

TREATY 8:

A British Columbian Anomaly

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IN THE ANNALS OF NATIVE BRITISH COLUMBIA, 1999 undoubtedly will be remembered as the year when, in a swirl of controversy, the provincial legislature passed the Nisga'a Agreement. The media promptly heralded the agreement as the province's first modern Indian treaty. Unmentioned, because it has been largely forgotten, was the fact that the last major "pre-modern" agreement affecting British Columbia – Treaty 8 – had been signed 100 years earlier. This treaty encompasses a sprawling 160,900-square-kilometre area of northeastern British Columbia (Map 1), which is a territory that is nearly twenty times larger than that covered by the Nisga'a Agreement. In addition, Treaty 8 includes the adjoining portions of Alberta and the Northwest Territories.

Treaty 8 was negotiated at a time when British Columbia vehemently denied the existence of Aboriginal title or self-governing rights. It therefore raises two central questions. First, why, in 1899, was it necessary to bring northeastern British Columbia under treaty? Second, given the contemporary Indian policies of the provincial government, how was it possible to do so? The latter question raises two other related issues, both of which resurfaced during negotiations for the modern Nisga'a Agreement. The first concerned how the two levels of government would share the costs of making a treaty. (I will show that attempts to avoid straining federal-provincial relations over this issue in 1899 created troublesome ambiguities in Treaty 8.) The second concerned how much BC territory had to be included within the treaty area. Federal officials' poor understanding of the cultural and physical geography of the region led to lingering confusion about the location of the western boundary of Treaty 8. In 1983 the McLeod Lake Sekani revived the cost-sharing and boundary issues when they



Map 1: Treaty 8 territory as proposed in 1891 and mapped by the Department of Indian Affairs in 1900.

sued for the right to adhere to Treaty 8 – a suit not resolved until May 1999. The centennial of the treaty is, therefore, a good time to reflect on this anomaly of British Columbia’s Native history and to consider aspects of its legacy.

ABORIGINAL CALLS FOR A TREATY

The Treaty 8 area is a complex geographic region that includes, along the Peace River, the largest pocket of prairies beyond Canada’s Prairie West, and a vast boreal forest that blankets both the rugged mountainous western section and the Alberta plateau in the east. The region is most easily approached from the east via several tributaries of the Mackenzie River – notably the Peace and Liard Rivers. For this reason, since before European contact the region has had a strong eastern



“Taking out the Finlay River fur.” Declining fur animal populations and downward spiraling fur prices caused economic hardships for Indian trappers in northeastern British Columbia and the adjacent Alberta Territory in the late nineteenth century. BC Archives Photo # 1-33215.

orientation, with Aboriginal groups largely moving in an east to west direction. The first Europeans to arrive on the scene, the Montreal-based explorer/fur traders led by Alexander Mackenzie (1793), entered via the Peace River. During the late nineteenth century, Edmonton drew most of the region into its orbit as it reached for the goldfields of the southern Yukon. That city continues to exert a strong influence on the region.

Petitions for a treaty from Native people living in this vast territory began well before 1899. A key reason was that Aboriginal groups living in the boreal forests beyond the existing treaty areas of the prairies and parklands wanted treaty benefits that ensured government help in times of need as well as cash annuities. These were major economic benefits in the 1870s and 1880s, when a worldwide depression sent fur prices tumbling and, with them, hunter/trapper incomes.¹ Annuity payments offered relief. In the 1880s, the yearly payments of five dollars per person negotiated with Treaties 1 to 7 provided Native families with enough income to cover their basic needs at trading posts (or stores) because the price deflation of the period effectively increased the purchasing power of the fixed annuities. This trend lasted until the economy rebounded at the end of the nineteenth century and an inflationary cycle began.²

¹ Frank Tough, *As Their Resources Fail: Native Peoples and the Economic History of Northern Manitoba, 1870-1930* (Vancouver: UBC Press, 1996), 310-7.

² Arthur J. Ray, *The Canadian Fur Trade in the Industrial Age* (Toronto: University of Toronto Press 1990), 3-29, 50-2, 201.

Traditionally, the Hudson's Bay Company (HBC) offered aid to Aboriginal people whenever they were destitute due to sickness, cyclical downturns in the local animal populations, or other adversities. It no longer felt obliged to provide this safety-net after 1870, however, because the company had lost its trading monopoly and had transferred to Canada its responsibility for the welfare of Aboriginal peoples.³ The Dominion government, for its part, was reluctant to help Aboriginal peoples who lived beyond treaty areas. As a consequence of the collapse of the bison-hunting economies of prairie-parkland Indian nations in the 1880s, treaty obligations had already proved to be much more costly than anticipated. This catastrophe had sent relief costs skyrocketing.⁴

Government policies towards non-treaty Indian nations in the woodlands of northeastern British Columbia and the adjacent Athabasca district meant that these people faced the risk of periodic starvation. This prospect put peace and stability in the region at risk. During the winter of 1880, for example, David Laird, lieutenant governor of the North-West Territories, repeated reports he had received from the justice of the peace at Fort Vermilion about starving Cree who were preying on the horses of the Beaver Indians.⁵ In the autumn of 1887 a Fort Vermilion teacher, E. Lawrence, relayed gruesome stories of starvation among the Arctic Red River Cree to Hayter Reed, Indian commissioner for the North-West Territories. The troubled Lawrence wrote: "I am sorry to say those reports have more than been confirmed and that 29 actually perished, being the entire band, save one girl yet in her teens, who acknowledges having when within a short distance of the Hudson Bay Post [sic] – shot & eaten her sister."⁶ Local Natives feared this young desperate survivor, and Lawrence was concerned about her safety. He blamed her cannibalism on the fact that the Cree could not hunt large game for lack of snowshoes and that there was a nearly complete absence of small game. "Some government stores should be shipped to this Post & to other places

³ Arthur J. Ray, "Periodic Shortages, Native Welfare, and the Hudson's Bay Company, 1670-1930," in *The Subarctic Fur Trade: Native Social and Economic Adaptations*, ed. Shepard Krech III (Vancouver: UBC Press, 1984), 11-7.

⁴ Dennis Madill, *Treaty Research Report, Treaty Eight* (Ottawa: Treaties and Historical Research Centre, Indian and Northern Affairs Canada, 1987), 3-5; and Ray, *Canadian Fur Trade*, 198-228.

⁵ National Archives of Canada (NAC) RG10, vol. 3708, file 19, 502.

⁶ NAC RG10, vol. 3784, file 40, 775. For a lengthy discussion of this issue that emphasizes the eastern areas of the treaty, see Rene Fumoleau, *As Long as This Land Shall Last* (Toronto: McClelland and Stewart, 1973), 30-45.



Sekani woman tanning a moose hide near Fort Grahame, British Columbia. A scarcity of game animals in the southwestern headwaters of the Mackenzie River caused critical food shortages there in the 1880s and 1890s. BC Archives Photo # H-03360.

in the North from which [to] assist the Indians in times of scarcity and distress,” he wrote, continuing, “I am not aware that the government has ever assisted these Indians directly and now it seems not only to me but to the whole settled community as if they should.”⁷ Lawrence joined a chorus of voices – those of HBC officers, other fur traders, and missionaries – all of whom demanded that the government help needy non-treaty Indians. By the late 1880s, the Canadian government reluctantly began providing a little aid for Indians in the region through the offices of petitioning trading companies and missionaries.⁸

Ottawa’s modest relief effort still left many Aboriginal people in the Athabasca, Mackenzie, and Peace River Districts at a decided economic disadvantage compared to their relatives in the bordering Treaty 6 and 7 areas. On New Year’s Day, 1890, a substantial number of northern hunters gathered in the Roman Catholic Church at Lesser Slave Lake to discuss this issue. Afterward, Cree chief Kinosayo asked Dieudonné Desjarlais, a local Métis trader, to convey their request to enter treaty negotiations. Desjarlais wrote directly to Edgar Dewdney, who was the minister of the interior and superintendent general of Indian affairs from 1888 to 1892, and gave him a full account of the meeting and a measure of the strength of Indian support for a treaty:

⁷ NAC RG10, vol. 3784, file 40, 775.

⁸ Ray, *Canadian Fur Trade*, 30–49.

I have been requested by Chief Kinosayo, of the Crees at Slave Lake, to inform you that a meeting of the Indians of Lesser Slave Lake was held at the Roman Catholic Mission Lesser Slave lake, on new years day, 1890, to consider the matter of applying for a treaty with the government. A very few of them present were against the treaty, but a very large majority were in favor of it. After it was over many letters written in Cree characters were received from Indians who were unable to attend, but who wished to have the treaty. The Indians of the upper part of Peace River are also anxious to have the treaty. There are about 177 families of Indians at [Lesser] Slave lake and about 100 in Peace River, not including Vermilion.

The fur in the country is getting scarcer each year and the Indians poorer. Those in Peace River are starving every winter, and need assistance very much. The Traders and missionaries assist them as much as they can, but they cannot afford to do it all the time. The government should begin to do something.⁹

Kinosayo's petition fell on deaf ears. By the mid-1880s it was the federal government's policy to negotiate treaties only with Aboriginal petitioners who lived on lands that Canada required for immediate development. Lawrence Vankoughnet, the deputy superintendent general of Indian affairs, advised Dewdney against reversing this policy. In doing so Vankoughnet pointed out that the government provided relief to all of "her Majesty's subjects, be they White or Red."¹⁰ Vankoughnet added that he had been informed by the HBC officer stationed at Lesser Slave Lake that the crisis for Indians in the Peace River country had passed and that "game and furs were in great plenty" again.¹¹

Other HBC records suggest that the Indians of Peace River and beyond continued to face severe hardships. While at Fort St. John in 1892, J. McDougall, one of the company's inspecting officers, observed: "Many of the Indians were unfortunate last Winter in hunting food animals, and consequently [they] had to trade most of their Furs during

⁹ Desjarlais, Dieudonné, "Letter to E. Dewdney, Superintendent-General DIA, transmitting request of Chief Kinosayo of Lesser Slave Lake asking for treaty on behalf of Aboriginal people of Athabasca, Mackenzie, and Peace River districts," Edmonton, 4 February 1890, NAC RG10, Vol. 3708, file 19, 502. Throughout the historical record, the Dunne-za are known as the Beaver.

¹⁰ L. Vankoughnet, "Letter to Superintendent E. Dewdney recommending against Lesser Slave Lake Cree request for a treaty via a letter of Dieudonné Desjarlais," 23 February 1890, NAC RG10, vol. 3708, file 19, 502: 2-3

¹¹ *Ibid.*, 4.

the winter for provisions; others who had no Furs had to receive provisions in debt to keep them from starving, which accounts for the large amount of debt.¹² In the summer of 1897, HBC inspector E.K. Beeston visited the post. He reported: “During the previous winter considerable distress existed among the Indians. Rabbits and moose were very scarce, while fires had done much damage in driving away the fur-bearing animals. There was a good deal of starvation, it was stated by Mr. Gunn [the post manager], and several horses had to be killed for food.”¹³ That same summer Beeston also inspected the neighbouring post of Hudson’s Hope, where he noted: “The Indians were very badly off during the preceding Winter, and it was feared that the present Winter would see even greater hardship experienced by them. As at St. John’s, both Furs and Game were becoming scarcer, while there are no Moose to be obtained near the mountains.”¹⁴ To the west, in the Peace River headwaters area, Natives also faced difficulties. The annual report for the Department of Indian Affairs (DIA) for 1895 stated: “McLeod’s Lake, Fort Grahame and Lake Connelly Bands of Sikanees number ninety-five, ninety-nine and one hundred respectively. They are nomadic, live in wigwams, fish, hunt



McLeod Lake Sekani in dugout canoe. The traditional territory of these people, who were closely related to their eastern neighbours, the Beaver, included the Rocky Mountains. Their name is derived from the Athapaskan term *Tsek'ene*, which essentially meant people of the Rocky Mountains. BC Archives Photo # A-065 19.

¹² Provincial Archives of Manitoba, Hudson’s Bay Company Archives (HBCA) B. 189/e/2: 9-10.

¹³ HBC, Inspection Report, St. Johns Post, Peace River District, 1897, HBCA B. 189/e/4: 8.

