

"INDIAN TREATIES".

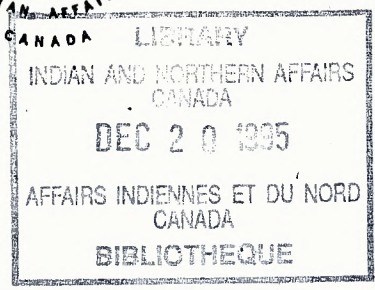
Memorandum from the Department of
Indian Affairs Canada, n. d.

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RESOURCE CENTRE



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Memorandum:

Indian Treaties.

From the first occupation of America by the British the right of the Indians to the lands occupied by them was acknowledged, and their claim to compensation for the surrender of their hunting grounds was conceded, the Crown reserving to itself the exclusive privilege of treating with the Indians for the surrender or purchase of any portions of the lands required for settlement or other purposes. This rule was distinctly laid down in the proclamation of 1763, and has been generally observed since that date.

In pursuance of the above policy a tract of land containing 670,000 acres was purchased on the Grand River in 1784 from the Mississauga Indians in order that the same might be handed over for the occupancy of the Six Nations Indians who desired to retire from the United States at the close of the War of Independence. Treaties have been made with the Indians from time to time since the date mentioned the particulars of which will give definite information regarding the policy of the Government both before and since Confederation.

In the year 1850 in consequence of the discovery of minerals the Honourable William Benjamin Robinson was duly authorized by Her Majesty, represented by the Government of the Province of Canada, to negotiate and enter into agreements with the Ojibeway Indians inhabiting large tracts

of land

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of land on the eastern and northern shores of Lake Huron, and on the northern shore of Lake Superior. The negotiations resulted in two treaties being entered into, one known as the Robinson Superior Treaty, and the other the Robinson Huron Treaty. The first of these embraced the territory on "the northern shore of Lake Superior, in the said Province of Canada, from Batchewanang Bay to Pigeon River, at the western extremity of said lake, and inland throughout the extent to the height of land which separates the territory covered by the charter of the Honourable the Hudson's Bay Company from the said tract, and also the islands in the said lake within the boundaries of the British possessions therein."

The Robinson Huron Treaty embraced "the eastern and northern shores of Lake Huron, from Penetanguishene to Sault Ste Marie, and thence to Batchewanaung Bay, on the northern shore of Lake Superior, together with the Islands in the said Lakes, opposite to the shores thereof, and inland to the height of land which separates the territory covered by the charter of the Honorable Hudson's Bay Company from Canada; as well as all unconceded lands within the limits of Canada West to which they have any just claim."

By the terms of the treaties large tracts of land were set apart for the tribes interested which have proved to be amply sufficient for their needs. Of these reservations three of them were for the use of the Indians of the Robinson Superior Treaty, and seventeen for the Robinson Huron Indians. The extent of these reservations may be understood by quoting the schedule of these made for the Indians of the first named treaty:-

"First-Joseph Pean-de-chat and his tribe, the reserve

"to commence about two miles from Fort William (inland), on
 "the right bank of the River Kiministiquia; thence westerly
 "six miles, parallel to the shores of the lake; thence nor-
 "therly five miles, thence easterly to the right bank of
 "the said river, so as not to interfere with any acquired
 "rights of the Honorable Hudson's Bay Company.

"Second-Four miles square at Gros Cap, being a val-
 "ley near the Honorable Hudson's Bay Company's post of Mich-
 "ipicoton, for Totominai and tribe.

"Third-Four miles square on Gull River, near Lake
 "Nipigon, on both sides of the said river, for the Chief
 "Mishimuckqua and tribe."

Reserves equally liberal in extent were granted
 under the terms of the Schedule attached to the treaty to
 the seventeen bands who were parties to the Robinson Huron
 treaty and which when surveyed were found to aggregate
 36,337 acres. In connection with the above treaties the
 sum of two thousand pounds (\$8000.00) was paid to the In-
 dians at the time the treaty was signed and an agreement
 made for the payment of a perpetual annuity as regards the
 Robinson Superior Indians of five hundred pounds (\$2000.00)
 and as regards the Robinson Huron Indians the sum of six
 hundred pounds (\$2400.00).

In connection with both the treaties it was fur-
 ther stipulated that should the territory ceded at any
 future period produce such an amount as would enable the
 Government of the Province, without incurring loss, to in-
 crease the annuity secured to them, then the same would be
 augmented from time to time, provided that the amount paid
 to each individual would not exceed the sum of one pound

Provincial currency in anyone year. In compliance with this agreement the sum of \$4.00 per head has been paid, in so far as the Superior Indian is concerned, for the years 1853, 4 & 6 and from the year 1872 onward and the same amount has been paid to the Robinson Huron Indians from the year 1873.

