

TREATY RESEARCH REPORT
TREATY FOUR
(1874)

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

HISTORICAL BACKGROUND

In 1870 the western region of British North America lying between the head of the Great Lakes and the Rocky Mountains was taken over by the newly-confederated Dominion of Canada from the shadowy rule of the Hudson's Bay Company. The area in the vicinity of Winnipeg was erected into the Province of Manitoba with a provincial government under a lieutenant-governor. The largest portion of the remaining Hudson's Bay Company lands became the North-West Territories. The Lieutenant-Governor of Manitoba was until 1876 also the Lieutenant-Governor of the North-West Territories. He had a small territorial council appointed by the Dominion Government at Ottawa to help him.

Shortly after the assumption of sovereignty over the North-West, the Government of Canada began negotiating treaties with the Indians inhabiting the region. Between 1871 and 1877 the first seven "numbered" treaties were concluded. These treaties were made more quickly than the Government had wished as a result of Indian pressure. Indians had approached Canadian Government officials about treaties as soon as they arrived in the North-West. When treaties were made in Manitoba, Indians further west asked when treaties would be made with them. This pressure continued until all seven "numbered" treaties had been concluded by 1877.

Indians had heard that their country had been "sold" to Canada by the Hudson's Bay Company and they were puzzled and disturbed by the potential implications of that transaction. They began to anticipate settlement and the changes that would follow. Meanwhile, change threatened them more immediately. Factors associated with development to the south in the United States and to the nature of the fur trade had led to a reduction in the numbers of buffalo and other animals on which the prairie Indians depended for a living. Many Metis from Manitoba had moved further west, seeking the retreating buffalo and escaping the beginnings of settlement. They lived in the Saskatchewan River country where they put further pressure on the diminishing

resources. Before the Canadian Government took measures that could worsen their situation, the Indians wanted an agreement that would protect their interests. They had heard of treaties being made elsewhere and these became the focus of their concerns and the instrument through which a remedy was sought.

For its part, the Canadian Government made treaties with the Indians because they feared the possibility of Indian wars and the adverse effect such a threat would present to the settlement and development of the North-West. Treaties seemed a natural expedient since they had become a major component of the traditional Indian policy stemming from the Royal Proclamation of 1763. This policy had served the Government well in the older parts of Canada where the Indian wars, so familiar in the United States, had been avoided.

The land cession treaties made between the Crown and various groups of Indians in Canada implied the recognition of an aboriginal title to the territory occupied by the Indians concerned. Although Indian title was undefined, it was clearly regarded by the Government as something less than ownership. The basic purpose of the land cession treaty was to “extinguish” Indian title to a specified area in order to clear any obstructions to the Crown’s title. In addition, it also offered the Indians some protection from the consequences of settlement and some assistance in adapting to new ways of living as the old way became less feasible.

In 1870 the most recent precedents were the Robinson Treaties of 1850. In the Government’s view, these agreements effected the extinguishment of the Indian title over the region described in them and in return provided the Indians with certain enumerated benefits. In addition to reserves, the Indians included in the Robinson Treaties were granted an initial cash gratuity, a cash annuity, and were to be allowed “the full and free privilege to hunt over the territory now ceded by them, and to fish in the waters thereof” as they had been in the habit of doing, except for land sold or leased and subsequently occupied.

The numbered treaties of western Canada were intended by the Government to be similar, if not identical, to the Robinson Treaties. In essential principles they were. However, through negotiations, the western Indians managed to extend the scope of their treaties to provide for schools and agricultural assistance as well as certain other additions in some treaties. These extensions were made in the field by the Indian commissioners who negotiated the various treaties. The evidence suggests that modifications were made in response to Indian demands. These arose in turn from anxiety about their lands and livelihood. Indian views on these subjects expressed through European observers prior to the making of treaties accord well with the nature of the Indian demands reportedly made at the various treaty negotiations. They were worried that they might lose their territory to settlers. They were also concerned about their ability to earn a living in view of the diminishing game supply. While attempting to retain some control over their territories, they also sought guarantees of assistance should settlement and development destroy their accustomed means of survival.

Modern treaty Indians take seriously the spirit in which the treaties were originally presented to them. They regard them as key documents defining their relationship to the Government and people of Canada as much in force today as the day they were signed. Although they do not regard the treaties as mere historic relics, Indian people know that they are the products of an historical process and can only be understood within the context of the historical situation and events which brought them into being.

THE MAKING OF TREATY FOUR

By 1873, after the first three western treaties had been made, the way was clear for a transportation route to the North-West and for settlement in a small portion of the newly-acquired territory. From the point of view of the government at Ottawa, that was quite sufficient for the time being. Railway construction through the West had not yet begun

and large-scale settlement in the areas beyond those already treated for was not expected in the immediate future. Policy was to make treaties only as the land was needed.

