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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

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V. F. Valentine, Department of Northern Affairs and  
National Resources, Ottawa.

L. L. Brown, Indian Affairs Branch,  
Department of Citizenship and Immigration,  
Ottawa.

James Kow, Fort McPherson Band, Aklavik,  
Northwest Territories.

Baptiste Cazon, Fort Simpson Band, Fort Simpson,  
Northwest Territories.

CERTIFIED TO BE A TRUE COPY OF A MINUTE OF A  
MEETING OF THE COMMITTEE OF THE PRIVY COUNCIL,  
APPROVED BY HIS EXCELLENCY THE GOVERNOR GENERAL  
ON THE 25th JUNE 1959

The Committee of the Privy Council have had before them a report dated 19th June, 1959, from the Minister of Citizenship and Immigration, submitting:

That the part of the Mackenzie District in which Indians reside is covered by Treaties 8 and 11 both of which provide for the setting aside of reserves for each band of Indians, the same not to exceed in all one square mile for each family of five or in that proportion for larger or smaller families;

That, although small areas of land have been made available for the exclusive use of the Indians from time to time, reserves, in the proportions provided for in the treaties have not been set aside for the fifteen Indian bands residing within the District;

That the said Indian bands, comprising some 4500 Indians, have a total land entitlement of some 576,000 acres under the treaties and the rapid development of the Northwest Territories makes it imperative that the selecting of reserves should not be postponed further, if there is any likelihood that the Indians will insist on receiving their full land entitlement under the treaties;

That there is doubt whether it is in the interests of the Indians to have reserves set aside for them in the Northwest Territories in the proportions provided for by the treaties and informal discussions with the Indians have indicated that they have no firm opinion on the matter and might be prepared to consider renegotiating the treaties on some different basis; and

That in the opinion of the Minister, it is expedient that the question of carrying out the provisions of the treaties or renegotiating them should be investigated.

The Committee, therefore, on the recommendation of the Minister of Citizenship and Immigration, advise that

Walter H. Nelson, Barrister, Prince Albert, Saskatchewan, (Chairman),

V. L. Valentine, Department of Northern Affairs and National Resources, Ottawa,

L. L. Brown, Indian Affairs Branch, Department of Citizenship and Immigration, Ottawa,

James Koe, Fort McPherson Band, Fort McPherson,  
Northwest Territories,

Baptiste Cazon, Fort Simpson Band, Fort Simpson,  
Northwest Territories,

## INTRODUCTION

This Commission was appointed to inquire generally into all matters arising out of the unfulfilled provisions of Treaties 8 and 11 as they apply to the Indians of the Mackenzie District which area is a large part of the Northwest Territories of Canada, and, is the area bounded on the South by British Columbia, Alberta and Saskatchewan, on the West by the Yukon Territory, on the North by the Arctic Ocean and on the East by an irregular line running to the east of Great Bear Lake and Great Slave Lake and extending from the Arctic Ocean to the northern boundary of Saskatchewan.

On June 21, 1899, some of the Indian Bands residing in the southern part of the Mackenzie district entered into Treaty No. 8 with the Crown and on June 27, 1921 the remaining Bands in the district entered into Treaty No. 11. From a study of the two Treaties involved, they provided, among other matters, for the setting aside of Reserves for each Band of Indians to the extent of one square mile for each family of five or in that proportion for larger or smaller families. It is to be noted that, although the Treaties were entered into many years ago, no reserves have, in fact, been set aside for the approximately 4500 Indians now residing in the Mackenzie District. In consequence the Indians have had neither the use of the land promised to them nor have they derived any income therefrom.

After a preliminary study of the matter in Ottawa, the Commissioners assembled at Aklavik and commenced a tour of the Mackenzie District, visiting each settlement therein where Indians lived in substantial numbers. From July 5th to July 17th, 1959 the following settlements were visited in the same order in which they appear below:

Aklavik  
Fort McPherson  
Arctic Red River  
Fort Good Hope  
Fort Franklin  
Fort Norman  
Fort Wrigley  
Fort Simpson  
Fort Liard  
Fort Providence  
Hay River  
Fort Resolution  
Fort Rae  
Snowdrift  
Fort Smith

Meetings were held at each settlement with the Chiefs, Councillors, and members of the sixteen Indian Bands residing within the District. Approximately 710 adult Indians and about 43 non-Indians attended the various meetings. All meetings were open to the public and while they were conducted in the English language, the services of an interpreter were used at all times by reason of the fact that many of the Indians attending the meetings did not understand English and only two members of the Commission understood any of the Indian dialects. In addition to obtaining information from the Indians and the non-Indians attending the various meetings, many other persons were interviewed informally during the course of the Commission's travels,

and opinions both solicited and unsolicited, were given to members of the Commission. These opinions came from persons in all walks of life, including Roman Catholic and Anglican missionaries, R.C.M.P. officials, Hudson's Bay Company employees, members of the Northwest Territories Council, members of the judiciary, government officials, school teachers and local administrators, independent traders and other residents of the District.