¹⁴ HBC, Inspection Report, Hudson’s Hope, Peace River District, 1897, HBCA B. 293/e/2: 9.

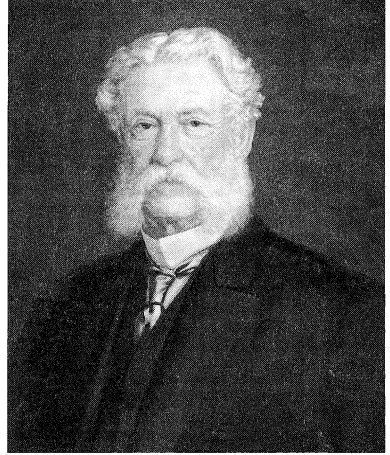
and trap in and about the localities named. Their trapping grounds are very much depleted of fur-bearing animals.”¹⁵

Shortly after Vankoughnet recommended against treaty making in the Athabasca, Mackenzie, and Peace River Districts, a rush of mineral prospecting in the Mackenzie River region to the northeast led the government to reconsider the matter. In January 1891, Dewdney prepared a memo for his fellow Privy Council members that opened the door:

The undersigned begs to report that in the District of Athabaska and in the Mackenzie River Country that immense quantities of petroleum exist within certain areas of those regions as well as the belief that other new substances also of economic value such as sulphur on the South coast of Great Slave lake, & salt on the Mackenzie and Slave Rivers are to

be found there the development of which may add materially to the public wealth, and the further consideration that several Railway projects in connection with this portion of the Dominion may be given effect to at no such remote date as might be supposed appear to render it advisable that a treaty, or treaties should be made with the Indians who claim those regions as their hunting grounds with a view to the extinguishment of the Indian title in such portions of the same as it may be considered in the interest of the public to open up for settlement.¹⁶

The Privy Council responded to Dewdney later that month with a report that incorporated the above information and recommended



Sir Edgar Dewdney. As federal minister of the interior and superintendent general of Indian affairs (1888 to 1891), he proposed that Canada draft a treaty to include the area of the North-West Territories where petroleum development was expected. BC Archives Photo # PDP02243.

¹⁵ DIA Annual Report, 1895, Parliament of Canada, *Sessional Papers*, 1896, Ottawa, 160.

¹⁶ E. Dewdney, “Draft memo from Superintendent-General, DIA, to Privy Council stating need for treaty in Athabasca and Mackenzie River districts in light of petroleum and other resource discoveries and providing estimate of number of Aboriginal people who would be included,” NAC RG10, vol. 3848, file 75, 236-1, Ottawa, 7 January 1891. This was mostly speculation. Actual drilling did not begin until 1895 and yielded no results. Morris Zaslow, *The Opening of the Canadian North, 1870-1914* (Toronto: McClelland and Stewart, 1971), 91.

immediate negotiations with the Indians who lived in the Athabasca, Mackenzie, and Peace River area beyond the borders of British Columbia. The proposed territory was immense (Map 1), covering roughly 518,240 square kilometres (319,900 square miles).¹⁷ Subsequently, the expanded Treaty 8 included most of these lands.

Independent of events in the Mackenzie District and of Ottawa's interest in entering a treaty there, the provincial government's Crown Lands Department undertook a track survey of northeastern British Columbia in the 1890s. The department's objective was to assess the region's potential beyond furs and the gold deposits that miners had already discovered in the Cariboo and Omineca areas. The survey results appeared in the provincial *Crown Land Surveys* for 1892. Interestingly, the report noted that the forested lands between Stuart Lake and McLeod Lake held little prospect for agriculture. The land surveyor reasoned that the climate of this area, as well as that of the Parsnip River and Finlay River valleys, was too harsh for most crops.¹⁸ Reports furnished by the Canadian geological survey, which were summarized in the same *Crown Land Surveys*, seemed more promising. Regarding gold, surveyor A.L. Poudrier exclaimed:

The large quantity of gold found formerly in Omineca is a proof that precious metal exists in large quantities. Nothing else but placer work was ever done. The cost of getting into the country was so great that, unless gold was found in abundance, it had to be abandoned. Now that communications are beginning to be opened, there is no doubt that mostly all the Creeks in the Omineca country could be again worked at a profit. During the expedition, colours were found in several creeks falling into the Skeena ... in the Omineca, the lower Parsnip ... it is found that gold, both free and in sulphurets, is found in quartz collected on ... the Finlay River.¹⁹

In the summer of 1893 Canadian Geological Survey crews revisited the area and trekked through the Finlay River and Omineca River country. In a report published by the survey in 1894, they described the Finlay River country as a promising place for placer mining:

¹⁷ Privy Council, "Council report commenting on 7 January 1891 report and recommendation of the Superintendent-General of Indian Affairs noting that the discovery of petroleum and other minerals in the Athabasca and Mackenzie River districts make it desirable that a treaty be drawn up." Ottawa, 26 January 1891.

¹⁸ N.B. Gauvreau, *Crown Land Surveys*, Part 2, *Exploration Survey of New Caledonia* (Victoria: Surveyor General, 1891), 376.

¹⁹ A.L. Poudrier, *Crown Land Surveys*, Part 1, *Exploration Survey of New Caledonia* (Victoria: Surveyor General, 1891), 385.

The Finlay River from its mouth to its junction with the Omineca, winds through a wide flat [now covered by Williston Lake], skirting the western base of the Rocky Mountains. It has a width in places of 300 yards or more, but is usually divided into several channels by islands and gravel bars. The current is easy, averaging about three miles an hour at a medium stage of water. The bars along this stretch of the river are all auriferous, and one of them, called Pete Toy's bar after the discoverer, yielded a large amount of gold in the early days of mining in the country. The gold in this reach is probably mostly derived from the Omineca.²⁰

In other words, preliminary probes of the eastern limits of New Caledonia had already created the expectation that major strikes of gold and other precious metals would soon be made.

THE KLONDIKE GOLD RUSH

In the late 1890s, with gold fever in the air, the most famous North American gold discovery – the Klondike – took place in the southwestern Yukon. The ensuing gold rush drew worldwide attention not only to the Klondike, but also to the surrounding country, including all of northern British Columbia. There were several reasons for this. First, miners and prospectors headed to Dawson and the Klondike fields via several routes that crossed northern British Columbia. Second, merchants in British Columbia and Alberta (mostly in Edmonton) hoped to profit from the outfitting business that the gold rush generated. Third, as miners and prospectors travelled these routes, they scoured the country along the way hoping to find new gold deposits. Inexperienced gold seekers were on the lookout for adventure and settlement prospects. Each of these developments would have implications for the Treaty 8 region.²¹

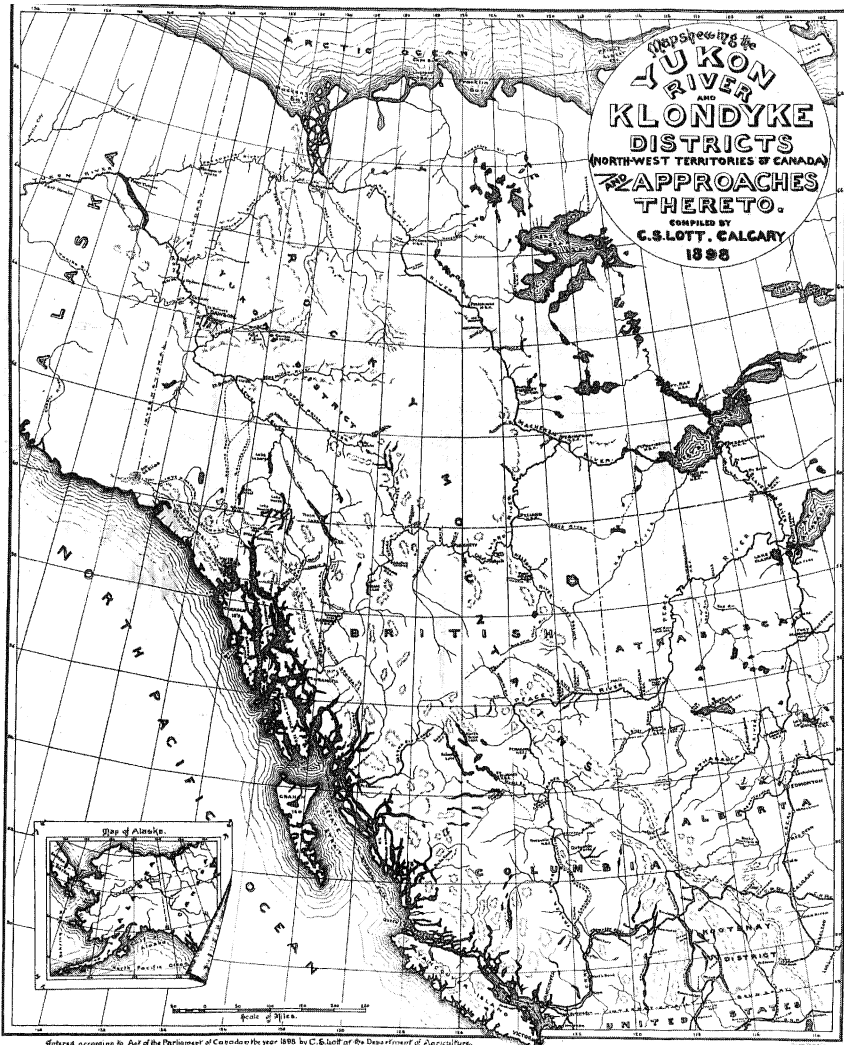
Four main Canadian routes led to the Klondike (Maps 1 and 2).²² The most important of them reached from Juneau, Alaska, over the Chilkoot Pass to the goldfields via Whitehorse. Merchants and steamship

²⁰ R.G. McConnell, "A Report on the Finlay and Omineca Rivers," in *Geological Survey of Canada*, 1894. Reprinted in G.E. Bowes, *Peace River Chronicles* (Vancouver: Prescott, 1963), 190.

²¹ Regarding Klondike promotion and its impact, see: Dianne C. Newell, "The Importance of Information and Misinformation in the Making of the Klondike Gold Rush," *Journal of Canadian Studies* 21 (1974): 95-111; and Dianne Newell Macdougall, "Canada's Share of the Klondike: The Character of Gold-rush Publicity, 1897-1898" (MA thesis, Carleton University, 1974).

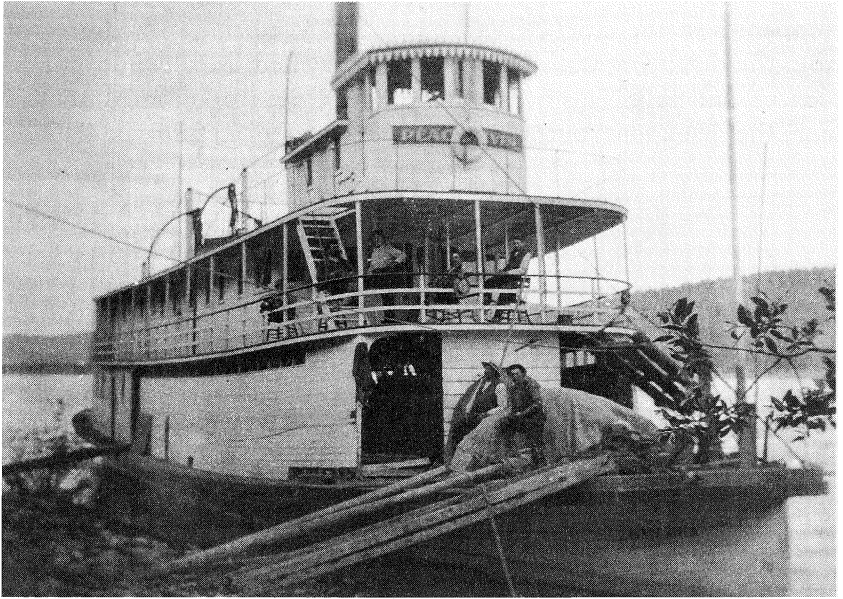
²² "Drafts ... for Yukon Gold Rush," HBCA D. 26/34; and *BC Gazette*, 1897, Maps A & B.

companies in the cities of Vancouver and Victoria profited greatly from the outfitting business this route spawned. Meanwhile, entrepreneurs and politicians from other inland cities worked hard to promote the “backdoor routes,” many of which were old fur trade trails.²³



Map 2: “Map showing the Yukon River and Klondike Districts (North-west Territories of Canada) and Approaches thereto,” 1898. This map, prepared in Calgary, shows the coastal and ‘backdoor’ routes to the Klondike gold fields. National Archives of Canada, Map Collection, NMC 12436.