This policy may have suited the needs of politicians anxious to keep down expenditures until they could be matched by revenues, but it did not take into account the needs and anxieties of the native population. The Indians and Métis were already concerned about the declining numbers of the animals which provided them with a living. Moreover, they had seen treaties made with those Indians who inhabited the south-eastern portion of the territory and wondered why they were not being offered to them. The treaties were represented to the Indians as symbols of the Queen's protection against loss of land and livelihood, the very evils which had aroused their concern.

The native people were also aware of the consequences for Indians in the United States of railway-building and settlement. There, they had lost land, livelihood, and very often life itself. While only a few harbingers of settlement had so far come from eastern Canada, some of the worst elements from the American frontier were already disturbing the western Indian nations. American traders maintained fortified posts on Canadian soil and carried on illicit trade in arms and liquor with the Indians.

In 1872, Alexander Morris was appointed Lieutenant-Governor of Manitoba and also of the North-West Territories.¹ During the summer of 1873, after he had successfully concluded Treaty Three with the Saulteaux between the Province of Manitoba and the Lakehead, he tried unsuccessfully to convince ministers in Ottawa of the need for immediate treaties with the western tribes. From information received from informants in the western country, he was aware of the causes of unrest there. His twin solution to this problem was to make treaties with the western Indians and to send up the proposed mounted police force to chase out the illicit traders and to keep the peace. Morris tried

repeatedly throughout the summer of 1873 to get the Government to authorize treaties with the Cree, Saulteaux and Assiniboine of the prairies west of the limits of Treaty Two and to have the mounted police sent up before winter. His advice regarding the police was accepted in time to quarter a small force in Lower Fort Garry

that autumn as a preliminary move towards sending them into the North-West the following year. However, he did not have the same success with the recommendation for treaties. He was informed that there would be no further treaty negotiations that year.

Morris was not deterred by that refusal. As soon as he had returned to Winnipeg and reported on the successful conclusion of Treaty Three, he again wrote to Ottawa with fresh news of trouble in the West. A battle was reported to have taken place between some Blood Indians and some Cree with considerable loss of life. Further hostilities were expected. He told the Minister of the Interior, Alexander Campbell, that he regretted that the Treaties he had proposed had not been made.²

Shortly after this letter from Morris, Sir John A. Macdonald's ministry fell and was replaced by that of Alexander Mackenzie. Almost immediately, Morris wrote to the Minister of the Interior, David Laird, referring him to his previous despatches which he said would "show what my views are in reference to the future of the North West, and the Indian question, upon the solution of which that future so much depends."³ The following month, he reminded Laird that he had already recommended treaties with the Indians between Fort Ellice and the forks of the Saskatchewan.

The Indians of the Saskatchewan region were disturbed by various intrusions which were being made into their territory before any treaties had been made with them. Metis and white settlers had taken up land in the Saskatchewan valley. The Canada-United States Boundary Commission survey party was working its way west along the

international boundary. It was still in the field in the summer of 1874 when the North-West Mounted Police commenced their march west. Morris was told by one of his correspondents that another grievance was the surveying of Hudson's Bay Company reserves around the posts. Morris would hear more about the concern at the Treaty

Four negotiations. The same correspondent stated that the pressure was on the buffalo with the number of hunters increasing every year. The big danger was Indian starvation.

Meanwhile, Morris had already written on March 15th to the Prime Minister. "I feel very much the responsibility as to action in the North West this coming summer. Treaties ought to be made & I will send you a careful minute of Council as to the region to be dealt with."⁴ In reply, he was informed that the question of a treaty with the Indians would be attended to immediately the parliamentary session was over. Nevertheless, he continued to stress the same points in his despatches to Ottawa.

Morris was particularly concerned about the influence of the Metis on the Indians. At the Treaty Three negotiations, their influence had been regarded as crucial. Having heard a rumour that the Metis would try to prevent a treaty, Morris interceded through an intermediary and the expected interference had not taken place. Now, the Metis of the Saskatchewan were seriously disturbed regarding land and local government and Morris feared their influence with the Indians. Morris had been told that the Metis had insisted that their problems must be settled first.⁵ "Fortunately the Metis in the far west are well-affected but [nearer here?] in the Qu'appelle [sic] region they are disaffected."⁶

In June, Morris relayed to Laird a report from John McKay of Prince Albert, whom Morris described as "a very reliable man." McKay had informed Morris that the majority of the Indians wanted some kind of a settlement for the future. Only some of the Plains Cree, he said, had been influenced by the Metis of St. Laurent and Qu'Appelle in a contrary direction. McKay recommended treaties with the Indians before the police were sent

out or, if this could not be done, carefully selected messengers should precede them to explain the object of their coming. Otherwise the Indians would think that they were going to have their land taken away from them without compensation. He thought there would always be danger until treaties were made and law and order established.

