northward, the government moved precipitously in 1920-21 to lay the unceded districts of the Mackenzie Valley. As with the other northern accords, Treaties Eight, Nine, Ten and the adhesion to Treaty Five, Treaty Eleven reflected southern and federal priorities. The discovery of oil in the Mackenzie Valley in 1920 convinced the authorities that major developments were imminent. The prospect of large-scale oil exploration and recovery, additional mining and other non-Native activity spurred the government to action. Men like Treaty Inspector Conroy, T.W. Harris, the Indian agent at Fort Simpson and Bishop Breynat and the other Catholic and Anglican missionaries in the region had long supported the idea of the treaty, although often for different purposes than did the

Native people. They, therefore, threw their weight and considerable authority behind the negotiations and encouraged the Native people in the Mackenzie region to accept the terms laid out in the treaty.

The Natives signed, although like others in the same circumstances the decision rested in part on the realization that there was nothing to be gained by refusing. To many, however, the negotiation of Treaty Eleven provided a positive and much needed assurance that their future was secure and their way of life protected. Given the potential transformation of the northland in the wake of the Norman Wells discovery, and the abundant signs that change was imminent, the Native people had good reason for seeking the assistance of government.

The future, of course, did not unfold as neatly as government officials and developers had hoped. It was soon shown that the soil at Norman Wells could not be extracted at a profit, and the euphoria of 1920 quickly evaporated. The grand plan for the Mackenzie quickly faded from view as high costs, limited returns and isolation conspired to kill the development schemes that seemed so promising only a few years earlier. The government's interest in the Treaty Eleven territories waned with the decline in exploration activity, as the Native people would soon discover.

Notes

1. Notice to Indians, Duncan Scott, November 1921, PAC, RG 10, vol. 4042, file 336, 877.
2. J.D. McLean to Thos. Harris, 2 My 1922, *ibid*.
3. J.D. McLean to Lt. Col. Cortlandt Starnes, 2 May 1922, *ibid*.
4. Fletcher to Officer Commanding, R.C.M.P. , Edmonton, 4 September 1922, *ibid*.
5. Fletcher to Deputy Superintendent General, Department of Indian Affairs, 4 September 1922, *ibid*.
6. T.W. Harris to J.D. McLean, 31 August 1922, *ibid*.
7. Fumoleau, 227.
8. *Ibid*., on the Yukon situation, see Ken Coates, "Best Left as Indians."

[9.] Report of T.W. Harris, Indian Agent, on Annuity Payments, 1923, PAC, RG 10, vol.6879, file 191/28-3 pt. 1A.

[10.] Harris to Secretary, Department of Indian Affairs, c.1924 and Harris to Secretary, Department of Indian Affairs, 15 August 1925, *ibid*.

TREATY ELEVEN AND THE PEOPLE OF MIXED BLOOD

The Indians were not the only ones affected by the imposition of Treaty Eleven. As had been the case with all the treaties negotiated with the Native people on the Prairies, provision was made for extinguishing the aboriginal title of the mixed-blood population within the area covered by Treaty Eleven. Since the acquisition of Manitoba in 1870, the federal government had granted land, or money in lieu of land, to the heads of mixed-blood families. This was done partly in recognition of mixed-blood aboriginal rights, partly to guarantee the cooperation of these people during treaty negotiations, and, after the Riel resistence of 1870, to prevent further opposition of that type.[1] The original grant involved 160 acres or $160, but under Treaty Eleven this had been increased by fifty percent. However, in this case the mixed-bloods were not given a choice of land or cash.

Much of the land scrip which had been granted after the earlier treaty negotiations had found its way into the hands of speculators, and Treaty Commissioner Conroy stated that he did not "propose to extend the difficulties and the abuses which were practised when scrip was given out before."[2] Scrip was therefore given in cash only, at $240 per claimant. Conroy also felt that few people would claim scrip:

> At present I do not think that there are more than fifteen families who will have to be dealt with by scrip, and these are old and respected families in that country, who could not be expected to enter into Treaty. I might even say that some of these families are historic. The names include the following: Camsells [sic], Gaudet, Beauvieu [Beaulieu?], Lafferty, McDonald, Smith and Firth. These families and possible some others will have to be given scrip.[3]

There were other mixed-blood families, but those, numbering about seventy-five, were expected to take treaty, as they were living the "Indian mode of life."