1873

Treaties with the Indians of Manitoba and
the North West Territories.

The Act passed in 1870 by which Rupert's Land and the North West Territories became part of the Dominion of Canada, contained the following section in Schedule A of the Address to Her Majesty the Queen from the Senate and House of Commons of the Dominion of Canada:

"And furthermore that, upon the transference of the territories in question to the Canadian Government, the claims of the Indian tribes to compensation for lands required for purposes of settlement will be considered and settled in conformity with the principles which have uniformly governed the British Crown in its dealing with the aborigines."

Without any loss of time after the passing of the above act, steps were taken for the Cession subject to certain reserves such as they should select, of the lands occupied by them. Mr. Wemyss Mackenzie Simpson of Sault Ste Marie was appointed for this important duty, the Commission issued to him of date the 27th April, 1871, empowering him as follows:-

"Whereas We have thought it expedient that a Commissioner should be appointed to the several Tribes of Indians occupying, and claiming rights to lands in Our Province of Manitoba and in Our North Western Territory, respectively, in Our said Dominion of Canada, and that the extinguishment of all and every the said rights of the said Indians in such lands in Our said Province and Territory respectively, as may from time to time, be required for the purposes of settlement, should be procured at as

"early periods as may be found to be practicable.

"Now, therefore, know ye that We, reposing trust
 "and confidence as well in the Loyalty, Integrity and
 "Ability as in the judgment and discretion of you, the
 "said Wemyss Mackenzie Simpson have thought fit to
 "nominate constitute and appoint and we do,
 " by these Our Royal Letters Patent, nominate, con-
 "stitute and appoint you the said Wemyss Mackenzie
 "Simpson to be Our Commissioner to the said several
 "Tribes of Indians, so occupying and claiming lands in
 "Our said Province of Manitoba and in Our said North
 "Western Territory as aforesaid:- And we do hereby author-
 "ize and empower you, the said Wemyss Mackenzie Simpson,
 "as such Our Commissioner for Us and Our Successors and
 "in Our name, from time to time, to negotiate, make and
 "conclude, with the said several Tribes of Indians, the
 "necessary Treaties for the cession, to Us Our Heirs and
 "Successors, of all and every their respective rights
 "titles and claims to and in the said lands and every of
 "them.

" Provided always and it is our Royal Will and
 "Pleasure that the powers and authority, by these Our
 "Royal Letters Patent, given to, and conferred upon, you
 "the said Wemyss Mackenzie Simpson shall be, by you
 "exercised and executed, from time to time, with and by
 "the assent of Our Lieutenant Governor, for the time be-
 "ing, of Our said Province of Manitoba and of Our North
 "Western Territory, respectively, and not otherwise how-
 "soever.

"To have, hold, exercise and enjoy the said Office
 "of Our Commissioner to the said several Tribes of In-
 "dians, unto you the said Wemyss Mackenzie Simpson with
 "all and every the powers authority, privileges, emolu-
 "ments and advantages to the said Office of right, and
 "by law, appertaining during Our Pleasure."

Acting under the authority conferred upon him by
 the Commission, Mr. Simpson issued proclamations, invit-
 ing the Indians to meet him on the 24th July, 1871, at
 Stone Fort or Lower Fort Garry and at Manitoba Post, a
 Hudson's Bay fort at the north end of Lake Manitoba on
 the 17th of August of the same year.

On his arriving at Fort Garry, Mr. Simpson put
 himself, as directed by instructions given him, in com-
 munication with the Hon. Alf. Archibald, who with Mr.
 Simpson arrived at the Stone Fort on the 24th July, 1871.
 Owing to the fact, however, that a number of the Indians
 had not arrived, the meeting was postponed till the 27th
 when a thousand Indians were found to have assembled be-
 sides a large number of half-breeds and other inhabitants.

The negotiations carried on with the Indians at the

Stone Fort resulted in a treaty being concluded on the 3rd August, 1871, its principal features being the relinquishment to Her Majesty of the Indian title to "all the lands included within the following limits, that is to say:- Beginning at the International boundary line near its junction with the Lake of the Woods, at a point due north from the centre of Roseau Lake; thence to run due north to the centre of Rosseau Lake; thence northward to the centre of White Mouth Lake, otherwise called White Mud Lake; thence by the middle of the lake and the middle of the river issuing therefrom, to the mouth thereof in Winnipeg River; thence by the Winnipeg River to its mouth; thence westwardly including all the islands near the south end of the lake, across the lake to the mouth of the Drunken River; thence westward, to a point on Lake Manitoba half way between Oak Point and the mouth of Swan Creek; thence across Lake Manitoba, on a line due west to its western shore; thence in a straight line to the crossing of the Rapids on the Assiniboine; thence due south to the International boundary line, and then easterly by the said line to the place of beginning to have and to hold the same to Her Majesty the Queen and her Successors for ever."