There does not appear to have been any intention of making a treaty as far north as Prince Albert in the summer of 1874. Morris concentrated his attention on the Qu'Appelle region. In mid-May he learned from an Indian messenger that the Indians there were willing to treat. He wrote to the Prime Minister, "It was in this section that Half Breeds showed discontent & sympathy with Riel" & also asked exclusion of settlers. Think it for many reasons important to treat with these Indians."⁷ When Morris was informed that his recommendation was accepted, he was pleased. "I am glad that you have obtained a sum for a Treaty this summer - A Treaty covering the region of the Qu'Appelle Lakes [sic] is of great importance and would have a very beneficial effect in the North West."⁸ The region covered by Treaty Four is generally the southern or arable portion of the present Province of Saskatchewan. Provincial boundaries were not in existence until 1905 and, therefore, the western treaties do not coincide with them.⁹

Once the area to be subject to the treaty had been decided and a date agreed upon, considerable correspondence ensued on the subject of the persons who should negotiate the treaty on behalf of the Government. Morris objected to the appointment of men from the Hudson's Bay Company.¹⁰ He thought it important to emphasize the distinction between the Government and the Company. Subsequent events proved the wisdom of his position. Nevertheless, W.J. Christie, to whom Morris had objected on these grounds, was appointed a commissioner.¹¹ Morris expressed his own willingness to go except for a meeting of the Legislature scheduled for July 5th. If the treaty were not until Mid-August, he thought he should be free.¹² The date was finally set much later and Morris did go as senior negotiator, along with Laird himself, Morris having suggested earlier that one or more members of the cabinet might be present at the treaty-making.¹³

While the extent of the territory to be treated for had been the subject of correspondence, there is no indication that Morris was given any detailed instructions from Ottawa regarding treaty terms.¹⁴ We know that, prior to the Treaty Six negotiations two year later, he was not given precise instructions as to terms but by that time he was an experienced negotiator, having made three earlier treaties. In 1874, he had only negotiated Treaty Three. However, he did have the Minister of the Interior in the treaty party and that fact may account for the apparent absence of instructions.¹⁵

When all arrangements had been made, the Commissioners, Morris, Laird, and Christie, arrived at Fort Qu'Appelle on September 8, 1874 with an escort of militia under the command of Lt. Col. Osborne Smith. They had decided beforehand amongst themselves that Morris should act as spokesman because of his position as Lieutenant-Governor of the North-West Territories and the fact that he had negotiated Treaty Three the previous year.

The Indians to be treated with were Cree, Saulteaux, and Assiniboine. Dissension amongst them partly, but not entirely, divided them on tribal lines.¹⁶ This was reflected in requests for delays and in difficulty appointing spokesmen for the Indian side. After the commissioners had arrived and summoned the assembly to meet with them, Loud Voice¹⁷ said that they were not ready. He did not know who would speak for them and he asked for a day's delay for consultation amongst themselves. Coté, whom Morris described as the principal chief of the Saulteaux, had not yet arrived to meet the commissioners. A group of Saulteaux from the Cypress Hills said they had no chief and did not wish to go with the main body of their nation. Morris refused to deal with them separately.

The following day (September 9th), Indian messengers requested a further two days delay, but this was refused by the commissioners who said they expected to be met as agreed upon. The commissioners did meet the Cree and Saulteaux that day and Morris

addressed them. However, they eventually did get the time for consultation which they had requested. When they continued to tell Morris they were not ready, he agreed to adjourn for a day and hold the third day's conference on September 11th.

Morris was not pleased with the delay or with his reception, however. He pointed out that the Cree had arrived with their chief, but that the Saulteaux and their chief had not arrived. He thought that they could not have understood that the Queen had sent her servant to see them. He pointed out they would have been insulted had they gone to Fort Garry to see him and he had not appeared in person to greet them.¹⁸

On the morning of the 11th, the Saulteaux sent word that they could only meet the commissioners in their own soldier's tent about a mile from the militia encampment. The commissioners would not accede to this demand. The Cree, Morris said, were ready to go to the meeting, but they were prevented by the Saulteaux, "a section of whom displayed a turbulent disposition and were numerically the strongest party."¹⁹ A messenger was sent to tell the Indians that they must meet as agreed upon. Accordingly, in the late afternoon, the Cree attended, led by Loud Voice, but the Saulteaux only sent observers. Nevertheless, Morris "then explained to the Crees the object of our mission and made our proposals for a treaty, but as they were not ready to reply, we asked them to return to their tents and meet us next day."²⁰

In presenting this proposal, Morris introduced it as the Queen's message. He said that the Queen knew the Indians were poor, that it was hard for them to find food, but that she cared for her red children as much as for her white. "When fish are scarce and the buffalo are not plentiful she would like to help you to put something in the land."²¹

The next day (September 12th), Indian emissaries asked that the militia camp should be located beside the Indian encampment and that the meeting tent should be moved half-way towards their camp and off the Hudson's Bay Company reserve. On investigation, it was learned that the Indians objected to meeting anywhere in the Hudson's Bay

Company reserve where the conference tent had been placed, since they said they could not speak freely there. In the end a compromise was made in which the conference tent was moved off the Company's ground and closer to the Indian camp, although the militia encampment remained in its original location.

That afternoon, "the Commissioners submitted their terms for a treaty, which were in effect similar to those granted at the North-West Angle," except that the money present offered was eight dollars per head, instead of twelve dollars as there."²² This was the second time Morris had presented the proposed terms of the treaty. He repeated them because this was the first day that he had managed to get a full gathering to hear them.