The following schedule sets out the name of each Band in the Mackenzie District with the number of Indians in each band and the number of acres of land to which each band is entitled under the Treaties.

<u>BAND</u>	<u>NUMBER OF INDIANS IN BAND</u> (Based on 1954 census)	<u>APPROXIMATE LAND</u> <u>CREDIT</u>
Fort Liard	207	26,496 acres
Fort Simpson	471	60,248 "
Fort Wrigley	118	15,104 "
Fort Norman	111	14,203 "
Fort Franklin	270	34,560 "
Fort Good Hope	278	35,584 "
Fort McPherson	595	76,160 "
Fort Rae	915	117,120 "
Fort Providence	369	47,232 "
Fort Smith	186	23,608 "
Fort Resolution	119	15,232 "
Fort Resolution	331	42,368 "
Fort Resolution	200	25,600 "
Hay River	162	20,736 "
Arctic Red River	170	21,760 "
	<u>4,502</u>	<u>576,016</u> "

PROCEDURE AT MEETINGS

At each meeting with an Indian band the same procedure was followed. This consisted of the Chairman explaining:

1. that the band had a land credit under the treaty and that this credit has never been claimed;
2. that the government had appointed a Commission to look into the matter and to advise it as to what should be done;
3. that the Commission would be hearing the views of all the Indian bands in the Mackenzie District and would make its recommendations to the government on the basis of what it thought best for all of the bands rather than for one or two;
4. that if the Commission recommended a change in land entitlement or any other clause of the treaty and this was approved by the government the Indians would have an opportunity of expressing their views again since such recommendations would involve the government renegotiating the treaty with them;

5. that the band was entitled to so many acres of land (approximate number of acres was calculated) and it could take up the land if it wished in one or more parcels or in parcels of varying size.
6. that if the band did not want its land credits it might seek how benefits from the government which would include one of the following alternatives:
  - (a) they could take their land as provided in the Treaty.
  - (b) they could ask for a portion of their land entitlement plus a cash settlement for the remaining portion.
  - (c) in lieu of their land entitlement they could ask for mineral rights and cash.
  - (d) a cash settlement with no land and no other rights except that right to fish, hunt and trap as given to them in the Treaty.
  - (e) any other reasonable alternative which they might wish to suggest.
7. It was also explained that because of the rapid development taking place in the Mackenzie District the government felt that the matter of the land entitlement under the Treaty should be settled as soon as possible so that if the band wished to take up its land it should do so now before the best land was taken for development purposes by the numerous persons coming into the Territories.
8. It was explained that any decision made by any band would not affect its fishing, hunting and trapping rights.
9. The Commission was careful to explain at each meeting that the taking up of the land credits did not necessarily mean that a band would have to live on the land it took under the Treaty, and, furthermore, that it would in no way restrict its movements nor curtail its fishing, hunting and trapping rights.
10. Each Chief present at the meeting was asked to give the opinion of the Band on the matter. Individual opinions were also invited from all other persons present at the meeting.

After everyone present had been given a full opportunity to express his or her views, the Commission asked questions on various matters, such as, the number of persons in the band who were gainfully employed, the various types of employment, the number of persons depending on fishing, hunting and trapping for their livelihood, the average income from all sources and general questions in relation to government programs, particularly insofar as health, welfare and education was concerned.

PREPAREDNESS AND ATTITUDE OF INDIANS

It became apparent at the first meeting, and this was confirmed by subsequent meetings, that few of the Indians had any clear understanding of the reason for the Commission's visit and the subject matter under discussion. This came as a surprise to the Commission for it had been advised that the bands were familiar with the various aspects of the problem, had discussed them, knew of the Commission's visit, and would be in a position to express firm opinions.

A meeting of all the Chiefs had been convened at Fort Smith in 1957 for the purpose of acquainting them with the problem and the possible solutions to it, and they had been advised to discuss the matter with their fellow Band members with a view to expressing a firm opinion when called upon to do so at a later date. On at least two occasions subsequently all bands were reminded of the necessity of reaching some opinion and on the last occasion were informed that the Commission would be visiting them and would expect some definite answers. However, as mentioned above, the Commission's meetings with the bands disclosed a lack of understanding of the problem, a lack of preparedness, and few definite opinions.