²³ It should be noted that very few miners ever made it to the Klondike via these routes.

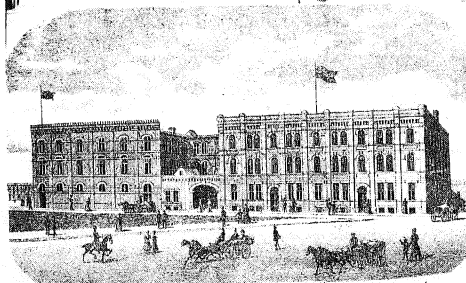


S.S. Peace River at Hudson's Hope, British Columbia. Before and after European contact the Peace River served as a major transportation corridor. Promoters recognized its potential as a railway corridor as early as the 1870s. BC Archives Photo # c-06797.



Sluicing for gold at Hudson's Hope, Peace River. Prospectors found gold in small quantities in the upper Peace River and its headwaters beginning in the early 1870s and drew ever more newcomers to the region. BC Archives Photo # F-05871.

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 or Klondyke,
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Edmonton, Victoria,
Vancouver, Nelson,
Kamloops, Vernon.
 For full information write
The Hudson's Bay Company,
Winnipeg.



Hudson's Bay Store & General Office, Winnipeg.

Draft of an advertisement by the Hudson's Bay Company to promote its outfitting business. Merchants in coastal and interior cities promoted the routes that benefited their commercial interests. Provincial Archives of Manitoba, Hudson's Bay Company Archives, D. 26/34. Folio 30.



Frank Oliver in a North-West Mounted Police canoe on the Bell River. As the publisher of the *Edmonton Bulletin* and Liberal member of parliament (1896-1917) he vigorously promoted the economic interests of the city of Edmonton, including its role as a gateway to the gold fields of the Yukon, the North-West Territories, and northeastern British Columbia. City of Edmonton Archives, EB9-38.

Among the more important of these promoters was Frank Oliver of Edmonton – a newspaper publisher, a member of parliament, and, from 1905 to 1911, minister of the interior and Indian affairs. Typically, Oliver's *Edmonton Bulletin* published maps and special editions featuring proposed trails leading northwest from that city.²⁴ Two of the most important of these backdoor routes led north to Athabasca Landing (Maps 1 and 2). From this junction, one headed north via Fort McMurray and the Athabasca, Slave, and Mackenzie Rivers to the goldfields, while the other reached west to Lesser Slave Lake and the middle Peace River. There, in the vicinity of Fort St. John, it turned northwestward to the Nelson and Liard Rivers. The latter trail cut through the heart of northeastern British Columbia. A fourth trail led northwest from Kamloops to the Iskut River (a tributary of the Stikine) via Quesnel, Fort George, Fort Fraser, and Hazelton. A

²⁴ He had founded the *Edmonton Bulletin* and served as a Liberal member of the House of Commons between 1896 and 1917. For a discussion of Edmonton and the Klondike, see James G. MacGregor, *Edmonton Trader: The Story of John A. McDougall* (Toronto: McClelland and Stewart, 1963), 214-31; and J.G. MacGregor, *The Klondike Rush through Edmonton: 1897-1898* (Toronto: McClelland and Stewart, 1970).

branch of this latter route led northward via McLeod Lake. The HBC already conducted a profitable outfitting business along all of these trails. Largely for this reason, the company encouraged the government to improve the wagon road between its posts at McLeod Lake and Fraser Lake once the Klondike strike stimulated increased traffic.²⁵

As entrepreneurs promoted the various routes to the Klondike, they also promoted local transport networks and gold prospecting along them. These promoters anticipated that prospectors' strikes would provide the basis for local mining. In its promotion of the trail leading northward from Kamloops, for example, the *Kamloops Standard* pointed to several places along the road that were worthy of prospectors' attention.²⁶ In its general discussion of mining in Canada, the 1897 *Official Handbook of Information Relating to the Dominion of Canada*, published by the Canadian government for prospective immigrants, proclaimed:

The discoveries of gold near the southern boundary of British Columbia have recently been followed by still richer discoveries on the Yukon River and its tributaries in the extreme north, and at numerous points between these two, gold and silver have been found in such quantities as to create the belief that throughout the several ranges of the Rocky Mountains from the 49th parallel to the Arctic Ocean additional fields for mining enterprise will annually be found for many years to come, and that as transport is afforded mining towns will arise from north to south of British Columbia.²⁷

The section of the handbook on British Columbia had these words of encouragement:

The recognized and greatest authority on mineralogy in Canada, Dr. G.M. Dawson, F.R.G.S., who for fifteen years was engaged in exploring British Columbia, says: "the explorations of the Geological survey of Canada have already resulted in placing on record the occurrence of rich ores of gold and silver in various places scattered along the entire length of the Cordilleran (Rocky Mountain) region in Canada.

Because a mountainous country, and till of late a very remote one, the development of the resources of British Columbia has heretofore been

²⁵ Correspondence Book, Quesnel, 26 March 1899, HBCA B. 171/b/6: 434.

²⁶ The article entitled "The Yukon Route via Kamloops and Cariboo" (n.d.) was included in the file: HBC Correspondence, price lists, 1897-98, HBCA D. 26/36, 39.

²⁷ Canada, *Official Handbook of Information Relating to the Dominion of Canada* (Ottawa: Queen's Printer, 1897), 109.

slow, but the preliminary difficulties having been overcome, it is now, there is every reason to believe, on the verge of an era of prosperity and expansion of which it is yet difficult to foresee the amount or the end.

Everything which has been ascertained of the geological character of the province, as a whole, tends to the belief that so soon as means of travel and transport shall be extended to what are still the more inaccessible districts these also will be discovered to be equally rich in minerals, particularly in precious metals, gold and silver.”²⁸

The handbook continued:

There are large areas still open to the poor prospector, and there are numerous openings for the capitalist. To the agricultural settler the existence of gold is of double significance. He is certain of a market for his produce, he is not debarred from mining a little on his own account, and he is never deprived of the hope that he will one day become the fortunate discoverer of a bonanza.²⁹

The boosterism of the handbook highlights the optimism of the day in British Columbia. The belief that the Klondike would create large, permanent advantages for the whole province was widespread, and it partly explains why British Columbia’s entrepreneurs and politicians looked to the federal government for help in developing all-Canadian routes to the Klondike goldfields.³⁰

As predicted, many of the men and women who used the all-Canadian overland routes prospected along the way. For instance, in December 1897, A.M. Mouat of the HBC wrote to John A. Wauchope of London, England, to comment on a series of letters on the Klondike that a man named Roger Peacock had been publishing in the *Lloyds Weekly* newspaper:

The Stikine Route ... is by far the best way to reach the Klondyke. He [Peacock] is, however, too severe in his remarks about the McKenzie River route, as the majority of people who go in that way are not making for the Klondyke, but for the Liard and Peace Rivers on the east side of the Rocky Mountains where they intend prospecting.³¹

²⁸ *Ibid.*, 95-109.

²⁹ *Ibid.*

³⁰ For instance, see J.H. Turner (BC minister of finance), “Letters to Clifford Sifton, 13 and 20 November 1897, asking for Federal help in developing routes to the Yukon,” *Sessional Papers of Province of British Columbia* (Victoria: Queen’s Printer, 1898), 1,089-90.

³¹ A.M. Mouat, HBC, “Correspondence: Price Lists Re: Yukon Gold Fields Trade, 1897-8,” n.d., HBCA D. 26/36.



“Klondikers” preparing to depart from Edmonton. Most intended to prospect en route, or to homestead in the northwest, rather than trek all the way to the Yukon. As this photograph shows, many of the men, women, and children who set out were not equipped for the harsh realities of the life that lay ahead of them. Provincial Archives of Alberta, B 5260.

The comments of other observers lend support to Mouat’s conclusion. HBC inspector E.K. Beeston’s 1897 report for Hudson’s Hope closed with this prediction: “The trade of this District will probably be affected by the gold mining excitement. Some travel through the Peace River District may possibly be expected, and it is thought that several parties will go to the headwaters of the Peace River. For many years past Gold, in more or less paying quantities, has been found in these waters.”³²

The post journals of the HBC’s establishment at McLeod Lake confirm that prospectors were active in the upper Peace River area in the late 1890s. During the summer of 1897, for instance, miner/prospectors began passing the post on 15 June on their way from Quesnel via Giscome Portage and Finlay River to the Parsnip River area. Most had returned to Quesnel by the middle of October. The next summer men arrived from Quesnel and Stuart Lake to work along the Nation River, a tributary of the Parsnip. One of the prospectors mentioned in the journals reportedly worked along Robinson Creek for the Anglo-American Gold Mining and Trading Company. During the summer of 1899, the gold seekers from Quesnel and Stuart Lake returned. At least one of the parties mentioned that summer consisted

³² HBC, Inspection Report, Hudson’s Hope, Peace River District, 1897, HBCA B. 293/e/2: 9.

of “Italians.” Robinson Creek seemed to be the major focus of activity in 1899, but some men continued to work in the Nation River area.³³

This wave of immigrants posed policing problems. Accordingly, the North-West Mounted Police (NWMP) began to patrol the area. In 1897, for instance, the commissioner of the force, L.W. Herchmer, dispatched Inspector J.D. Moodie from Edmonton to the headwaters of the Pelly River “to collect exhaustive information on the best road to take for parties going into the Yukon from that route.”³⁴ Moodie filed a report to Herchmer in 1899, which stated that when he arrived at Frances Lake on 23 September 1898:

Several large parties of prospectors who had gone by the Stikine route were met ... Some intended wintering here and some were returning to Wrangel and south for the winter.

Here [at Hoole’s Canyon] we found three prospectors wintering, one of whom had a twenty foot Peterboro’ canoe.³⁵

Regarding the future development of wagon roads in the region, Moodie wrote:

When at Manson Creek, I spoke to Capt. Black, Manager of the Omineca Consolidated Hydraulic mining Co., who told me that he



Colonel Lawrence W. Herchmer, Commissioner of the North-West Mounted Police, 1895. Herchmer received numerous reports from his officers that tensions between Indians and newcomers in the Peace River region were increasing. He was one of several police officers who recommended to Dominion government officials that they negotiate a treaty in the region in order to avoid bloodshed. Glenbow Archives NA 354-3.

³³ McLeod Lake Post Journals, HBCA B. 119/a/7.

³⁴ “Report of the NWMP,” Parliament of Canada, *Sessional Papers*, no. 15, 1899, 3. (In 1876 Herchmer had been appointed an Indian agent in Manitoba, where he served before being appointed commissioner in 1886 – a position he held until 1900.)

³⁵ *Ibid.*, 1898, 6, 7, and 11.

had spoken to Messrs. John Irving and Rogers, M.P.P. for Cassiar and Cariboo, and to Col. The Hon. James Baker, Minister of Mines, also to Mr. Gore, Deputy Commissioner of Lands and Works and Gold Commissioner for British Columbia regarding the opening of a trail to the head of Finlay, and that they expressed themselves as quite willing to give assistance. As this patrol is making a trail to the northern part of the province, he (Capt. Black) states that there will be no difficulty in getting a grant from British Columbia of \$500 or possibly \$1,000 towards our expenses if application is made. \$3,000 was granted last year on Captain Black's representation to open a trail from Hazelton to Manson Creek and this was not sufficient.³⁶

Like the surveyors who preceded him, Moodie had great expectations for mining:

With regard to the usefulness of this trail as a route to the Yukon, I should say it would never be used in the face of the quick and easy one via Skagway and the White Pass; but on the other hand, I have not the slightest doubt that if the country were opened up and thoroughly prospected it would be found immensely rich. Almost every stream yields colours, and it only requires that these streams be followed up and properly prospected. Some of those going through this summer professed to have prospected and exclaimed against the country, but I have never heard of one who had gone to bed-rock. I believe from what I have seen, and experienced miners have told me, that there is a great future for quartz mining west of the Mountains and in the Mountains themselves.³⁷

On 16 May 1898, J.R. Benton wrote from Edmonton to Oliver in Ottawa with news about major speculative activities in the region:

I have been appointed guide for a party of Chicagoans known as the Klondike Co-operative Grub stake [sic] Mining Company said to be capitalized at one million dollars. They are sending out different parties by different routes, one party to go via the Edmonton route of which party I am guide. This party is now at Calgary en route and proposed after having completed outfitting to start for the head waters of the Peace ...