However, the Indians declined to talk about treaty terms, complaining that there was "something in the way." The major source of difficulty was the way in which the Indians perceived the Hudson's Bay Company. The rest of that day was spent on this problem. The chief Indian spokesman appeared to be a man called "The Gambler" who tried to tell Morris what was troubling his people. Morris, for his part, spent the rest of that day trying to understand why they were disturbed about the Company. The Gambler alluded to the recent survey of the land that had been allotted to the Company around its posts under the transfer of jurisdiction to Canada. He spoke of the Company as though it were the supreme power in the country. He said the Company had stolen their land. "All the Indians know how the Company set their land in order long ago. The Company is making it more and that is the reason I am speaking."²³ Another Indian, "Pisqua" or "The Plain" (Pasqua), is reported to have said quite bluntly that the Hudson's Bay Company had sold the land for 300,000 pounds sterling. "We want that money."²⁴

After this explanation had been made the Gambler said that he had "made up about no other article." Since it was probably already late in the day that Saturday, the conference was adjourned until the following Monday. The contention which had

prevented discussion of treaty terms during the first few days of meetings suggests that the information Morris had received that the Qu'Appelle region was a centre of unrest had been correct.

The Company and its relationship to the land seemed to be the focal point of the dissension amongst the Indians themselves as well as the barrier to making a treaty. Morris frequently showed insight in understanding the Indian viewpoint, but was becoming impatient with the persistent questioning about the Company. He did not see the connection between the Indian's concern about the Company and what they were doing in attempting to make a treaty. The Indians saw the country as their own which the Company had no right to sell. Morris saw the land as belonging to the Queen. She had paid the Company for whatever rights they had held there and was now prepared to extinguish aboriginal title as well. This basic misunderstanding about the land cession aspect of the treaty was never brought to the surface and resolved in the Treaty Four discussions, although it lay behind the questioning which occupied most of the time.

In his report, Morris explained in summary form his understanding of the Indians' objections.

The objected to the reserve having been surveyed for the Hudson Bay Company [sic] without their first having been consulted, and claimed that the 300,000 paid to the Company should be paid to them. They also objected to the posts. The Commissioners refused to comply with their demands, and explained to them how the Company had become entitled to the reserve in question, and the nature of the arrangement, that had resulted in the payment by the Government of Canada of the 300,000.²⁵

When the meeting resumed on the 14th, Morris spoke to the assembled Indians urging them to get on with the task of making a treaty. Both Côté and Loud Voice told him that the Gambler would speak first. The Gambler then returned to the subject of the

Hudson's Bay Company. "This Company man that we were speaking about, I do not hate him; as I loved him before I love him still, and I also want that the way he loved me at first he should love me the same; still, I wish that the Company would keep at his work the same as he did..."²⁶

The Gambler's words come to us only in translation. We do not know how well they have been translated. Speaking in his own language, the Gambler's address would certainly not have sounded as it does in the broken English of the translation. If we try to look behind the words of the translation for his probable meaning, he seemed to be asking that they should not start the treaty negotiations from the assumption that the Company had sold their country to the Crown. He requested that his wish should be "signed on the paper" by which he probably meant that it should be a term of the treaty. "The Indians want the Company to keep at their post and nothing beyond. After that is signed they will talk about something else."

Morris took the Gambler's words literally, failing to see the connection between them and the task of making a treaty. He said that he had already told them that he had nothing to do with the Company and that the Company had a right to trade. The Gambler said he did not want to drive them out. In fact, he would not let them go and the Indians would die if they went away. Morris tried to explain that the Company was no longer the Government of the country as it once was. The Queen would now make the laws and the Company would have to obey them as other subjects did.

At this point, Loud Voice told Morris that the Cree and the Sauteaux were not united. He said he was trying to get unity and asked for another day to do so. Cote, the Sauteaux chief from Fort Pelly, asked to be treated with at his own place.²⁷

Morris asked them if they had tried to be united. He pointed out the consequences of failure to agree on a treaty:

The Queen and her Councillors may think that you do not want to be friends, that you do not want your little ones to be taught, that you do not want when the food is getting scarce to have a hand in yours stronger than yours to help you. ...You will not let so little a question as this about the Company, without whom you tell me you could not live, stop the good we mean to do.²⁸

He then granted the requested delay in the hope that they could meet again and discuss a treaty.

Morris described the dissension that divided the Indian people at Qu'Appelle:

The Crees were from the first ready to treat, as were the Saulteaux from Fort Pelly, but the Saulteaux of the Qu'Appelle District were not disposed to do so and attempted to coerce the other Indians.

They kept the chiefs 'Loud Voice' and Coté under close surveillance, they being either confined to their tents or else watched by 'soldiers' and threatened if they should make any overtures to us.

The Saulteaux cut down the tent over the head of one of the Cree Chiefs and conducted themselves in such a manner, that 'Loud Voice' applied to the Commissioners for protection, and the Crees purchased knives and armed themselves.²⁹

Morris then related that the Saulteaux placed six armed soldiers in the conference tent to intimidate the other Indians, but that this move was countered by Col. Smith, who stationed six of the militiamen in the tent.