In the Commission's view there are several explanations for the situation. In the first place, it seems likely that many of the Chiefs did not return from the Fort Smith meeting with any clear understanding of the problems and thus were not in a position to adequately discuss them with their Band members. Secondly, many of the Indians were suspicious that the Government's interest in the matter heralded some undesirable change in their way of life and as a result were reluctant to give the matter the consideration it deserved and to express definite opinions.

At a number of meetings Indians who claimed to have been present at the time when the Treaties were signed stated that they definitely did not recall hearing about the land entitlement in the Treaties. They explained that poor interpreters were used and these interpreters urged the Indians to sign, saying "It will be good for you". It was emphasized that their Chiefs and head men had signed even though they did not know what the Treaties contained because the treaty parties included high government and religious officials whom the Indians trusted to look after their interests. When the Chairman pointed out that the Chiefs of each band, among others, had received copies of the Treaties the Indians replied that they were published in complicated English and they could not understand them.

It should be noted that although the Treaties were signed sixty and thirty-eight years ago respectively, very little change has been effected in the traditional mode of life of the Indians in the Mackenzie District. Very few of the adults had received an elementary education and consequently were not able to appreciate the legal implications of the Treaties. Indeed some bands expressed the view that since they had the right to hunt, fish and trap over all of the land in the Northwest Territories, the land belonged to the Indians. The Commission found it impossible to make the Indians understand that it is possible to separate mineral rights or hunting rights from actual ownership of land. It must be remembered that until recently the Indians of this area have remained semi-nomadic hunters and trappers, living in the vicinity of small trading-post settlements for a

few months of the year but roaming over vast tracts of land in search of food and fur-bearing animals for the remainder of the time. 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.

The Commission could not help but reach the conclusion that the Indians would have been in a better position to discuss the matter had frequent meetings been held with them over the two-year period which elapsed between the Fort Smith meeting and the visit of the Commission. It recognizes that there are practical difficulties involved in holding frequent meetings with small scattered bands of Indians. However, many of these difficulties might have been overcome if government and other officials living in each of the settlements had been engaged over the two-year period to instruct the Indians in all aspects of the problem.

#### VIEWS OF THE BANDS

It is next to impossible for the Commission to outline in detail the views of each band or any definite opinions expressed, for, as previously mentioned, they were often far from clear and were usually given with obvious reluctance, and in a number of cases without what appeared to be a clear understanding of what they implied. From a perusal of the evidence given and the views expressed at each meeting, it is possible, however, in a general way to summarize the attitude expressed by the Indians.

1. They definitely do not want to live on reserves.
2. Apart from securing title to small parcels of land in the major settlements where they have build houses, they are not interested in acquiring land.
3. There was very little interest shown in receiving mineral rights.
4. There appeared to be some interest expressed in receiving a cash settlement in lieu of land credits but this was far from general and many of the bands, particularly those living in the more remote areas, seemed just as opposed to a cash settlement as they were to receiving land.
5. Generally all the bands appeared to be suspicious of the motives of the government in bringing up the matter of the unfulfilled provisions of the treaties so many years after they had been negotiated. They showed great fear that agreeing to any change might result in the restriction of their fishing, hunting and trapping rights.
6. A large proportion of the Indians are not interested in any change and merely wish to be allowed to continue to live as they now do.



VIEWS OF NON-INDIANS

Most of the non-Indians interviewed during the Commission's visit in the Mackenzie District expressed a great deal of interest in the inquiry. The general impression seemed to be that as the Northwest Territories develop, there will be more employment openings for the Indians and eventually they will become completely integrated. Not one person supported the idea of reserves for Indians and the majority were most emphatic in stating that any movement in that direction would be a backward step for the Indians and would delay their eventual integration. The view was expressed by several individuals that title to small parcels of land in or near the settlements should be vested in the Indians as the Indians do not now hold title to the property on which their homes are built and could be forced to vacate should the land be required for other purposes.

OBSERVATIONS

1. The Commission feels that it was most unfortunate that sixty years and thirty-eight years respectively have been allowed to pass since the signing of the Treaties, without the Government having done anything to implement the land entitlement provisions thereof. The Commission is of the opinion that the Indians of the Mackenzie District would be more advanced and would now be enjoying a greater measure of economic and social independence if the problem had been dealt with years earlier.