The Finlay being the destination of my party it is quite likely that my services as guide will there cease. In that event it is my wish to

³⁶ Ibid.

³⁷ Ibid.

go on to the Black River and thence down to the junction of the Liard ...

My party proposes to prospect from the Peace to the Pelly [River].³⁸

Whether or not this account was accurate, it is clear that a good deal of prospecting was taking place in northeastern British Columbia, especially in the vicinity of the Finlay River.

THE THREAT OF AN INDIAN UPRISING

The growing number of prospectors and the arrival of the NWMP alarmed Aboriginal peoples, who feared that their ways of life were being threatened. In 1897 Inspector Moodie mentioned an incident that indicates that relations between local Aboriginal peoples and the newcomers were strained to the breaking point:

Saturday, 9th October ... This pm a fire was started by a Half-breed, Cunningham, guide to Johnson from Edmonton. We all turned out and saved Bremner's stacks, but could not prevent the fire getting into the bush. Rain at night with wind high. Cunningham will be brought up for trial on Monday. Indians and Breeds rather mad against Johnson, although he was not to blame.³⁹

Thefts of Indian horses were particularly troublesome. Indians living near Fort St. John prized their animals and used them for packing. Moodie believed that if thefts of Indian horses continued they would threaten the peace:

One of a party of prospectors going through this district shot two stallions belonging to Chief Montaignee, because they were, he said, chasing his horses. On hearing of this the chief sent two parties in different directions to intercept the white men, declaring that if he was not paid for his stallions he would shoot all the prospectors' horses and then the man who killed his. I believe the matter was settled. Another man stole an Indian pony, and the owner followed him to Fort Graham and recovered it.⁴⁰

³⁸ J. R. Benton to Frank Oliver, Edmonton, 16 May 1898. Benton informed Oliver that he was guiding a party of prospectors from Chicago who intended to go to Finlay River. He also describes other routes and parties. DIA Litigation Support, Vancouver, MCL 000994.

³⁹ NWMP Report, 1898, 20.

⁴⁰ *Ibid.*, 12.



A packtrain near Quesnel, BC, 1890s. Native people took advantage of the outfitting opportunities that prospecting generated. The thefts of their valued horses by newcomers led to increasing friction between Indians and Whites during the 1890s. BC Archives Photo # A-05277.

According to Moodie, the situation at Fort Grahame, on the Finlay River, was even more tense. The Sekani who lived there were angry because, in addition to sealing their horses, the prospectors refused to pay tolls to cross tribal territory:

Mr. Fox [the post manager] informs me that the Indians here at first refused to allow the white men to come through their country without paying toll, and it was only after much talking that they agreed to keep quiet this summer in the hope that the Government would do something to help them. They threatened to burn the feed and kill the horses; in fact, several times fires were started, but the head men were persuaded by Mr. Fox to send out and stop them. A large number of horses have been lost, but whether these have merely strayed or have been driven off it is impossible to say. A guide engaged by several parties (who joined in the expense) deserted a few miles up the river on hearing of St. John Indians having come over to intercept the horse killer as above mentioned, at least this is the reason given.

Moodie also appreciated that the arrival of the newcomers represented a more basic threat to the local Aboriginal economy because of the added pressures these people brought to bear on fur animals and game, both already badly depleted:

There is no doubt that the influx of whites will materially increase the difficulties of hunting by the Indians, and these people, who, even before the rush, were often starving from their inability to procure game, will in future be in a much worse condition; and unless some assistance is given to them by the Indian Department, they are very likely to take what they consider a just revenge on the white men who have come, contrary to their wishes, and scattered themselves over their country. When told that if they started fighting as they threatened, it could only end in their extermination, the reply was, "We may as well die by the white men's bullets as of starvation." A considerable number of prospectors have expressed their intention of wintering in this neighbourhood and I think it would be advisable to have a detachment of police stationed here, as their presence would go far to prevent trouble. The number of Indians, men, women and children in this District [vicinity of the fort] is about 300.⁴¹

In his popular history, *The Klondike Rush through Edmonton*, James G. MacGregor mentions other incidents along the Fort St. John-Fort Grahame trail that indicated Native people were prepared to use force to protect their rights. MacGregor wrote of the Edmonton entrepreneur Barney Maurice:

In Fort St. John there was an Indian scare. The Beaver and Dog Rib tribes did not want the white man to come and stay in the country which they said was theirs. Some miners stole caches of food, snowshoes, etc. which were hidden in trees. On top of the hill at Fort St. John there were about seventy-five buggies, wagons and Red River carts left by miners. The Indians put the whole works down the hill and I could see afterwards broken wagons and equipment for about six hundred feet down.⁴²

According to MacGregor, another reason for Native resentment was that Klondikers' horses stumbled into their laboriously constructed deadfall bear traps. As a precaution against these traps, Klondikers

⁴¹ NWMP Report, 1898, 13.

⁴² MacGregor, *The Klondike Rush*, 202.

adopted the practice of walking ahead of their pack trains and destroying any they found. They interfered with the Aboriginal hunting economy in other ways as well. For example, they sometimes shot Native hunting dogs or inadvertently poisoned them by using strychnine-laced baits when trapping. These were serious losses for Native hunters.

Reports from other areas indicate that Native hostility towards prospectors and Klondikers was widespread. F. White, comptroller of the NWMP, forwarded to the superintendent general of Indian affairs a patrol report from Fort Smith that warned: "The Indians in this locality are very jealous of Whitemen, Trappers and Miners coming in their country and wanted them forbidden to do so."⁴³ Aboriginal people at Lesser Slave Lake shared these sentiments.

RENEWED CALLS FOR A TREATY

Even before the last push into the Klondike – the famous stampede of 1898 – NWMP officials recommended that a treaty be drawn up to address the problems caused by the gold seekers. In November 1897, Major James Walker wrote to Clifford Sifton, minister of the interior and of Indian affairs, that a treaty was needed, the sooner the better:⁴⁴

Referring to our conversation during your visit to Calgary respecting the necessity of making treaties with the Indians of the Athabasca and the Yukon I would draw your attention to the fact that these Indians have not been treated with, yet I understand that the late Government contemplated treating with the Athabasca Indians some years ago but nothing was done ... From all appearances there will be a rush of miners and others to the Yukon and the mineral regions of the Peace, Liard and other rivers in Athabasca during the next year. Parties are starting North from here almost every day[,] some with the intention of pushing through to the Yukon other[s] to mine in the rivers of Athabasca and British Columbia; others intend to establish stopping places, trading posts, transportation Companies and to take up ranches and homesteads in fertile lands of the Peace River.

I think you will pardon the suggestion when I state that in the face of this influx of settlers into that country no time should be lost

⁴³ F. White, 31 October 1898, NAC RG10, vol. 3848, file 75, 236-1.

⁴⁴ Sifton had become minister of the interior and superintendent general of Indian affairs in 1896.

by the Government in making a treaty with these Indians for their rights over this Territory. They will be more easily dealt with now than they would be when their country is overrun with prospectors and valuable mines be discovered. They would then place a higher value on their rights than they would before these discoveries are made and if they are like some of the Indians of the Saskatchewan they may object to prospectors or settlers going into that country until their rights are settled.⁴⁵

About the same time, NWMP commissioner Herchmer received patrol reports that led him to write to the comptroller of the force in Ottawa to advocate bringing the region under treaty:

I have the honour to draw your attention to the advisability of the Government taking some immediate steps towards arranging with the Indians not under Treaty, occupying the proposed line of route from Edmonton to Pelly River. These Indians although few in number, are said to be very turbulent, and are liable to give very serious trouble when isolated parties of miners and travellers interfere with what they consider their vested rights.

At the present time the Half-Breeds of Lesser Slave Lake are dissatisfied with the presence of the Police in that District, and the numerous parties of Americans and others between that point and Peace River will not improve the situation. The Beaver Indians of Peace River and the Nelson are said to be inclined to be troublesome at all times, and so also are the Sicamies [sic] and Nahamies [sic], and the Half-Breeds are sure to influence them ...

Rich mines are liable to be discovered at any time on the Peace, Nelson, and Liard Rivers, when trouble would almost certainly arise.⁴⁶

On 18 June 1898, Sifton, in his capacity as minister of Indian affairs, informed the Privy Council of Herchmer's concerns and recommended that a treaty be negotiated. Nine days later the clerk of the Privy Council informed the DIA of its support for a treaty.⁴⁷

⁴⁵ Major J. Walker to Clifford Sifton, 30 November 1897, NAC RG10, vol. 3848, file 75, 236-1. In this letter Walker also asked to be considered for the post of treaty commissioner based on the experience he had gained in Treaty 6 negotiations.

⁴⁶ L.W. Herchmer to Comptroller of NWMP, 2 December 1897, NAC RG10, vol. 3848, file 75, 236-1. This letter recommended making a treaty.

⁴⁷ Clerk of the Privy Council to Superintendent General of Indian Affairs, 27 June 1898, NAC RG10, vol. 3848, file 75, 236-1. A.E. Forget served as Indian commissioner for the North-West Territories from 1893 to 1898. He became lieutenant-governor of the North-West

Ottawa now faced the difficult task of defining the treaty territory. As noted above, the 1891 proposal included only the Athabasca, Mackenzie, and Peace River Districts lying beyond the BC boundary. Mineral exploration had been limited largely to that region. Nine years later, however, the entire area of northeastern British Columbia was crawling with prospectors. In any event, as early as 1891 HBC chief factor McDougall had warned Hayter Reed, who served as the Indian commissioner for the North-West Territories from 1888 to 1893, that it would be unwise to exclude from the treaty those Aboriginal people who lived in British Columbia. Reed paraphrased the chief factor's advice when he sent a letter to the superintendent general of Indian affairs on 2 April 1898 concerning which groups to include:

The recommendations included with the information are Mr. McDougall's, and I have not interfered with them, but I may add relative thereto, that the Indians of St. John's and Hudson's Hope although in British Columbia, really belong to the Beavers, who extend from the Mountains to Little Red River.

The Indians at Fort Wrigley, Nelson and Liard also although living in British Columbia, practically form part of bands included in the proposed Treaty, and even should their present hunting grounds be excluded, it will be for the Department's consideration whether it would not be well to include themselves.⁴⁸

Reed enclosed the boundary description recommended by McDougall and attached his own amendment. Both McDougall and Reed included northeastern British Columbia lying northeast of the "summit" of the Rocky Mountains. Reed provided this HBC officer's explanation for including portions of the latter territory:

The Indians of Dunvegan, St. John's, Hudson's Hope, and other points on the Peace River in the Peace River District, are Beaver Indians ...

Should the Indians of St. John's and Hudson's Hope not be included, the Beaver Indians of Dunvegan and a few Crees and Iroquois from Jasper's house would be the only Indians to be dealt

Territories in 1898. The Privy Council also appointed David Laird, who served as Indian commissioner from 1898 to 1909, when the position was abolished. It also named J.H. Ross (of Regina) and Father Albert Lacombe as members of the treaty commission.

⁴⁸ Hayter Reed to Superintendent General of DIA, 2 April 1891, NAC RG10, vol. 3848, file 75, 236. The purpose of this letter was to transmit the HBC's cost estimate for making a treaty, which included the recommendation that the accord should include northeastern British Columbia.

with at that point. A few Crees and Half breeds from about Lake St. Annes, and other points to the South of the Athabasca River, have hunted on the Peace River since about 1870 but have no rights in that country as it belongs entirely to the Beavers.⁴⁹

In other words, Reed accepted McDougall's advice that the treaty boundaries would have to give the kin and political realities of the Aboriginal world priority over the political divisions that Canada had superimposed on them. In particular, they made it clear that the boundary should not bisect the territories of the various Beaver groups.