In this connection, I must take the opportunity of stating that the results proved the wisdom of the course taken by the Commissioners in obtaining the escort of the militia, as their presence exerted great moral influence, and I am persuaded, prevented the jealousies and ancient feud between the Crees and Saulteaux culminating in acts of violence.³⁰

When they met again on the 15th, Morris said he wanted to hear what they had to say. In reply to some Indian misgivings because large numbers of their people were not

present, Morris told them that they spoke for the absentees who would receive the same as those present. He was then asked some very moving questions concerning the kindness and power of the Queen and the usefulness to future generations of what the treaty would give them. Morris replied, "The Queen's power will be around him."³¹

In spite of serious division amongst the Indian bands present, agreement on the terms of a treaty was finally reached:

The Crees had, in the interval, decided to treat with us independently, and the Saulteaux, finding this, came to a similar conclusion. After a protracted interview, the Indians asked to be granted the same terms as were given at the North West Angle.³²

The commissioners decided that this was the best they could do and agreed to these terms.

It is strange that Morris commented that the commissioners granted the same terms as Treaty Three, "being persuaded that a treaty could not otherwise be made."³³ He had already offered them terms which he described as similar to those of Treaty Three.³⁴

The Indians' next question seems equally strange. Having asked for the same terms as had been given in Treaty Three, the chiefs then asked the commissioners what those terms were. This was very likely done, not out of ignorance, but as a means of opening the way to bargaining. They immediately asked that all their debts to the Hudson's Bay Company should be wiped out and that their annuity should be fifteen dollars per head. These requests were refused and the commissioners informed them that the proposals were final and could not be changed.³⁵ The chiefs made a final request that the Metis should be allowed to hunt. They were "assured that the population in the North-West would be treated fairly and justly."³⁶

When the treaty terms had been explained to the Indians by the interpreter,³⁷ the treaty was signed by the commissioners and the chiefs. Morris remarked, "I also add, that the

Half-breed population were I believe generally desirous of seeing the treaty concluded and used the influence of their connection with the Indians in its favour.”³⁸ Christie and M.G. Dickieson, Laird’s secretary were left to make the payments and distribute the presents.

Morris and Laird travelled on to Fort Ellice in order to take an adhesion to Treaty Four of a band of Saulteaux who had remained there instead of going to Qu’Appelle. This band occupied territory which was partly in the Treaty Four area and partly in that of Treaty Two but had not been included in the latter treaty. It was now considered unlikely that they would accept the less favourable terms of Treaty Two.³⁹

As with other treaties, adhesions continued to be taken of bands which had not accepted the Treaty at first or had not been present for the negotiations. A large number of these were taken the following year (1875) when Christie and Dickieson travelled to the Treaty Four area to pay the annuity. They obtained the signatures of six more Saulteaux and Assiniboine chiefs. Most of the Assiniboine had been absent in 1874 and only came into treaty in the later 1870s.⁴⁰

The provisions of Treaty Four are in all essentials the same as those of Treaty Three. There are minor differences. Four headmen were allowed to each band instead of three. The chiefs and headmen were to get as the initial present an amount equal to their annuity instead of the twelve dollars for other Indians. In Treaty Three the initial present was the same for everyone, only the annuity being higher for chiefs and headmen. Under Treaty Four only seven hundred and fifty dollars yearly was to be expended for “powder, shot, ball and twine”, while Treaty Three had provided for fifteen hundred dollars per annum for the purchase of “ammunition, and twine for nets.”

Besides land surrender, the Treaty bound the Indians to keep “peace and good order” amongst themselves and between themselves and other Indian nations and others of Her Majesty’s subjects. The chiefs and head men named in the Treaty were to be responsible for the performance of these obligations.

Reserves were to be provided under the usual conditions. The Indians were not permitted to sell or alienate any of their reserve land, although it could be sold, leased, or disposed of by the Government “for the use and benefit of the said Indians” with their consent. In setting aside reserves, the Government reserved the right to deal with any settlers already occupying the lands selected as long as the Indians received their allotted quantity. Land expropriated by the Government for public works would be compensated for in land or money or additional compensation for improvements.

Agricultural equipment and supplies were to be given as in Treaty Three to any band actually cultivating the soil or who settled on a reserve and began to do so. These articles were to be given “once for all, for the encouragement of the practice of agriculture among the Indians.” A school was to be maintained on each band’s reserve and intoxicating liquors forbidden on reserves. Trapping was added to the provision for hunting and fishing which had been made in Treaty Three.