In consideration for the relinquishment of the lands above described it was agreed on behalf of Her Majesty the Queen that reserves would be laid aside and reserved for the sole and exclusive use of the Indians as follows:-

For Henry Prince and his band, on both sides of the Red River so much land as to furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families. For four other

chiefs and their Indians a like number of acres on
Rosseau River as that granted to Chief Prince and his
band.

To Ka-ke-penais and his band a like quantity of land
on Winnipeg River, above Fort Alexander. For Oo-za-we-
kwun and his band a like amount of land on the east
side of the Assiniboine River about twenty miles above
the Portage.

In addition to the above a further tract was re-
served enclosing the latter reserve, to comprise an
equivalent to twenty five square miles of equal breadth
to be laid out around the reserve.

A present of three dollars was made to each Indian
man, woman and child immediately after the execution of
the treaty, and an agreement made for the payment of a
like amount annually.

It was also agreed that a school would be main-
tained on each reserve, whenever the Indians would de-
sire it.

On the 21st of August, 1871, a treaty known as
Treaty No. 2 was also entered into between Mr. W.M. Simpson
acting for Her Majesty, and the Indians inhabiting the
country described as follows:-

"Beginning at the mouth of Winnipeg River, on the
"north line of the lands ceded by said treaty, thence
"running along the eastern shore of Lake Winnipeg, north-
"wardly as far as the mouth of Berens River; thence a-
"cross said lake to its western shore at the north bank
"of the mouth of the Little Saskatchewan or Dauphin River;
"thence up said stream and along the northern and western
"shores thereof, and of St. Martin's Lake and along the
"north bank of the stream flowing into St. Martin's Lake
"from Lake Manitoba by the general course of such stream
"to such last mentioned lake; thence by the eastern and
"northern shores of Lake Manitoba to the mouth of the
"Waterhen River; thence by the eastern and northern shores
"of said river up stream to the northernmost extremity
"of a small lake known as Waterhen Lake; thence in a
"line due west to and across Lake Winnipegosis; thence in

"a straight line to the most northerly waters forming the
 "source of the Shell River; thence to a point west of the
 "same, two miles distant from the river, measuring at
 "right angles thereto; thence by a line parallel with the
 "Shell River to its mouth and then crossing the Assiniboine
 "River and running parallel thereto and two miles distant
 "therefrom and to the westward thereof to a point opposite
 "Fort Ellice; thence in the southwesterly course to the
 "north western point of the Moose Mountains; thence by a line
 "due south to the United States frontier; thence by the
 "frontier eastwardly to the westward line of said tract
 "ceded by treaty as aforesaid; thence bounded thereby, by
 "the west, northwest and north lines of said tract to the
 "place of beginning at the mouth of Winnipeg River."

This treaty was similar in its terms to those of
 Treaty No.1, the reserves being designated as follows:-
 For Chief Mekis and his Band so much land between Turtle
 River and Valley River on the south side of Lake Dauphin
 as would make one hundred and sixty acres for each family
 of five, or in the same proportion for a greater or smaller
 number of persons. Reserves of similar extent were granted
 to Francois or Broken Fingers land on Crane River running
 into Lake Manitoba. For bands of which Ma-sah-kee-yash and
 Richard Woodhouse were Chiefs land on the river between
 Lake Manitoba and St. Martin's Lake, - known as Fairford
 River.

For Chief Son-Sense and his band land on the east
 side of Lake Manitoba between Oak Point and Manitoba Post.

Similar terms were also embodied in Treaty 2 as
 were agreed upon regarding Treaty No.1 as regard the present
 of money at time of agreement, and the annual payment of
 \$3.00 per head.

Regarding Treaties 1 and 2 an unfortunate contro-
 versy arose between the Government and the Indians originat-
 ing in certain verbal promises made by the Commissioners, at
 the time these treaties were negotiated, but which promises
 were not embodied in the text of these Treaties, nor in any

way recognized, or referred to, when they were ratified by Orders in Council.

After full consideration of the whole subject, His Excellency in Council by Order of the 30th April, 1875, was pleased to direct that the memorandum containing a list of the things outside of the Treaty which were promised at the time that Treaty No.1 was signed on 3rd of August, 1871, should be considered as part of Treaties 1 and 2 and that the Indian Commissioner should be instructed to carry out the promises therein contained, in so far as they had not been carried out. It was further agreed that while the Government could not admit the claims of the Indians to anything not set forth in the Treaties or memorandum, the annual payment to each Indian under the Treaties, should be raised from three to five dollars, and that a further annual payment of twenty dollars should be made to each Chief, and a suit of clothing every three years to each Chief and Headman allowing four Headmen to each band, upon the distinct understanding that any Indian accepting the increased payment authorized by the Order, thereby formally abandoned all claim against the Government in connection with the "Outside Promises" other than that recognized by the Treaty and the Memorandum.