Conroy commented that “It is a curious thing that the half-breeds in this country are either white or Indians and that there is no medium course such as we find in other provinces,”[4] meaning that there was no distinctive mixed-blood community there. In this he was mistaken. He also failed to mention the fact that there was a different mixed-blood population in the northern part of Treaty Eleven.

As Richard Slobodin has pointed out,[5] there are two distinct mixed-blood populations in the region covered by Treaty Eleven. In the southern parts of Mackenzie Valley the cultural heritage of the mixed-blood people has been drawn from the French-Indian fur trade culture of the southern Prairies. It can, therefore, properly be called “Métis.” In the northern part of the valley, however, a distinctive Métis society did not take root even though there were many people of mixed blood in the region.[6]

One important effect of Treaty Eleven on the mixed-blood people was to create and emphasize divisions between them and the Indian population, a division which until then had been blurred. According to the treaty, Indians were to become Treaty Indians, and the Métis were to have their rights extinguished in return for a scrip payment of $240 per capita. But who was Indian and who was Métis? It was obviously more than a matter of blood, for some Treaty Indians were op mixed racial heritage, in some cases probably genetically and certainly culturally identical to many Metis. Often the division was a matter of choice, and in some cases a matter of chance. If a person had received scrip in Manitoba in the 1870 and then moved north, his descendants were ineligible for scrip. Conversely, if he had “joined a band of Indians under Treaty” he and his descendants were ineligible for scrip, even if he or they had subsequently become enfranchised.[7] If a person was judged to be “pursuing the Indian mode of life,” then he was not a Métis. The government took great pains to avoid paying anyone twice.[8]

Once chosen, the status of Indian or “Half-breed” (which was the term invariably used at the time in government documents) could not, as a rule, be changed. Having taken treaty, one could not, by taking scrip, become a Metis; having received scrip, one could not, by taking treaty, become Indian.[9]

The terms of the Order in Council of 12 April 1921 which established the eligibility of mixed-blood applicants for scrip have been summarized as follows:[10] the claimant had to submit evidence that he was a bona fide half-breed, and had to be permanently residing within the territory covered by Treaty Eleven on the date of the signing of the Treaty at Fort Providence (27 June 1921 – later extended to include the triangle in the Mackenzie District covered by Treaty Eight). Applications were disallowed for six reasons:

1) If the applicant was not a bona fide half-breed--for instance, if both parents were Indians.

2) If he was not resident within the treaty area on the date it was signed.

3) If he had at any time joined a band of Indians under treaty, even if he had later been discharged from the treaty.

4) If scrip or similar form of grant had been given elsewhere to him, his parents, or his guardian in settlement of his aboriginal rights.

5) If he had been born after 27 June 1921.

6) If he had been born after the date which fixed the rights of his parents and if both parents had received scrip. If the rights of one parent had not been extinguished, the claimant was eligible, unless the parent was not a half-breed.

Thus at the time of the signing of the treaty, the gap between racial and ethnic groups, which had always existed to some extent, was made much greater, and the division of races was reinforced even more by the policies of the government under the treaty. In the schools, under the game regulations, and later in the provision of government-subsidized housing, it mattered very much whether a person was officially a treaty

Indian or a mixed-blood. Thus the treaty process had created and exacerbated barriers that would subsequently prove very difficult to breach.

Notes

1. Elizabeth Snider, "Settlement of Metis Claims in Treaty 1-11 Area," (Unpublished report, Ottawa: Treaties and Historical Research Centre, Indian and Northern Affairs Canada, n.d.)

2. H.A. Conroy, memorandum, 18 December 1920, PAC, RG 10, vol. 4042, file 336,877.

3. *Ibid*.

4. *Ibid*.

5. Richard Slobodin, *Métis of the Mackenzie District,* (Ottawa: Canadian Research Centre for Anthropology, 1966).

6. For a discussion of this question see K.S. Coates and W.R. Morrision, "More than a Matter of Blood: The Federal Government, the Churches and the Mixed Blood Populations of the Yukon and the MacKenzie River Valley, 1890-1950", in L. Barron ed., *1885 and After,* (Saskatoon, 1985).