Notes

1. Alexander Morris, former Conservative Member of Parliament from Perth, Ontario and ex-cabinet minister, had been sent to Manitoba as Chief Justice in August, 1872. In December, he succeeded Adams G. Archibald, the Lieutenant-Governor who had, with the assistance of Indian Commissioner Wemyss Simpson, negotiated Treaties One and Two. Morris was the senior Government official in the negotiation of Treaties Three through Six. His book, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*, is a major source of primary information on the subject.
2. PAM (Public Archives of Manitoba, Winnipeg), MG12 B1, Morris Papers, Ketcheson Collection, Morris to Campbell, October 18, 1873.
3. Ibid., Morris to Laird, November 19, 1873.
4. Ibid., Morris to MacKenzie, March 15, 1874.
5. Louis Riel had led the resistance to Canadian authority at Red River in 1869 and 1870. This event had aroused strong feelings in the west as well as in Quebec and Ontario.
6. PAM, MG12 B1, Morris Papers, Ketcheson Collection, Morris to MacKenzie, June 3, 1874.
7. Ibid., Morris to MacKenzie, May 18, 1874.
8. Ibid., Morris to Dorion, May 29, 1874.

- ⁹ An error was made in the boundary description in the Treaty text in reference to the river mentioned as the western limit. "A cartographical error at the time caused Maple Creek to be named as the western extremity of Treaty No. 4. Later maps show the intended stream to be Seven Persons Coulee, with Maple Creek in its present location (some 70 miles to the eastward). This oversight was never corrected in the Treaty No. 4 text, upon which depended the subsequent boundary descriptions of Treaties Nos. 6 and 7." Footnote in George Brown and Ron Maguire, *Indian Treaties in Historical Perspective* (Ottawa: Research Branch, Department of Indian Affairs, 1979), p. 36.
- ¹⁰ PAM, MG12 B1, Morris Papers, Ketcheson Collection, Morris to MacKenzie, June 6, 1874. See also Morris to Meredith, July 21, 1874.
- ¹¹ Christie was a retired Hudson's Bay Company officer who had been in charge of the Saskatchewan District.
- ¹² PAM, MG12 B1, Morris Papers, Ketcheson Collection, Morris to MacKenzie, June 6, 1874.
- ¹³ Ibid., Morris to Laird, April 25, 1874.
- ¹⁴ Even at Treaty Three, Morris wrote only a few weeks before his departure requesting instructions on such fundamental items as reserves and schools. A great deal was left to the discretion of the commissioners.
- ¹⁵ For the details of the Treaty Four negotiations we are dependent on Morris's book, which consists of his own commentary, official correspondence by himself and others, and the notes taken by Laird's secretary, M.G. Dickieson, at the treaty meetings. The Sessional Papers do not add anything since Morris included that material in his book. Dependence on a single source is only slightly modified by the fact that Morris also had a hand in writing the material. To the extent that Morris represented one party to the Treaty, the book no doubt reflects his own bias. This is a point made by Walter Gordon in *The Spirit and Meaning of the Treaties* (Federation of Saskatchewan Indians, 1978), p. 3.
- ¹⁶ See Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*, Toronto, 1880, p. 112.
- ¹⁷ Loud Voice was identified by Morris as the principal chief of the Cree in that region.
- ¹⁸ See Morris, *Treaties of Canada*, pp. 89-90.
- ¹⁹ Ibid., p. 81.
- ²⁰ Ibid.
- ²¹ Ibid., p. 92.
- ²² Ibid., p. 81.
- ²³ Ibid., p. 102.
- ²⁴ Ibid., p. 106.
- ²⁵ Ibid., pp. 81-82.
- ²⁶ Ibid., p. 110.
- ²⁷ Ibid., p. 82.

²⁸. Ibid., p. 113. Morris' reference to the Indians' questions about the Company as trifling shows his failure to understand the connection between them and land cession, the major purpose of a treaty from the Government's point of view.

²⁹. Ibid., p. 82.

³⁰. Ibid.

³¹. Ibid., p. 118.

³². Ibid., p. 82.

³³. Ibid., p. 83.

³⁴. Ibid., p. 81.

³⁵. This comment is similar to one Morris had made on the 12th when he told the Indians that the commissioners had not come in the spirit of traders. Morris, *Treaties of Canada*, p. 95.

³⁶. Ibid., p. 83.

³⁷. Charles Pratt was described as a Cree Indian who was acting as interpreter. There is no indication whether he spoke Saukteaux or whether there was another interpreter for those who spoke that language.

³⁸. Morris, *Treaties of Canada*, p. 83.

³⁹. PAM, MG12 B1, Morris Papers, Ketcheson Collection, Morris to Laird, June 8, 1874.

⁴⁰. Raoul J. McKay, "A History of Indian Treaty Number Four and Government Policies in its Implementation 1874-1905," M.A. Thesis, University of Manitoba, 1973, p. 41.

INTERPRETING TREATY FOUR

Although the pattern of treaty-making which developed throughout the making of the seven western or “numbered” treaties in the 1870s had many common features from one treaty to another, each treaty also had its unique features. In Treaty Four, ceremonial was less evident than in some of the other treaties.¹ The question of land also took a unique turn. In contrast to the records of most of the other negotiations, Morris was reported as having told the Indians at Qu’Appelle, from the first day, that he had come to speak to them about the land.² The subject was not usually raised at all by treaty commissioners, although land surrender was a prominent term of every treaty and the major purpose for which the Government made them. However, before Morris could say anything more, the Indians raised their own concerns about the land in relation to the recent events involving the Hudson’s Bay Company.