2. The Commission believes it would be unfortunate if the Reserve System provided for in the Treaties is permitted to come into existence. It is of the opinion that Indian reserves belong to a past era in Canadian history and that there is nothing to be gained but much to be lost by instituting such a system in the Mackenzie District today.

3. The Commission must commend the Government for the work it is doing among the Indians in the Mackenzie District in the fields of health, welfare and education.

4. Very few Indians are engaged in steady wage employment. At Yellowknife for example only two Indians were employed by mining companies at the time of the Commission's visit and the highest number which local government officials could recall being employed at one time over the past seven years was five. If as the Commission believes, many of the jobs call for unskilled labour and are being filled by persons new to the District and country, there would seem to be no reason why the original inhabitants, the Indians, should not be employed by these companies.

5. The majority of the Indians obtain most of their cash income from trapping. For the past number of years the prices received for fur have been relatively low and this has caused considerable hardship. According to statistics obtained from the Indian Affairs Branch, 74% of all the Indian families in the Northwest Territories have an annual income of less than \$1,000.00, which is not sufficient to provide them with adequate clothing, food and other necessities, particularly in a climate as rigorous as that of the Mackenzie District. Traditionally, the hunting of game animals has supplemented the food of the Indian, but with the gradual decrease in caribou, this source of food is diminishing to the point where

more and more of the Indians' food supply must now be purchased from trading stores at high prices. Furthermore, the opening of schools in all major settlements has tended to hold the trapper closer to the settlement than was the case in previous years as he is reluctant to leave his wife and children for the lengthy periods required to derive the maximum return from his trap line. By leaving his family, he is faced with the additional expense and difficulties involved in providing food and other necessities for two households.

The Commission is of the opinion that unless some solutions can be found to these problems many Indians will become increasingly dependent on government support.

6. The Indian in the Mackenzie District is in a transitional stage. Few of the adults have received an adequate education and therefore have difficulty in obtaining employment requiring a degree of technical skill. The Indians have a strong desire to have their children educated and many stated to the Commission that if the Indian was to compete for job opportunities, education was a necessity. The Commission is in agreement with this view and recognizes that the educational facilities, and, in particular, the technical schools now being provided in the Northwest Territories will go a long way towards meeting the education needs of the Indians. However, it is also the Commission's view that education alone will not solve their economic problems. Unless job opportunities for the graduates can be found, their education will have been of little benefit to them since they will not be able to make use of their new skills nor will they have had the training required to enable them to make a living from the Indians' traditional pursuits of hunting trapping and fishing.

7. The general policy which has governed the administration of Indian affairs in Canada was based on the necessity of protecting the interests of the Indians during the period of transition resulting from the encroachment of modern civilization on an aboriginal culture. The attitude of paternalism which developed from this policy may have been justified originally, but the Commission believes it has been unduly prolonged and is no longer desirable. Every effort should now be made to assist the Indians to assume more responsibility in the conduct of their own affairs.

8. The Commission believes it is imperative that the Indians' rights to hunt, trap and fish as provided for in the Treaties be protected against the encroachment of civilization for so long as it is possible to do so. Although it recognizes that the monetary return from hunting, trapping and fishing is low, it also recognizes that these pursuits will continue to play an important role in the Indian economy, particularly for the people in the older age groups, who, because of lack of education, will find few job opportunities in the developing economy of the Northwest Territories and must depend upon hunting, trapping and fishing for their livelihood.

RECOMMENDATIONS PERTAINING TO TREATY  
LAND ENTITLEMENT

It is definitely the opinion of all members of this Commission that the Indians in the Territories will eventually become integrated into the Canadian way of life, both economically and socially. The following

recommendations are made with the intention that they will assist in accelerating this process of integration.

1. That reserves as provided for in Treaties 8 and 11 be not set aside for the Indian bands of the Mackenzie District.

2. That the government renegotiate Treaties No. 8 and 11 and in lieu of the land entitlement therein set out offer the Indians the following:

- (a) Title in fee simple to the plots of land on which they now reside and small parcels of land for the purpose of building homes in or near the settlements.
- (b) A cash settlement of \$20.00 per acre for each acre to which the Indians of the Mackenzie District are entitled under the terms of Treaties 8 and 11. The share of each band, based on its membership, is to be held in trust by the government for the use and benefit of the band in accordance with the provisions of the Indian Act.
- (c) An annual payment of one half of one per centum of any revenues derived by the Crown from the mineral, gas and oil resources of that portion of the Northwest Territories described in Treaties 8 and 11.