7. Fumoleau, *As Long as This Land Shall Last,* 207-208.

8. Privy Council Order 1172 of 12 April 1921, declared that "[t]he right of a Half-breed to share in the grant...shall be considered to have been extinguished if such Half-breed has at any time joined a Band of Indians under treaty, although subsequently discharged therefrom, or if scrip has been issued to him or to his parents or guardians...but if the right of one parent has not been extinguished the fact that the right of the other has been, shall not affect the right of compensation of the child of such parents."

9. The government did permit some mixed-blood people to take Treaty in the 1930s. See Coates and Morrison, "More than a Matter of Blood."

10. By Elizabeth Snider, in "Participation of Métis in the Claims Settlement in the North West Territories," (unpublished report, Ottawa: Treaties and Historical Research Centre, Indian and Northern Affairs Canada, 1974).

THE POST-TREATY EXPERIENCE: RESERVES AND GAME PRESERVES

From the Native people's perspective, the crux of the treaty process in the north was securing guaranteed access to wild game and continued occupation of their traditional lands. The Natives of Treaty Eleven were little different from other groups involved in the northern treaty negotiations in their repeated requests that their rights in these areas be protected by the federal government.

But the government approached treaty negotiations from a different perspective. In the short term, the Department of Indian Affairs was prepared to support the Native people as harvesters, putting aside for a time the national goals, embodied in the Indian Act, which called for the "civilization and assimilation of the Natives."[1] The often-expressed concern about the "plight of the northern hunter," however, masked the government's belief that when the time came, when population and development demanded, the Native people would be expected to abandon their way of life in favour of a more sedentary existence dictated by the treaty terms and Indian reserves.

There was an additional priority that often came in conflict with the willingness to keep the northern Natives as harvesters. Promoters of the north, abetted by a few government officials, were convinced the north held great mineral wealth. To them, it was only a matter of time before mines and oil fields were developed, and the northern regions joined the mainstream of the Canadian resource economy. This however, placed severe constraints on the government's freedom of action vis-à-vis the Native people. There was considerable concern that northern lands given as reserves or game preserves for the Native people would not be available for development. In a classic expression of this philosophy, Charles Camsell, Deputy Minister of the Department of Mines, said of a request for a game preserve in the Yukon:

> If we are not going to reserve our northern regions exclusively for the use of the natives but are looking to encourage the opening up of these regions to the

> people of Canada generally, then I think we must limit the extent of the preserves to meet the pressing needs of the natives but no more.[2]

Although the prospects from Norman Wells had collapsed, the government faced the issue of reserving specific lands for Native use with constant ambivalence.

There had, of course, been the attempt in 1912-13 to set aside specific residential reserves at several Mackenzie River communities. That early initiative was not followed up, and even after the signing of Treaty Eleven no more was made to satisfy the treaty provision promising one square mile of reserve land per family of five. The Native people did not demand an immediate allocation of the residential reserves, but they did request specific measures to protect their hunting rights. As Father Jean-Louis Coudert said in 1923:

> If it is certain, on the one hand, that reserves strictly so called will never be accepted by the natives, it is, on the other hand, not be doubted that the Indians will greatly appreciate game reserves, where nobody but themselves would be allowed to hunt and trap.[3]

The concerns of the Native people were easily understood. Although they had been somewhat distressed by the feverish activity surrounding the oil and mineral explorations, they found the increasing presence of non-Native trappers and hunters of even greater concern. Conroy and others had informed the government of the increasing threat posed by hunters who ignored Native trapping and hunting rights, rapidly worked over a district and were often in conflict with the Natives.[4] Concern continued after the treaty had been signed, as the number of non-Native hunters continued to increase, drawn north by the high fur prices of the 1920s.[5] As Charles Stewart, Minister of the Interior, said,

> We are receiving constant complaints from the Indians that they are being driven off their hunting grounds. It is generally conceded that the White man is a much more zealous hunter, covers a greater extent of territory, and takes more fur than

> the Indian, and is denuding the hunting grounds of the red man to such an extent that it is becoming a serious problem.[6]

The Native people repeatedly reminded the government about the seriousness of the problem. In particular, they reminded the federal officials about the promises, both formal and oral, made during treaty negotiations. The assurances freely offered by Conroy, Breynat, Harris and others that the treaty provided the means of preserving the harvesting way of life rang hollow in the fact of this large scale non-Native incursion into the hunting and trapping grounds of the Mackenzie River basin. The Natives, backed by the missionaries, demanded immediate action before the hunting pressure ruined their livelihood and permanently altered the shape of northern society.