Privy Council Order 2749, which established the treaty commission, restated the NWMP commissioner's fears that Indians living along the Edmonton-Pelly River route would attack newcomers to their territories unless the government addressed their concerns through negotiations:

He [Herchmer] intimated that these Indians – though few in number – were turbulent and liable to give trouble should isolated parties of miners or traders interfere with what they considered their vested rights; that the Halfbreeds of Lesser Slave Lake showed dissatisfaction with the appearance of the Police in that District and that the situation thus created would be made more difficult by the presence of the numerous parties who had come into the country and were scattered at various points between the Lake and Peace River; that the Beaver Indians of the Peace and Nelson Rivers, as well as the Sicamies [sic] and Nihamies [sic] Indians, were inclined to be troublesome, and that the Halfbreeds were likely to influence them in that direction.⁵⁰

The order then noted that:

The Minister states that he caused a copy of the Commissioner's report to be transmitted to the Indian Commissioner at Winnipeg, who thereupon reported that the extension of Governmental authority to the Upper Slave Lake and Peace River Districts before the relinquishment of the aboriginal title had been regarded more or less jealously by the Indians and by the large Half-breed population of the Lesser Slave Lake District.

⁴⁹ Ibid.

⁵⁰ Ottawa, Privy Council, Order in Council no. 2749, 27 June 1898, *Treaty No. 8 Made June 21 1899 and Adhesions, Reports, etc.* (Ottawa: Queen's Printer, 1966 [1899]), 3-4.

It then turned to the problem of determining a western boundary for the treaty:

As the Indians to the west of the Mountains are quite distinct from those whose habitat is on the eastern side thereof, no difficulty ever arose in consequence of the different methods of dealing with the Indians on either side of the Mountains. But there can be no doubt that had the division line between the Indians been artificial instead of natural, such differences in treatment would have been fraught with grave danger and have been the fruitful source of much trouble to both the Dominion and the Provincial [British Columbia] Governments.

By 1898 the government had little time left to reach a peaceful settlement. That fact was made abundantly clear in the summer of 1898 when about 500 Indians gathered at Fort St. John to block the northward progress of the NWMP, miners, and prospectors. The Indians warned that no one would be allowed to pass until the government signed a treaty with them. The winter of 1897-8 had been particularly difficult. A scarcity of rabbits and moose was again raising the threat of starvation. Fur returns were low because extensive fires had destroyed the habitats of many fur-bearing animals. Aboriginal people blamed miners for the fires. As we have seen, White hunters and trappers aggravated the Indians' plight by using poison bait (which killed valuable packing and hunting dogs), by destroying Native traps, and by stealing their furs.⁵¹

The confrontation at Fort St. John received coverage in Canadian and American newspapers, and it caused a good deal of apprehension in government circles. Indian commissioner A.E. Forget sent a copy of a *Winnipeg Free Press* article (dated 30 May 1898) about the incident to J.A.J. McKenna, who was assistant Indian commissioner in Ottawa and later served as a Treaty 8 negotiator. Forget wanted McKenna to "draw the Minister's attention to the report mentioned therein that five hundred Indians camped at Fort St. John are opposing the Mounted Police and miners getting further north until treaty is made with them."⁵² And he added: "Whether there is any foundation for this report or not, I think no time should be lost in notifying the Indians of the intention of the government to treat with them next Spring." Two days after Forget had sent his letter, the *Ottawa Citizen* published

⁵¹ London, Correspondence Inward (from commissioners), 19 April 1897, HBCA, A. 12/FT243/2.

⁵² NAC RG10, vol. 3848, file 75, 236-1.



Beaver Indian camp, Fort St. John. In 1898 these people threatened to prevent prospectors and the NWMP from crossing their territory unless Canada made a treaty with them. The threat of armed resistance by the Beaver, Sekani, and 'Nahani' forced the government to the bargaining table. BC Archives Photo # 1-33180.

a synopsis of this information. Clearly, the earlier NWMP reports about Indian unrest had to be taken seriously. Also, this episode made it clear that the highly negative publicity associated with an armed clash would jeopardize development prospects in British Columbia and the North-West Territories.

Certainly, HBC officials, who probably understood the situation better than any other non-Aboriginal people, wanted immediate action. Company officers informed HBC commissioner C.C. Chipman that the current level of policing was insufficient. Chipman, in turn, forwarded portions of their letters to Sifton in the spring of 1899. According to Chipman's correspondence file, in March 1899 Chief Factor Ewen Macdonald, who was stationed at Lesser Slave Lake and was in charge of the Peace River District, had written him about the havoc being wreaked on the region by prospectors and miners:

I herewith enclose a letter received from Mr. Hamilton [Company clerk at Fort. St. John] on the agitated state of the St. John's Indians in their relations with the Miners, etc.

I have not, however, much faith in the good that would arise from Police being stationed there unless headed by a competent Officer.



Miners seeking licences at Customs House in Victoria, ca. 1898. Miners believed these licences gave them the right to travel through Indian country with government protection. Without a treaty, the Beaver and Sekani refused to acknowledge the validity of mining licences in their territories. BC Archives Photo # A-04498.

Patrols such as we have in this District, without any Officer, are but of little use to the community and seldom act in any case. At the first offset on their arrival in the District, people were a little in awe of them, but familiarity breeds contempt, and no example ever being made of the law breakers the Police are not much dreaded.

Some of the so-called Miners do not treat the Indians with kindness or civility; shoot their dogs, steal their traps, and I have heard instances of stealing fur animals out of the traps, burning the Country, and roaming all over it destroying and frightening game, etc.⁵³

Hamilton sensed that local conditions were at the boiling point and that the expectation of a treaty would calm things down. In his letter to Macdonald, he counselled:

Relations between miners and Natives are becoming strained, and in my opinion, there is likely to be trouble.

Indians claim that the whites have stolen and shot their horses, a case of this happening a day or two ago.

⁵³ Commissioner Chipman, Correspondence Inward, HBCA, A. 12/FT243/2, 14-7.

The Indians warned the whites that they would shoot if they found whites travelling through their Country; the Miners claim, on the other hand, by the terms of the British Columbia Miners' License which they hold, the right of travelling at will through the Country, and also the protection of the Government. I would strongly advise, especially in view of the coming Treaty, that Police should be stationed here, or else some one with authority to act in the event of any friction between the white and Native elements occurring. I of course have cautioned the Indians as to taking the law into their own hands, and warned them as to what may be the result. I have advised them not to take any action, but to wait the arrival of the Treaty Commissioners and state their case to them.⁵⁴

Believing that the treaty commissioners should be aware that rumours were circulating that the Aboriginal people of the Peace River might refuse a treaty, Chipman sent copies of these letters to Sifton.

The provincial and federal governments faced a difficult and potentially explosive situation. As Hamilton's letter made clear, the Indians of the Peace River area refused to accept the authority of either level of government without a treaty. They also understood that Canada used the NWMP to extend its authority into their territories. This was why they resented the presence of this force in their homelands in the absence of a treaty.

SEEKING BRITISH COLUMBIA'S APPROVAL AND COOPERATION

The peaceful development of northeastern British Columbia required its inclusion in a treaty. However, political and practical considerations prevented Canada from acting unilaterally. Land would be needed for Indian reserves, but British Columbia held title to Crown lands and, therefore, Canada would have to ask the province to provide land for reserves.

Canada made its first move to obtain provincial support on 12 December 1898, when the acting undersecretary of state for the provinces forwarded to the lieutenant-governor of British Columbia extracts of Privy Council Order 2749. The undersecretary's covering letter stated: "I have the honour to transmit to you, herewith, a certified copy of a minute of the Privy Council, approved by His

⁵⁴ Ibid.

Excellency the Governor General [of Canada] on the 6th [December] instant, with plan [map] attached, respecting steps being taken for making of a Treaty with the Indians occupying the proposed line of route from Edmonton to Pelly River.”⁵⁵ The Privy Council order pointed out that “part of the territory marked ‘A’ [a 160,900-square-kilometre (100,000-square-mile) tract] on the plan attached is within the boundaries of the province of British Columbia, and that in the past no treaties such as have been made with the Indians of the North West have been made with any of the Indians whose habitat is West of the Mountains” (Map 1). The order warned: “The Minister [of Indian affairs] submits that it will neither be politic nor practicable to exclude from the treaty Indians whose habitat is in the territory lying between the height of land and the eastern boundary of British Columbia, as they know nothing of the artificial boundary, and, being allied to the Indians of Athabasca, will look for the same treatment as is given to the Indians whose habitat is in that district.”⁵⁶

As soon as he received the Privy Council order, the lieutenant-governor forwarded it to the Executive Council of British Columbia, which received it on 20 December 1898. Seven days later, the deputy provincial secretary replied to the governor general, saying: “The purport of this Minute and the request of the Secretary of State as conveyed in Your Honour’s letter will receive due consideration.”⁵⁷ The following September, well after the treaty had been negotiated, the deputy provincial secretary referred the memo to the provincial attorney general’s office.⁵⁸ To date, searches of federal and provincial records have yielded no evidence that the province ever formally responded to the request from the governor general of Canada. It seems, therefore, that treaty negotiations went forward with British Columbia’s knowledge but with neither its consent nor its objection.

To understand why this was so requires a consideration of the history of federal/provincial relations regarding Indian affairs in British Columbia. The two levels of government had been engaged in a power struggle that began with the province’s entry into Confederation. The issues of fiduciary obligation towards Indians had arisen as a

⁵⁵ The lieutenant-governor of British Columbia forwarded the notice to the Executive Council of the province, which received it on 20 December 1898. Clerk of the Privy Council to the Lieutenant-Governor of British Columbia, 6 December 1898, British Columbia Archives and Records Service (BCARS), GR 444, box 44, file 2; and NAC RG10, vol. 3848, file 75, 236-1.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

result of a series of armed confrontations that had taken place during the late nineteenth century. These events occurred in Chilcotin country in 1864 (and thereafter), at Metlakatla in 1886, in the Kootenay Valley in 1887, and on the Skeena River in 1887-8.⁵⁹ Canadian officials blamed the province for the troubles, saying they were caused by its stingy reserve land policy. The province countered with the allegation that Native peoples were upset because Canada had done little for them. Significantly, these conflicts also raised questions about which government should pay for policing Indians – particularly in remote areas. The federal government argued that the province should pay the tab because policing, including maintaining law and order among the Indian nations, was a provincial responsibility. The province flatly rejected the federal government's claim. Provincial officials pointed out that, as the custodian of Indian affairs, Ottawa was legally entitled to receive whatever fines were levied against its wards for violations of the law. Therefore, the federal government should pay the costs.

The Skeena River confrontation had brought the contentious policing issue to a head ten years earlier. It led British Columbia to prepare a thirty-six-page memorandum for the secretary of state for Canada that recounted the history of policing problems in the province with respect to Indians. Of particular importance, the memorandum raised the question of who should patrol Indians in the remote and not easily accessible parts of the province. Patrolling remote Indian nations, as far as British Columbia was concerned, was not ordinary police work: "The Provincial Government has from time to time consistently taken the view, that where Indians are not within ordinary police supervision, the matter of their control rests with the Dominion."⁶⁰

In 1888, the provincial secretary, John Robson, travelled to Ottawa to settle the policing issue. The accord that Robson hammered out with the superintendent general of Indian affairs specified that the province "was to assume the ordinary cost of administration of justice and the preservation of peace among the Indians of the Province."⁶¹ Also, the Dominion government agreed to pay for the costs of sending troops to the Skeena River in 1888 because officials thought that this territory was "an uncivilized and uninhabited part of the country,

⁵⁹ These events are mentioned in Robin Fisher, *Contact and Conflict* (Vancouver: UBC Press, 1977), 107-9, 203-6, and 208.

⁶⁰ Executive Council of British Columbia to Secretary of State for Canada, Memo, 18 October 1888, BCARS, GR 1198, 23-4.