The articles embraced in the Memorandum included a dress for the Chief and Councillors, for each Chief a buggy, a bull, cow, boar and sow for each reserve. A plough and harrow for each settler cultivating the ground.

In the instructions given to the Commissioners in 1871, they were informed that the powers entrusted to them were large, and they should be used with constant reference to the responsibility which the Government owed to Parliament and to the Country for the judicious and economical expenditure of the funds and supplies entrusted to their charge.

They were also told that in fixing the amount of annuity to be paid they should not lose sight of the fact that it could not fail to have an important bearing on the arrangements to be made subsequently with the tribes further West.

Treaty No.3 or the North West Angle Treaty.

In the year 1873 Commissions were issued to the Hon. Alex. Morris, then Lieutenant Governor of Manitoba and the North West Territories, Lt. Col. Provencher, who had been appointed to succeed Mr. Simpson, who had resigned, and Mr. S. J. Dawson authorizing them to treat with the Ojibbeway Indians for the surrender to the Crown for the lands covering the area from the watershed of Lake Superior to the north west angle of the Lake of the Woods, and from the American border to the height of land from which the streams flow to Hudson's Bay comprising an area of fifty-five thousand square miles more or less.

The consideration agreed upon for the surrender of this tract included the setting aside of reserves for the benefit of the Indians of the extent of one square mile for each family of five or in that proportion for larger or smaller families; the gift of twelve dollars for each man, woman and child belong to the bands represented; the promise of an annual payment to each of said Indians of five dollars per head and to each chief, duly recognized as such an annual salary of twenty-five dollars per annum; each subordinate officer, not exceeding three for each band, fifteen dollars per annum; to each such Chief a subordinate officer a suitable suit of clothes once in three years.

It was further agreed that the sum of fifteen hundred dollars per annum would be expended yearly in the purchase of ammunition and twine for the said Indians; and that implements

such as hoes, spades, ploughs, harrows, scythes, saws, carpenter tools, &c., would be supplied to those actually requiring them. For those cultivating the soil it was promised that each band would be supplied with enough of wheat, barley, potatoes, and oats to plant the land actually broken up for cultivation.

Each Chief was also given a suitable flag and medal.

It was also agreed that schools would be maintained for instruction on such reserve as might seem advisable, whenever the Indians of the reserve should desire it.

It will be seen that the Commissioners who negotiated the above Treaty were instructed that they should not lose sight of the fact that it could not fail to have an important bearing on the arrangements to be made subsequently with the tribes further West, and that this proved to be the case as all the future treaties were modeled after that of Treaty No.3.

The Qu'Appelle Treaty or Treaty No.4.

The duty of negotiating this Treaty was entrusted to the Hon. Alexander Morris, then Lieutenant Governor of Manitoba and the North-West Territories, the Hon. David Laird, then Minister of the Interior, and the Hon. W.J. Christie, a retired factor of the Hudson's Bay Company. The instructions given to the Commissioners regarding this Treaty were contained in an Order in Council of date the 23rd July, 1874, which described the bands to be dealt with as those inhabiting approximately the portion of the North West Territories lying between the westerly boundary of Treaty No.2 and the 110th degree of West Longitude, and bounded on the south by the International Boundary Line, and on the North by Lake Winnipeg and the Saskatchewan River,

including a strip of country ten miles north of that River to the Forks and thence following the south branch of the said River until it meets the 110th degree of West Longitude.

The only other instructions to the Commissioners regarding the terms of the Treaty were that in the event of permanent annuities being granted to the Tribes with whom Treaties might be made such annuities should not be fixed at a higher rate than those sanctioned by the Treaties already concluded with the Indians of the North West.

The Commissioners under the authority given them, negotiated a Treaty with the Indians of the district mentioned the terms of the same being identical to those embodied in Treaty No.3. This Treaty was signed at Qu'Appelle on the 15th September, 1874; Adhesions to the Treaty were also signed by certain members of the Saulteaux and Assiniboine at Qu'Appelle Lake on the 8th and 9th September, of the same year.

Treaty No.5, The Lake Winnipeg Treaty.

By letter of the 31st May, 187⁵, Lieut. Governor Morris recommended the necessity of negotiating a treaty during that year with the Indians on either side of Lake Winnipeg so as