#### EXPLANATION OF RECOMMENDATIONS

1. The Commission recommends against the establishment of reserves for three main reasons, namely, -

- (a) The Indians do not want to live on reserves.
  - (b) The Indians would not be able to make a living from reserve lands in the Mackenzie District.
  - (c) The establishment of reserves would impede the social and economic advancement of the Indians of the Mackenzie District, as it would segregate them from the rest of the population.
2. (a) The majority of the bands now reside in or near one of the settlements and are virtually squatters on the lands they now occupy. The title to these lands should be acquired for the Indians but the Commission considers that the lands should not be set aside as reserves within the meaning of the Indian Act but rather that individuals should be given title to their lots in fee simple. It is in the interests of both the Indians, the non-Indians and the communities generally, that Indians living in the communities should occupy lands on the same basis as the other residents.

The Commission does not favour the idea of setting up Indian settlements within communities, although in some instances this cannot be avoided due to the present location of the Indians. However, it recommends against any attempt being made to set aside large blocks of land for the future housing requirements of the Indians in the settlements and believes that if and when additional lots are required they should be purchased for individual members on the open market. In the event that it is deemed advisable to reserve areas for future building requirements, then certainly it would be preferable to keep the areas fairly small and checker-board them throughout the community.

- (b) and (c) The cash payment per acre recommended by the Commission is intended to compensate the Indians for the loss of their land entitlement under the Treaties and for the mineral rights which the Commission assumes would have been included had the Indians selected reserves. The rate was based in part on the minimum selling price of land established by the Territorial Lands Regulations, in part on the Commission's assumption that mineral rights in the Mackenzie District have at least as high a value as the surface rights and in part on the Commission's opinion that the Indians have suffered a loss of possible revenues by reason of the delay in granting them their land entitlement.

However, the Commission was far from certain that the rate per acre used in estimating the value of the mineral, oil and gas rights that would have been included in the land entitlement was adequate in view of the potential of these in the Mackenzie District. The Commission believes that the government's revenue from the development of this potential will greatly increase in the future and that the Indians should share in this revenue to the extent recommended.

#### OTHER RECOMMENDATIONS

In addition to the principal recommendations made above the Commission believes the following recommendations, if implemented by the Government, will assist materially in the administration of the affairs of the Indians of the Mackenzie District.

1. That the Government protect the Indians' right to trap, hunt and fish as provided in Treaties 8 and 11.
2. That the Government consider providing a uniform standard of relief and welfare service to residents of the Mackenzie District.
3. That the Government establish a job placement service for the Indians who wish to obtain employment either within the Mackenzie District or outside thereof.

4. That any Government contract which may be let to private industry in the Mackenzie District include a clause requiring the contractor to employ Indians whenever possible.
5. That an Advisory Board or Council be set up to assist the Government in its administration of Indian affairs in the Mackenzie District and it is suggested that such Board or Council consist of six members; one of the elected representative from the Northwest Territories Council, a representative from the Northern Affairs Branch, a representative from the Department of Indian Affairs and Natural Resources, two elected Indian representatives and one independent member.

It is the intention of the Commission that the Advisory Board or Council shall recommend to the Government procedures and methods which will improve the social and economic conditions of the Indians in the Mackenzie District.

6. In the administration of Indian Affairs the Province of Alberta and the Northwest Territories are presently joined in a region which stretches from the Arctic Ocean to the southern boundary of Canada. The Commission is of the opinion that the size of this region makes it impossible for a regional staff located in Edmonton to provide the supervision and assistance essential to meet the problems that exist in the Northwest Territories. The Commission recommends that the Government establish the Northwest Territories as a separate region and that the new region be staffed with personnel who will be adequate both in members and technical qualifications to give the training and guidance that the Indians of the area will require to meet their economic problems during the difficult transition period which they are now undergoing.

The Commission received the fullest co-operation from the Departments of Northern Affairs and Natural Resources and Citizenship and Immigration. The statistical data and other information provided by these Departments was most helpful to the Commission. It especially wishes to thank all the field officials of these Departments, members of the R.C.M. Police and others who did so much to facilitate the work of the Commission while it was in the Mackenzie District.

All of the foregoing is respectfully submitted.

DATED at the City of Prince Albert, in the Province of Saskatchewan,  
this 10th day of December, A.D. 1959.

V.F. Valentine,  
Leonard L. Brown,  
James Koe,  
Chief Baptiste Cazon,  
Commissioners.

Walter H. Nelson,  
Chairman.