⁶¹ This agreement is quoted in *Ibid.*, 31. It is also referred to in British Columbia, *Sessional Papers*, 1889, 161.

where the Militia Act could not be effectually applied.” As far as British Columbia was concerned, this agreement meant that the provincial government was not bound to assume the extraordinary cost of administering justice and preserving peace: “When not one Indian or several, but numerous tribes in their tribal character, assert that their law, and not the law of the land, is to be administered amongst them, accompanying such assertion by attitude and language of so hostile a character that armed force has to be employed, the case becomes one in which the Indians in their quasi national character reject all ordinary police control and all laws of the Dominion are in insurrection.”⁶²

The Klondike gold rush greatly expanded policing needs by drawing a stream of prospectors into the province’s most remote areas. This severely tested the federal-provincial agreement and stretched the existing forces to their limits. The federal government had to commit one-third of the 750-man NWMP force to the Yukon.⁶³ The very small British Columbia Provincial Police force could muster only eleven men in the northwest to deal with the “Klondikers.”⁶⁴ So it did not have the capability of handling an insurrection (or what the province termed an “unusual” policing situation) in the very remote northeast. Without question, the White population living there was too small to raise a militia.

The prospect of an “Indian war” in northeastern British Columbia thus presented a particular problem for the federal government when considered from the perspective of the policing agreement of 1888. If a rebellion took place, then the cost of putting it down would likely fall on Ottawa. Establishing government authority in the Skeena country in 1888, with federal troops sent by boat, had cost over \$8,000.⁶⁵ Sending troops to northeastern British Columbia during the Klondike rush would likely be a considerably more expensive undertaking, as they would have to trek overland and then remain for an indeterminate period. Making a treaty held out the prospect of a cheaper solution.

The difficulty with the treaty approach was that it raised fractious federal-provincial issues. On the one hand, it involved recognizing

⁶² Executive Council of British Columbia to Secretary of State for Canada, Memo, 18 October 1888, BCARS, GR 1198, 32

⁶³ R C. Macleod, *The North-West Mounted Police and Law Enforcement, 1873-1905* (Toronto: University of Toronto Press, 1976), 46.

⁶⁴ Lynne Stonier-Newman, *Policing A Pioneer Province: The BC Provincial Police, 1858-1950* (Vancouver: Harbour, 1991).

⁶⁵ Executive Council of British Columbia to Secretary of State for Canada, Memo, 18 October 1888, BCARS, GR 1198, 59-61.

the existence of Aboriginal title in British Columbia territory and compensating Indian nations for its extinguishment. This flew in the face of provincial policy, which was firmly set against such recognition. On the other, a blatant provincial move to block the treaty would pose serious risks for British Columbia. Among other things, it would threaten peace in the northeast, undermine the federal-provincial policing agreement, and strain relations with the federal government at a time when the province was seeking financial assistance for various Klondike-related projects.

The easiest way for the province to avoid these problems was not to reply to the federal government's request for its "formal acquiescence." It also remained silent about Ottawa's public announcements of its plans to negotiate a new treaty. These intentions were proclaimed in the House of Commons, advertised in public notices that Canada circulated throughout the proposed treaty area in 1898 and 1899, and published as press releases.⁶⁶ In effect, by voicing no opposition to Treaty 8, British Columbia had informally acquiesced to it without having to make a precedent-breaking decision about Aboriginal title.⁶⁷

THE RESERVE LAND ISSUE

The federal government then had to decide what the terms of the new treaty should be. As noted, two key issues touched upon sensitive federal-provincial relations – reserve allotments and the western treaty boundary. The reserve land issue raised several interrelated questions. Should reserves be held communally by bands or individually (in severalty)? How big should they be? Was British Columbia obliged to provide the lands that would be needed?

Dominion officials understood that the hunting/fishing/collecting economies and societies of the forest-dwelling Chipewyan, Slavey, Cree,

⁶⁶ Government of Canada, *Official Reports ... House of Commons* (Ottawa: Queen's Printer, 1897), 63; and *Winnipeg Free Press*, 25 April 1898. The newspaper article is contained in London, Correspondence Inward (from commissioners), 19 April 1897, HBCA, A. 12/FT243/1. Forget's letter to the secretary of the DIA, dated 1 June 1898, indicated that the government sent out fifty calls to tender for the treaty supplies, printed 1,200 treaty announcements to post in the treaty area, and sent 100 circulars to missionaries and fur traders. See NAC RG10 vol. 3848, file 75, 236-1.

⁶⁷ Paul Tennant takes a different view, arguing that "the treaty stands as irrefutable evidence that aboriginal title was recognized in a good portion of British Columbia and that the principles and procedures set out in the Proclamation of 1763 could be applied to Indians and Indian lands in the province." See Paul Tennant, *Aboriginal People and Politics: The Indian Land Question in British Columbia, 1849-1989* (Vancouver: UBC Press, 1990), 67. I would argue that the attitude of the BC government towards Aboriginal title from 1899 until the 1990s demonstrates otherwise.

Beaver, and Sekani of the Athabasca-Mackenzie and Peace River regions were very different from those of the prairie buffalo-hunting nations with whom Canada had signed treaties in the 1870s. In the spring of 1899, for example, McKenna wrote to Sifton stating that he thought that these differences would influence reserve allocations in the proposed treaty area:

When the government negotiated for the surrender of Indian title to the land in the organized territories it had to deal with Indian nations which had distinct tribal organizations. The communal idea was strong and made necessary the setting apart of reserves for the continuance of the common life until the Indians could be gradually weaned from it.

The most that can be said in favour of the reserve system, however, is that reserves made it easier for the government to control and feed the Indians in a country where it was necessary to do so ...

From what I have been able to learn of the North country, it would appear that the Indians there act rather as individuals than as a nation, and that any tribal organization which may exist is very slight. They live by hunting, and by individual effort, very much as the halfbreeds in that country live. They are averse to living on reserves; and as that country is not one that will ever be settled extensively for agricultural purposes it is questionable whether it would be good policy to even suggest grouping them in the future. The reserve idea is inconsistent with the life of a hunter.⁶⁸

Indeed, anthropologists stress that the Athapaskan people, who occupied most of the area subsequently encompassed by Treaty 8, had highly flexible band organizations that balanced individual autonomy with strong ties to kin and responsibilities for the local community.⁶⁹ Besides these cultural considerations, McKenna appreciated that environmental constraints precluded most northern groups from ever becoming farmers or ranchers. McKenna knew the woodland groups would have to live off of the land as they always had. For these reasons he thought it unwise to extend the existing reserve system beyond the parklands and prairies unless it was substantially modified. Regarding this possibility, he wrote:

⁶⁸ McKenna to Sifton, 17 April 1899, NAC RG10 vol. 3848, file 75, 236-1.

⁶⁹ Robin Ridington, "Knowledge, Power and the Individual in Subarctic Hunting Societies," *American Anthropologist* 90 (1988): 1-13.



A Sekani winter camp. Native groups of the western Subarctic had highly flexible band organizations that balanced individual autonomy with strong ties to kin and responsibilities for the local community. They feared that a treaty might threaten their way of life by confining them to reserves and restricting their livelihood rights as fishers, hunters, and trappers. BC Archives Photo # G-06440.

The most the Indians are likely to require in the way of reserves are small fishing stations at certain points which they might desire to have secured to them. I do not think the Commissioners should go further in the way of general reservations, unless they should find that circumstances compel them. But they should have authority to guarantee to every Indian settled upon, or in occupation of land, an individual title thereto. The limit might be put at 160 acres as the Indians are likely to require very small holdings.⁷⁰

McKenna had additional reasons for making this recommendation. Beginning in 1886, Canada had adopted a policy of subdividing Indian lands to promote individualistic rather than communal approaches to economic life on reserves.⁷¹ Allowing Indians to take up reserves as individuals under the new treaty would be compatible with the severalty policy. Furthermore, McKenna and other government officials knew that many Indians living in the Athabasca, Mackenzie, and Peace River areas feared making a treaty with Canada because they believed that such an agreement would open them to the possibility of being grouped together on reserves.⁷² This was a frightful prospect for people whose economic

⁷⁰ McKenna to Sifton, 17 April 1899.

⁷¹ Sarah Carter, *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy* (Montreal: McGill-Queen's University Press, 1990), 195-6.

⁷² McKenna to Sifton, 17 April 1899.

life depended on mobility and on access to a range of hunting, fishing, and collecting sites. Their fear of being restricted to reserves was also partly a legacy of the pass system, which the Canadian government had introduced in 1882 and had enforced during the Saskatchewan Rebellion of 1885 in order to block the threat of widespread Indian participation. McKenna thought that Native peoples' fear of being grouped together at a few locations could be alleviated by giving them the option of living on small individually held reserves located close to traditional family hunting and fishing stations.⁷³ For these various reasons, Treaty 8 departed from previous agreements by offering this new option.

Having decided to grant reserves, the federal government then had to determine how much land would be needed. This was potentially one of the most troublesome aspects of treaty-making from the perspective of federal-provincial relations. Historian Robin Fisher and political scientist Paul Tennant have noted that British Columbia's reserve land policy was not as generous as Canada's.⁷⁴ Federal officials subsequently discovered this during the course of endless wrangling with the province over the sizes of reserve allotments. In the 1860s Joseph Trutch, acting as commissioner of lands and works, instituted a policy of allocating slightly more than four hectares (ten acres) per Indian family. His idea was to free up more land to attract White settlers. The federal formula for treaty areas in Canada stood in sharp contrast to the one proposed by Trutch.⁷⁵ By 1873, the ratio was "one square mile for each family of five, or in that proportion for larger or smaller families."⁷⁶ This was the formula federal negotiators adopted for Treaty 8 for those Indians who chose to live together on communal reserves. This was the same amount of land that their neighbours and relatives had received in the Treaty 6 territory. For Indians who opted

⁷³ Whether held communally or in severalty, Indian title could be alienated only to the Crown.

⁷⁴ Fisher, *Contact and Conflict*, 165; and Tennant, *Aboriginal People and Politics*, 43-5.

⁷⁵ In the Manitoulin Island Treaty of 1862, for instance, Canada allotted 100 acres per family head and 50 acres per single adult or orphan under the age of twenty-one. On 3 August 1871, just two weeks after British Columbia entered Confederation, Canada and the Ojibwa and Cree of Manitoba signed Treaty 1, which provided reserve lands at the rate of 160 acres per family of five. The subsequent prairie treaties calculated reserve lands using this measure, or, alternatively, that of one-square mile per family ("or in that proportion for larger or smaller families"). See Frank Tough, Jim Miller, and Arthur J. Ray, *Bounty and Benevolence: A Documentary History of Saskatchewan Treaties* (Saskatoon, Report to the Office of the Treaty Commissioner, 1998), 404 and 411.

⁷⁶ This is the formula for Treaty 3, which was adopted subsequently, with the exception of Treaty 5. The latter offered "one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families." See Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories Including the Negotiations*. (Saskatoon: Fifth House, 1991 [1880]), 323 and 344.

to live apart from band reserves, the formula was slightly less than sixty-four hectares (160 acres) per person. These land allocation formulae meant that Treaty 8 reserve provisions would be much more generous than the ones Indian nations had received in other parts of the province.

The federal decision to include northeastern British Columbia within the scope of Treaty 8 thus meant raising this very thorny land issue in a new area. Until 1899, the Indian reserve commissions, the first of which had been established in 1876, had laid out reserves mostly in the coastal and southern territories of British Columbia. McLeod Lake was the principal exception in the northeast. Here Commissioner Peter O'Reilly had established a 116-hectare (286-acre) reserve for fifty-three band members (approximately 2.18 hectares or 5.4 acres/person) in 1892.⁷⁷ In theory, according to the terms of an 1883 agreement with British Columbia, the Dominion government had access to 3.5 million acres in the Peace River area. The terms of this agreement specified that the province would transfer a block of Crown land in northeastern British Columbia to Canada as a contribution towards the cost of building the Canadian Pacific Railway. There are two likely reasons for Dominion officials not having taken these lands into account when they approached British Columbia about making Treaty 8. First, the Peace River block was not surveyed and transferred to Canada until 1907. Second, it was Canada's policy to locate reserves as close to Indians' traditional settlements as was possible.⁷⁸ The Peace River block was supposed to be situated near the British Columbia-Alberta Territory boundary, well away from most of the traditional settlements in the Treaty 8 block.⁷⁹

The Canadian government took a very diplomatic approach to the reserve allotment problem. In its 6 December 1898 memorandum to the province stating its treaty-making intention, the Privy Council explained:

⁷⁷ Canada, Department of Indian Affairs, *Schedule of Indian Reserves in the Dominion* (Ottawa: Government Printing Bureau, 1913), 109. The reserve was not surveyed until 1894 or approved until 1895.