The federal government did respond to these appeals. The North West Game Act was altered significantly to limit the ability on non-residents to hunt and trap. License fees for non-residents were trebled so as to make commercial hunting and trapping all but unprofitable, and the definition of resident was changed to exclude all those who had not lived in the region for four consecutive years before applying for a license.[7] While this lessened the competition fo resources somewhat, it went only part way toward solving the larger problem.

Further measures followed. Although the government shied away from specific Native requests for large-scale hunting preserves, they did consider favourably the idea of a series of smaller, Native-only hunting preserves. Armed with the information that

> each year increasing numbers of foreign and other non-resident hunters and trappers are going into the country and depleting wild life and fur resources, and confirmation of the above statement has been received from the Director of the North West Territories and Yukon Branch, the Commissioner and the Royal Canadian Police and Advisory Board on Wild Life Protection, who also approve of the creation of native hunting and trapping preserves...[,][8]

the federal government decided to proceed with the allocation of specific hunting preserves. Three game preserves, the Yellowknife (70,000 square miles), Peel River (3,300 square miles) and Slave River (2,152 square miles), were set aside for exclusive

Native hunting and trapping. There was little, if any, consultation with the Native people over the location of the special allotments, but in these areas at least the Natives received some relief from non-Native hunting pressure. The land allocations did not satisfy the Native people. Those who lacked access to one of the three preserves petitioned the government for similar protection of their interests, but to no avail. The specific preserves were in themselves not always very useful, partly because they did not cover prime hunting territory (like the Mackenzie Delta) and party because they were so difficult to police.[9]

Although the Native people were less than satisfied, the games preserves represented the limit of the government's willingness to make special provisions for the treaty Indians in the Mackenzie River Valley. The Natives continued to protest the myriad regulations affecting hunting and trapping as well as the government's apparent unwillingness to honour the treaty promises, as the Natives understood them, of 1921-22. The Natives' land entitlement under the treaty, estimated in the 1950s to exceed 576,000 acres, was not addressed, primarily because they continued to resist the sedentary lifestyle encouraged by some missionaries and government agents. Even more, though, the government saw little reason to alienate specific parcels of land, some of which might have potential as mineral-bearing ground, in the absence of non-Native development pressure.

Interestingly, when enthusiasm for northern expansion peaked in the late 1950s on the heels of John Diefenbaker's famous "northern vision" campaign of 1958, the issue of treaty reserves for Treaty Eleven (and also Treaty Eight) again came to the fore. A special commission appointed to survey the situation travelled to the villages along the Mackenzie and met with the Natives, missionaries, fur traders, policemen and other northerners. The commission reported that

> Very few of the adults had received an elementary education and consequently were not able to appreciate the legal implications of the Treaties. Indeed some bands expressed the view that since they had the right to hunt, fish and trap over all the land in the Northwest Territories, the land belonged to the Indians. The

> Commission found it impossible to make the Indians understand that it is possible to separate mineral rights or hunting rights from actual ownership of the land...Under the circumstances, to suggest to them that they were entitled to a certain area of land was more or less meaningless for, due to their way of living, they had virtually no interest in using the land and could not conceive that, taking the land would benefit them.[10]

The Commission, accepting the Native people's representations that they did not wish to live on reserves, went on to recommend that small residential reserves be allocated, simply to confirm Native ownership of land already occupied. They further suggested that a twenty dollar per acre cash settlement be paid to retire outstanding land obligations, with the money to be placed trust for the bands' future use, and that a small royalty of one-half of one percent on all revenues generated from mineral, oil and gas developments be similarly paid to the Native people in trust. These recommendations, coming at a time when northern development seemed imminent, had a familiar ring. They promised to leave the Natives as harvesters, while expressing the now-standard refrain that more should be done to integrate them into the mainstream of Canadian society, while opening the land for development.

When the much-touted development scheme for Canada's north fell through, this idea too faded from view. The land entitlement promised under Treaty Eleven remained (and remains) unresolved – the crux of one of the country's most vexing Native land claim negotiations.[11]

Notes

1. John Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy," in Ian Getty and A. Lussier, *As Long as the Sun Shines and Water Flows (*Vancouver: University of British Columbia Press, 1983), pp. 39-55.