Morris might have used the occasion to explain what he meant about Indian title and its extinguishment by treaty. He did not. When the Indians continued to pursue questions about the Company’s role and its relationship to the land, Morris became impatient and told them flatly that the “lands are the Queen’s under the Great Spirit.”³ This statement was intended to terminate any further discussion about the agreement with the Company involving territory in which the Indians considered that they above all humanity had a particular interest. However, the Indians were not prepared to discuss the specific terms of an agreement until they understood more about these things. Recent event had been both cataclysmic and confusing.

From the 1840s onwards, the old symbiotic relationship that had existed between the Indians and the traders had been breaking down. New transportation routes and methods and the increase in the number of free traders were changing relationships. In addition, the ownership of the Hudson’s Bay Company changed in 1863 when it was purchased by a syndicate.

The directors, who could trace back their connection with the fur trade for generations and who had some understanding of the traditional relationship with the Indian, were gone. In their place, perhaps well meaning, were men who looked at profits arising not from furs but from settlement. The actions of these men as they affected the West in the later part of the decade of the 1860s left some bitterness and a sense of betrayal in the minds of many Indians.⁴

As long as the Hudson's Bay Company was a trading concern in which the Indians had a role, no major problem land had existed. Now the Company had purported to sell the whole territory to the Government of Canada and began to survey reserves around the posts as their own property without taking the Indians into account.

Indian leaders had to try to understand where they stood in relation to the Company, especially on the subject of their lands, before they could enter into an agreement with the Crown on the same subject. There is no evidence that the issue was properly clarified before the Treaty was concluded. As we have seen, Morris regarded questions about the Company as an obstruction to the real task of discussing the details of treaty terms. He was eager to get on with the specific negotiations rather than spend days discussing what he regarded as irrelevant issues. He did not appear to understand the deeper concerns behind the Indian leaders' questions about the Company. As a result, his answers were abrupt and restricted to the literal scope of their questions rather than their broader intent.

Dealing with such a difficult subject through interpreters and through the additional haze of an alien culture must have been extremely frustrating for the Indian participants as well as for Morris. The attempts by one Indian party to intimidate another related by Morris suggest that no consensus was ever reached amongst the Indians before they were forced to decide whether or not they wanted a treaty at all. More than once Morris let them understand that his time was limited and, if they could not come to an agreement, he would have to leave without making a treaty.

Morris was anxious to get on with an explanation of the benefits to be received from a treaty. This was the pattern followed by commissioners at all treaty meetings. Sometimes, discussion was almost entirely centred on benefits. At other meetings, Indians did raise concerns about the land. At Qu'Appelle, they approached the subject indirectly through their questions about the Hudson's Bay Company. As a result of their persistence in pursuing these questions, relatively little time and attention were devoted to the actual terms of the treaty. The terms of Treaty Three were accepted with little variation.

Indians to-day and their associations have questioned the meaning of the treaties. They frequently make the point that the Indians who made the treaties and the commissioners had different ideas of what they were doing and what they had agreed upon. Divergent views and misunderstandings could easily arise when people of different languages and cultures attempted to make agreements to provide for a future situation which neither of them could predict with any accuracy. This tendency was made more likely by the manner in which the treaties were negotiated. Agreements which would take years to reach in modern times were made in a few days and without much advance notice. The western treaties were based on earlier precedents from which they were not expected to vary except in detail and only if necessary. This expectation injected a rigidity into the discussions which made irrelevant much that the Indians wished to communicate to the commissioners.

Upon study, one is left with the impression that the treaty commissioners operated within quite narrow areas of discretion regarding what actually could be given; that they felt the tactics were justified as long as the Indian people were adequately "looked after" with integrity, according to the conscience of the times. Needless to say, from today's viewpoint the Indian signators had relatively little choice, and even less expert counsel. In such circumstances, that there should be divergences concerning what the people thought they were getting as opposed to that which was actually written into treaty is understandable; that these divergences would become even more significant as the standards of literacy and militancy rose was inevitable.⁵

Indian associations have questioned the absolute and permanent nature of the land surrender described in the treaty texts. According to the records, nothing was said about land surrender at Qu'Appelle although it was the principal term of the Treaty from the Government's point of view. In their "Elders' Interpretations of Treaty 4 - A Report on the Treaty Interpretation Project", the Federation of Saskatchewan Indians found that the elders there believed that their ancestors had made only a limited cession of their land rather than the absolute surrender forever described in the treaty text.