⁷⁸ T. White to BC Legislature, 28 October 1887, NAC RG10, vol. 3780, file 39675-1, part 1.

⁷⁹ Bowes, *Peace River Chronicles*, 221. Eventually, only the Fort St. John, West Morberly, and East Morberly reserves were located in the Peace River block. Apparently the Dominion government had briefly considered the possibility of using Peace River lands for reserves before the treaty was signed. The evidence consists in the form of a badly faded and torn memo with an unreadable date that is included within a file of correspondence for the period 1891-9. It indicates that an unnamed official in the DIA had been asked by the minister of Indian affairs to check the Department of Interior records for information pertaining to lands British Columbia offered in the area 120° to 122° west longitude and 55° to 60° north latitude in exchange for railway belt lands. The memo indicated that no arrangements for the transfer had been made. See NAC RG10 vol. 3848, file 75,231-1.



Wheat fields near Kilkerran in the Peace River block. In 1883 British Columbia agreed to transfer three and one-half million acres of Crown land to Canada as a contribution toward the cost of building the Canadian Pacific Railway. The federal government did not take possession of these lands until 1907. Eventually the Fort St. John, West Morberly and East Morberly Indian reserves were located within the block, where the Dominion government did not have to obtain provincial grants of crown land for such purposes. BC Archives Photo # 1-22146.

That from the information in possession of the Department of Indian and Northern Affairs it is not at present clear whether it will be necessary to set apart any land for a reserve or reserves for Indians in that part of the province of British Columbia which will be covered by the proposed treaty, but if the Commissioners should find it necessary to agree to the setting apart of any reserve or reserves in that territory, the Minister is of opinion that the same may properly be set aside under the agreement of 1876 already referred to [which established the Indian Reserve Commission].

As it is in the interest of the Province of British Columbia, as well as in that of the Dominion, that the country to be treated for should be thrown open to development and the lives and property of those who may enter thereon safeguarded by the making of provision which will remove all hostile feeling from the minds of the Indians and lead them to peacefully acquiesce in the changing conditions, he, the Minister, would suggest that the Government of British Columbia be apprised of the intention to negotiate the proposed

treaty; and as it is of the utmost importance that the Commissioners should have full power to give such guarantees as may be found necessary in regard to the setting apart of land for reserves, the Minister further recommends that the Government of British Columbia be asked to formally acquiesce in the action taken by Your Excellency's Government in the matter and to intimate its readiness to confirm any reserves which it may be found necessary to set apart within the portion of the Province already described.⁸⁰

In this way Canada sought to downplay the reserve issue by suggesting to the province that DIA officials doubted that the need to allocate reserve lands would ever arise.⁸¹ And even if it did arise, then the extent of reserve land would be established by the commissioners themselves rather than by a fixed formula, on which the two governments could not agree.

DEFINING THE WESTERN BOUNDARY

Treaty 8 also posed the challenging problem of determining its western boundary. Already we have seen that fur traders, missionaries, and local NWMP officers had convinced federal officials that the provincial-territorial boundary was meaningless to local Aboriginal peoples. Worse, if used, it likely would create additional tensions in the region by fabricating divisions in local Native kinship structures and related economic networks. It was this advice that helped convince the federal government to encompass northeastern British Columbia in the treaty. But the decision raised a new question. How much of British Columbia had to be included?

We noted earlier that fur traders and government officials thought that the Rocky Mountains served as a crude divide separating the eastern Aboriginal cultures of the boreal forest and grasslands from those of the Pacific slope. The physical and cultural geography of northeastern British Columbia did not, however, lend itself to such a simple division. It had been common knowledge ever since the voyage of Alexander Mackenzie that the Peace River slices through the Rocky Mountains. Its upper headwaters, formed by the Finlay and Parsnip Rivers, are located mostly in the Rocky Mountain Trench,

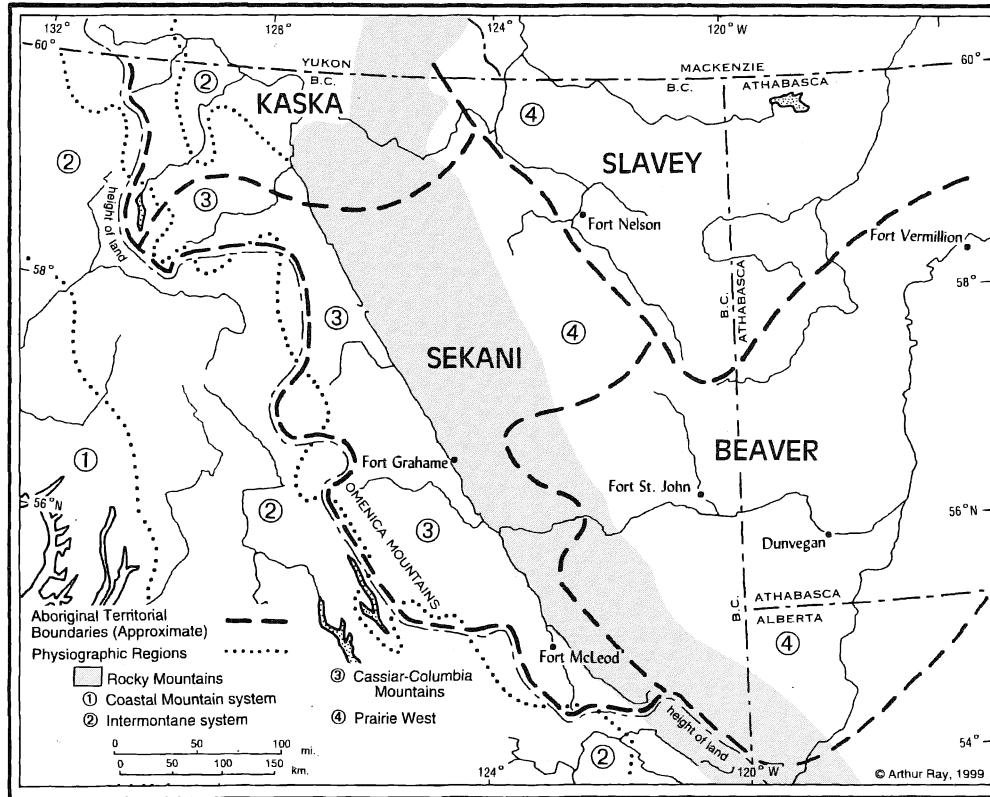
⁸⁰ Clerk of the Privy Council to the Lieutenant-Governor of British Columbia, 6 December 1898, BCARS GR444, box 44, file 2.

⁸¹ Subsequently, reserves were allocated in the Peace River area in the vicinity of Fort St. John and near Fort Nelson.

where they drain the western slopes of these mountains and the eastern flanks of the Columbia Mountains. Farther north, the Upper Liard flanks the northern slopes of the Rocky Mountains as it cuts across the Liard Plateau to drain the northern limits of the Rocky Mountain Trench. As the discussion below shows, apparently this aspect of the regional geography was not well known to outsiders at the turn of the century. In any event, the northern Rocky Mountains are breached and flanked by the western Arctic watershed, which means that the Continental Divide is located in the Cassiar-Columbia Mountains, well to the west of the Rocky Mountains. In contrast, south of the 54th parallel the summit of the latter ranges forms the Continental Divide.

Of particular importance, the Liard and Peace Rivers facilitated the westward migration of Aboriginal peoples through the region during the eighteenth and nineteenth centuries. Consequently, the Rocky Mountains did not act as a “natural” cultural divide to the extent that traders and government officials had imagined in the 1890s. This meant, in turn, that defining the treaty territory in terms of the cultural geography of the Aboriginal world did not offer an easy alternative solution. For instance, in the late nineteenth century, four Athapaskan-speaking groups (the Beaver, Kaska, Sekani, and Slavey) and the Algonquian-speaking Cree occupied northeastern British Columbia (Map 3). It was the territories of the eastern Athapaskans – the Beaver and Slavey – that reached across the British Columbia-Alberta/Athabasca Territory boundary, rendering this Canadian political division an unsuitable western line of demarcation for a treaty. Trying to draw the boundary farther west proved to be equally difficult, however. The government had stated that the prime treaty-making goal was establishment of peaceful conditions in the region. Fur traders and NWMP police officers had warned that the Sekani and “Nahani” were a threat to White intruders. Therefore, they had to be included in the proposed accord. It was very difficult, however, to delimit the territories of these people. The Sekani, for instance, had no clearly defined boundary with their close relatives, the Beaver. For instance, Beeston’s 1897 inspection report for Hudson’s Hope included the observation that: “Occasionally Indians wander between this Post and McLeod’s Lake in the New Caledonia District, and also down to St. John’s.”⁸² The name “Sekani” is a Europeanization of the Athapaskan term “Tsek’ene,” which means “Rocky Mountain people,” or those

⁸² Beeston, Hudson’s Hope, 9.



Map 3: Indian Territories in the Treaty 8 region of northeastern British Columbia.

whose hunting grounds include that mountainous territory.⁸³ Significantly, Sekani lands extended from the eastern flanks of the Rocky Mountains, where they overlapped with those of the Beaver, westward into the Cassiar, Columbia, and Omineca Mountains.⁸⁴ This meant that the inclusion of their entire territory within the treaty would require extending the treaty boundaries well to the west of the Rocky Mountains.

The identity of the people who are called “Nahani” in the historical record is not certain. It seems that this name is derived from an Athapaskan word that local Native people applied to outsiders. European fur traders adopted the term in the early nineteenth century and applied it generally to Indians living in the mountains west of the Mackenzie River. By the late nineteenth century, HBC traders mostly used the term to refer to the Kaska of the middle and upper Liard River region. This means that the people referred to as “Nahani” by Euro-Canadians in the 1890s were likely a group of southern Kaska.⁸⁵ Thus, as with the Sekani, in 1899 the territorial boundaries of the Nahani were very unclear to outsiders.

The government of Canada’s intention to include the Nahani and the Sekani in the proposed treaty is evident from the 6 December 1898 notice it sent to the British Columbia government. The federal government attached a map that divided the proposed treaty area into two sections: “Part A” was the British Columbia portion and “Part B” was the North-West Territories portion (Map 1). Significantly, the western limit of “Part A” reached to the Pacific-Western

⁸³ Robin Ridington, “The Sekani Indians of McLeod Lake, British Columbia: Their Linguistic and Cultural Affiliations, Traditions, Social and Cultural Adaptations, History, and Present Situation,” unpublished paper, 4 April 1997, 4-7; and Glenda Denniston, “Sekani,” in *Handbook of North American Indians*, vol. 6, *The Subarctic*, ed. June Helm (Washington DC: Smithsonian Institution, 1981), 433-6. Ridington also notes that the Beaver refer to themselves as “Dene-za,” which means “the people,” and that they extended this term to the Tsek’ene. In other words, according to the Beaver perspective, the Sekani were a group of their people who lived in the Rocky Mountains.

⁸⁴ It is uncertain how long the Sekani had occupied their territory. It is clear that there had been a general westward population migration up the Peace River corridor due to Cree expansion into the eastern margins of the area during most of the eighteenth century. This led the Beaver to withdraw to the middle Peace River country, thereby pressuring their Sekani neighbours and relations to relocate farther west in the headwaters of the Peace River. Intertribal boundaries were still in flux in the late nineteenth century. See A.J. Ray, *Indians in the Fur Trade* (Toronto: University of Toronto Press, 1998 [1974]), 16-22 and 98-102.

⁸⁵ B. Gillespie notes that various documentary records use the term “Nahani” to refer to ancestors of the Kaska, Mountain, Tagish, Tahltan, and Tutchone. She points out that anthropologists do not find it an acceptable term for any tribal group and that no Native peoples traditionally applied it to themselves. See Denniston, “Sekani,” 451-3. See also, J.C. Yerbury, “The Nahanny Indians and the Fur Trade: 1800-1840,” *Musk-Ox* 28 (1981): 43-57.