2. Camsell to Gibson, 14 September 1935, Yukon Territorial Archives, Yukon Government Record Group 1, Series 3, Vol. 8, file 12-15.

3. Fumoleau, 247.

4. Conroy to Duncan Scott, 1 March 1920, PAC, RG 10, vol. 6742, file 420-6, pt. 1. See also Fumoleau, 235-257.

5. Peter Usher, "Growth and Decay."

6. Fumoleau, 243.

7. Privy Council Minute 1234, 10 July 1923, PAC, RG 10, vol. 6742, file 420-6, pt. 1. The government modified the rules, particularly the procedure for appeal, somewhat in order to prevent individual hardship, and local agents were instructed to proceed on a case-by-case basis. O.S. Finnie to J.D. McLean, 10 March 1924, *ibid*.

8. Privy Council Minute 1862, 22 September 1923, *ibid*.

9. Fumoleau, 245-250. The imposition of the game preserves also caused considerable difficulty for non-treaty, Metis and non-Native people living near the special districts. See Coates and Morrison, “More than a Mater of Blood.”

10. Canada, *Report of the Commission Appointed to Investigate the Unfulfilled Provisions of Treaties 8 and 11 as they Apply to the Indians of the Mackenzie District, 1959* (Nelson Commission). Quoted in Fumoleau, 214.

11. For a survey of contemporary positions, see W.R. Morrison, *A Survey of the History and Claims of the Native Peoples of Northern Canada* (Ottawa: Treaties and Historical Research Centre, Indian and Northen Affairs, 1983).

CONCLUSION

Treaty Eleven was cloaked from the beginning in the symbolism and legality that characterized Canada's negotiations with the Native people in the northern, non-agricultural districts. The requests emanating from the region for the same treaty rights held by other Native people farther south were ignored until the region faced immediate development. Yet the Native people were not totally neglected. Indian agents were sent north, missionary schools and hospitals received federal subsidies, and the Mounted Police arrived to enforce Canadian laws. Such short-term measures did not, however, provide the kind of protection and assurances, particularly concerning hunting and trapping rights, that the Native people sought. As non-Native trappers intruded on their hunting territories and cut into their annual returns, the Natives increased their representations to the federal government.

Such appeals registered only in passing on officials in the Department of Indian Affairs and other government agencies, although personnel active in the field often provided strong support for the Natives' requests. Mineral developments, not Natives' requests for a treaty, caught the government's attention. Following the strike at Norman Wells in 1920, and in the midst of the subsequent euphoria concerning the unharnessed wealth to be uncovered in the north, the federal government decided it was time to secure a land surrender from the Natives in the unceded districts of the Mackenzie River Valley.

It is difficult to describe the treaty process that occurred in the summers of 1921 and 1922 as "negotiations," for Treaty Inspector Conroy and his assistants had little freedom to bargain. The treaty terms were set in advance, were to apply uniformly across the district and were not to be altered or added to by oral promises. Conroy was left with the often difficult task of convincing the Native people that the accord met their demands and provided the kind of protection they desired. He was aided in this task by Bishop Breynat, other missionaries, fur traders and policemen who used their influence with the Native people to convince them that the accord was in their best interests. They signed the agreement, finding the assurances and promises of the treaty party

acceptable and seeing little reason to turn the pact down.

Rene Fumoleau said of the treaty procedure:

> The prosperity and prestige of Canada in the North was gained at the expense of the Indian people. Their chiefs were summoned from anonymity for a brief moment of political involvement and importance, only to be relegated to oblivion after their usefulness was over. They were used, as were others, to give the semblance of substance to a symbolic gesture.[1]

One is hard-pressed to disagree with this biting commentary. Treaty Eleven was obviously designed to serve the government's interests – to secure the lands utilized by the Native people so that they could better serve the "national interest," which in this instance meant mineral development.

The subsequent history of Treaty Eleven, marked by protests through the years over Native hunting rights and land entitlements and highlighted by the contemporary land claims negotiations involving the Dene, demonstrates how little was resolved during the initial treaty process and how many outstanding issues and claims remain to be settled. The hasty treaty negotiations of 1921-22 satisfied the government's perceived need to open the north for immediate development; however, the neglect of Native representations both before, during and after the signing ensured that disputes over Native rights and land entitlement would continue.

Notes

1. Fumoleau, 306-307.

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