The difference between the two interpretations of the land/resources cessions is best described by reference to the elders' understanding of their rights with respect to wildlife, subsurface rights, and the status of lands, including water, not utilized for agriculture.⁶

The elders understand that wildlife, subsurface and other non-agricultural resources, and terrain unsuitable for farming were not requested and not ceded.⁷

Treaty Four elders also believe they were promised Crown protection and assistance to develop and prosper. This was expressed both in general terms and specifically with respect to economic assistance. The farming assistance of the nineteenth century can be interpreted now, not only in terms of modern farming equipment, but of any form of economic development assistance appropriate to the region. Similarly, schools on each reserve, which might have been adequate in the nineteenth century, do not meet all of the educational needs of modern people. The words and objectives of the commissioners suggest that the elders believe the specific benefits of the treaties should now be interpreted broadly to include the full range of a modern education.⁸

Indians also wish to maintain the status they held as nations before the arrival of Europeans. There is some accommodation on this point because they also see themselves as Canadian citizens. They believe that these two categories need not be contradictory. They do not see treaties as instruments to deny or destroy their national status but rather as guarantees of Indian self-government. This is how Walter Gordon interpreted a treaty promise "to keep a good government for the good of the Indians."⁹

The Indians who met the treaty commissioners at Qu'Appelle, as elsewhere, were represented by bands. Through their larger tribal groupings of like language and culture, they constituted distinct groups of people, although their political structure differed from that of European nations. The treaties recognized and confirmed the existence of the Indian political entities with whom agreements were made, although Indians were also regarded as subjects of the Queen. Indian people believe that subject status was subsequently emphasized to the detriment of national status and they wish to restore a balance.

Indian people entered into a political arrangement with the Crown so that they could live as Indian people forever; that is, to retain their inherent powers. That guarantee is made by a commissioner.

“What I have offered does not take away your way of life, you will have it then as you have it now, and what I offer is put on top of it.”¹⁰

The Indian interpretation seems far-fetched to anyone reading only the Treaty text. The disparity in interpretation arises in part from a difference in understanding or assumption by each of the parties as to the nature and purpose of a treaty. A law professor has recently explained the difference in interpretation by comparing the different understanding each party has of the purpose of the treaties. This difference in understanding appeared to apply in 1874 as well as now.

Government strives for a final agreement and the extinguishment of aboriginal rights; native people seek a new “social contract” with non-native people and the recognition and affirmation of their aboriginal title and rights.¹¹

Indians also interpret the treaties in their historical context, in terms of their own culture, and with due regard to the commissioners' words as well as the written text of the treaties. They maintain that the meaning of the treaties cannot be derived from the text alone. The Indians who made the treaties were not a literate people. This was recognized when the treaties were made. The treaties, they say, must be seen within the entire context of the symbolism used and of the commissioners' addresses to them and with regard to Indian language and culture.

Nor must treaties be frozen in a nineteenth-century mould. They were meant to last forever and, accordingly, must be flexible enough to suit changing circumstances.¹² Otherwise, they would be a mockery of the addresses made in the name of the Queen at the treaty negotiations. They require reinterpretation in every age in order to fulfil both spirit and terms.

Notes

1. Morris implied that the pipe ceremony had not taken place at Qu'Appelle when he contrasted his treatment there with the reception he had received at the North-West Angle. "When I arrived there the Chief and his men came and gave me the pipe of peace and paid me every honour." Morris, *Treaties of Canada*, p. 97.
2. Morris, *Treaties of Canada*, p. 88. See also pp. 105 and 113.
3. *Ibid.*, p. 102.
4. J.E. Foster, "Indian White Relations in the Prairie West during the Fur Trade Period - A Compact?", in *The Spirit of the Alberta Indian Treaties*, Richard Price, ed. (Montreal: Institute for Research on Public Policy, 1979), p. 195.
5. George Brown and Ron Maguire, "Indian Treaties in Historical Perspective" (Ottawa: Research Branch, Department of Indian and Northern Affairs, 1979), p. 35.
6. Quoted in Delia Opekokew, "The First Nations: Indian Government and the Canadian Confederation" (Federation of Saskatchewan Indians, 1979), p. 12.
7. *Ibid.*, p. 13. This understanding has parallels amongst Treaty Six elders interviewed in the 1970s and Treaty Three people a century earlier. See Richard Price (ed.), *The Spirit of the Alberta Indian Treaties*, Institute for Research on Public Policy, Montreal 1979, and John Leonard Taylor, "The Development of an Indian Policy for the Canadian North-West, 1869-79", Ph. D. thesis, Queen's University, 1975.
8. See Federation of Saskatchewan Indians, "Indian Treaty Rights," 1979.
9. Walter Gordon, "The Spirit and Meaning of the Treaties" (Federation of Saskatchewan Indians, 1978), p. 2.
10. Delia Opekokew, "Position of the Federation of Saskatchewan Indians on the Confirmation of Aboriginal and Treaty Rights in the Canadian Constitution and / or Legislation, 1980," p. V-5.
11. D. Paul Edmond, "Alternative Resolution Processes for Comprehensive Native Claims", in *Current Issues in Aboriginal and Treaty Rights*, W.B. Henderson and Bradford Morse, eds. (Ottawa: University of Ottawa, 1984), p. 86.
12. Morris stated at Qu'Appelle that "...the promises we make will be carried out as long as the sun shines above and the water flows in the oceans." Morris, *Treaties*, p. 96.

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