Arctic drainage divide, thereby including all the lands of these two groups, which also happened to encompass the areas west of the Rocky Mountains where prospecting was most active. Paradoxically, however, that same spring the federal government's press releases concerning its treaty-making intentions suggested that it had a very different territorial configuration in mind. For instance, in the spring of 1898, the *Winnipeg Free Press* published a short article based on one of these releases. Under the headline "New Indian Treaty," the newspaper story mentioned only groups living to the east of the Rocky Mountains as being among the ones with whom the government intended to negotiate:

It is the intention of the Indian department to create a new treaty to be known as Number 8, to comprise the Athabasca and Peace River districts. Settlement is now going into that region and the government does not wish to take possession of the land which has been looked upon by the Indians and half-breeds of that vast country as their undisputed possession, without paying over some money to the inhabitants and arriving at an amicable arrangement. It is estimated that there are 3,000 Indians – Beaver, Cree, and Chippewyan tribes, and some difficulty may be met with before the matter is brought to a successful issue. However, it has been decided to appoint a commission to confer with the various chiefs. These conferences will begin in June, 1899, as it will be impossible to notify the members of the various bands before that time.⁸⁶

Notably, the Sekani and the Nahani, described in earlier records as "troublesome," were not mentioned.

During the winter and early spring of 1897-8, the government called for tenders for the flour, bacon, tea, and tobacco that the treaty party would need. The estimates were supposed to be based on the number of Indians that could be expected to meet the commissioners at the selected negotiating locations. The HBC won the bid. Significantly, its itemized estimate for the western tracts of the intended treaty territory listed only the posts of Dunvegan, Fort St. John, Fort Vermilion, and Fort Nelson. Strikingly absent from the list are McLeod Lake and Fort Grahame in Sekani territory.⁸⁷

A likely explanation of the apparent confusion is that federal and provincial officials had a poor understanding of the geography of the

⁸⁶ The article appeared on 25 April 1898. A copy of it is located in HBCA A. 12/FT243/1.

⁸⁷ The company's copy of its estimate is located in the fur trade correspondence files of C. C. Chipman, HBCA A. 12/FT/1.

region beyond the Peace River corridor.⁸⁸ Maps published by British Columbia, for instance, show few geographic details for the region apart from the major waterways. In fact, ever since the publication of the 1871 “Map of British Columbia” by the Office of Lands and Works, which is commonly referred to as the “Trutch Map,” cartographers routinely covered up the northeastern area with their legends.⁸⁹ This lack of familiarity with the region may explain why, in the end, the Privy Council decided to give its negotiators the authority to determine treaty boundaries based on their own first-hand assessment of the situation. The clerk of the Privy Council explained this decision as follows:

The Minister [of Indian Affairs] also considers that, as to the territory to be ceded, the Commissioners likewise have to be given discretionary power, for its extent will depend upon the conditions which are found to exist as a consequence of the inroads of white population; but he is of opinion that the territory to be treated may in a general way be restricted to the Provisional District of Athabasca, and such of the country adjacent thereto as the Commissioners may deem it expedient to include within the treaty.⁹⁰

This decision would prove to be a recipe for lingering confusion about the western treaty boundary.

Charging the commissioners with the task of determining the treaty boundaries meant assigning this crucial work to outsiders, who were expected to spend only a brief period in the region while carrying out their assignment. The HBC tender for the treaty commission’s supplies shows that the government anticipated commissioners would spend no more than two to four days at each conference location. In fact, they often spent less than a day in “deliberations.”⁹¹ This tight scheduling meant that some Indian nations, whose seasonal cycles could not be altered to accommodate the commissioners’ travel plans, would be left out. Undoubtedly, the most famous example is that of the Lubicon Cree. It also meant the commissioners lacked the time to get to know

⁸⁸ For instance, as late as 1913 a report of the Indian Affairs Branch stated that “the chief tributaries of the Mackenzie are the Liard and the Bear Rivers, the former being a mountain river of great size, draining part of the eastern watershed of the Rockies.” See H.H. Burys, “Illustrated Report On Territory Covered By Treaty [8], 1913,” Indian Affairs Branch, Department of Mines and Resources, NAC RG10, vol. 4095, file 600,552, 1.

⁸⁹ The map was compiled under the direction of Joseph Trutch in his capacity as chief commissioner of lands and works and surveyor general and was published in London in 1871 by Edward Stanford.

⁹⁰ Privy Council Memorandum, 6 December 1898. Ottawa.

⁹¹ “Diary of a Tour (Peace River, Athabasca) for Indian Treaty No. 8, 1899,” HBCA, E 26/1.

the area. During the winter of 1898, NWMP inspector W.H. Routledge received one of the notices that the government had circulated throughout the region announcing the forthcoming summer travel plans of the treaty commission. He thought the schedule was completely unrealistic. Accordingly, he wrote from Fort Chipewyan to the commanding officer of "G" Company, stating: "I have the honour to report, that, as far as I can judge from conversations with the H.B. Co's Officials, Traders, and my own observations, it will be impossible for the Commissioners to be at the various points on the dates stated therein, and very little time seems to be allowed for the Indians to 'talk,' a considerable amount of which is done, as you are aware, on such occasions."⁹²

Routledge's worries proved to be well founded. During the summer of 1899 commissioners David Laird, J.H. Ross, and McKenna started much later than planned due to bad weather and a shortage of crew members to run the party's boats. As a consequence, negotiations that had been planned to begin at Lesser Slave Lake on 8 June did not get under way until 20 June. This was the only place where any extended discussions (two days) occurred. These talks resulted in a draft of the treaty.⁹³ Subsequently, the commissioners presented this version to other groups for their approval. To make up for lost time, the commission divided into two groups, with Ross and McKenna heading northwest for Fort. St. John, while Laird travelled northeast to the Lake Athabasca region.

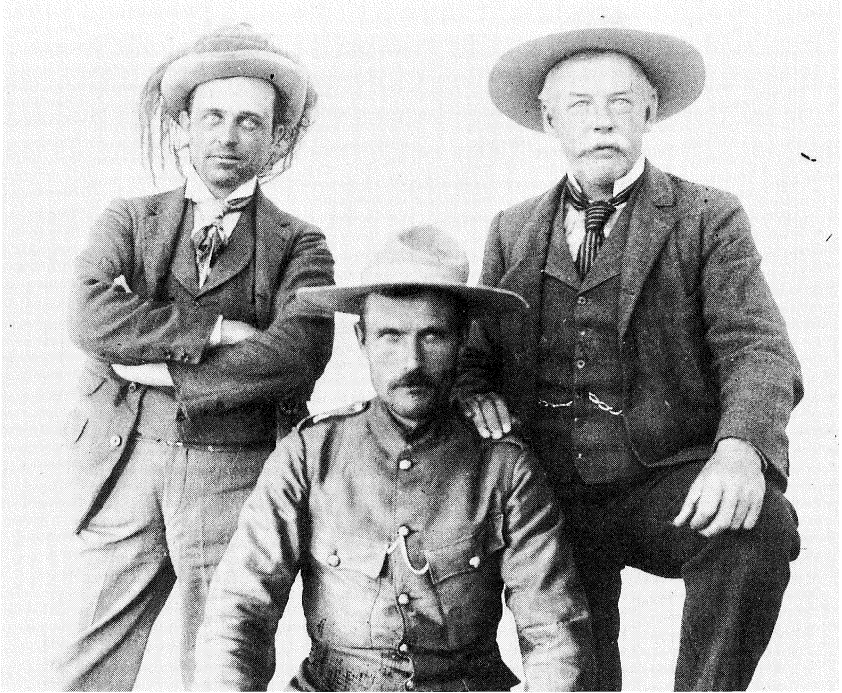
Ross's and McKenna's 1899 mission to Fort St. John failed. They explained why:

The date appointed for meeting the Indians there was the 21st. When the decision to divide [the treaty party] was come to, a special messenger was dispatched to the Fort with a message to the Indians explaining the delay, advising them that the Commissioners were travelling to meet them, and requesting them to wait at the Fort. Unfortunately the Indians had dispersed and gone to their hunting grounds before the messenger arrived and weeks before the date originally fixed for the meeting ... the Indians after consuming all their provisions, set off on the 1st June in four different bands and in as many different directions for the regular hunt.⁹⁴

⁹² W.H. Routledge to the commanding officer of "G" Division, 31 December 1898, NAC RG10, vol. 3848, file 75, 236-1.

⁹³ "Report of Commissioners for Treaty 8," *Treaty No. 8 Made June 21 1899 and Adhesions, Reports, Etc.* (Ottawa: Queen's Printer, 1966 [1899]), 7.

⁹⁴ *Ibid.*



Treaty Eight Commissioners James Ross (left), of the Northwest Territorial Government and J. A. J. McKenna (right) with Inspector A. E. Snyder, NWMP (centre). After treaty talks at Lesser Slave Lake in June of 1899, these two commissioners headed to Fort St. John to negotiate with the middle and upper Peace River Indians. Before they arrived these groups had left for their hunting grounds. Glenbow Archives NA 949-2.

When reflecting on their failure to connect with the middle and upper Peace River groups at Fort St. John, the commissioners observed, “What happened was not altogether unforeseen. We had grave doubts of being able to get to St. John in time to meet the Indians, but as they were reported to be rather disturbed and ill-disposed on account of the actions of miners passing through their country, it was thought that it would be well to show them that the Commissioners were prepared to go into their country.”⁹⁵

Given the failure to negotiate with these bands in 1899, it is puzzling that the text of the treaty defined the western boundary of the surrendered territory as “commencing at the source of the main branch of the Red Deer River in Alberta, thence due west to the central range of the Rocky Mountains, thence northwesterly along the said

⁹⁵ *Ibid.*, 7-8.

range to the point where it intersects the 60th parallel of north latitude, thence east along the said parallel to the point where it intersects the Hay River.”⁹⁶ This border included some or all of the lands of the upper Peace River Indians who traded at Fort St. John, Hudson’s Hope, McLeod Lake, and Fort Grahame. Yet none of these bands had signed the treaty in 1899. Ten years later, Commissioner Laird attempted to explain why he and his fellow commissioners had identified the “central range” of the Rocky Mountains as being the western boundary. He noted that the western limit of Treaty 6 was described as being “the easterly range of the Rocky Mountains.” This boundary left a narrow strip of land in western Alberta outside of the treaty because the Continental Divide in the Rocky Mountains marked the British Columbia-Alberta District border. According to Laird, Treaty 8 was supposed to rectify this omission by using the Rocky Mountain divide to extend the western boundary of the new treaty northwestward to the 60th parallel.⁹⁷ In other words, the commissioners had a boundary in mind, but apparently they were unaware that north of the 54th parallel the crest line of the Rocky Mountains is no longer congruent with the Continental Divide because the latter veers northwestward around the headwaters of the Peace and Liard Rivers. In any event, it is clear that the boundary description was not made in reference to lands actually surrendered in 1899.

In 1900 the government appointed a new commissioner, J.A. Macrae, to return to the region and finish the job begun by Laird, Ross, and McKenna the previous year. At the time of his appointment, Macrae was an inspector of Indian agencies and was living in Ottawa. Like his predecessors, he had no first-hand knowledge of the Treaty 8 region.⁹⁸ Not surprisingly, therefore, his work added to the boundary confusion. He travelled extensively east of the Rocky Mountains and successfully met with the Aboriginal people of the Fort St. John area in May 1900. In December, Macrae filed a report on his activities, which included appendices of documents. Document 6 was a “map showing the distribution of Indians in the territory covered by Treaty No. 8, and the extent of that territory,” which returned to using the height of land for the western boundary, as had been proposed to British Columbia in 1898. Macrae offered no explanation for his

⁹⁶ *Ibid.*, 12.

⁹⁷ Douglas Cole, “McLeod Lake and Treaty 8,” unpublished report prepared for the Legal Services Branch, Ministry of the Attorney General of British Columbia, 31 June 1997, 43-5.

⁹⁸ David Leonard and Beverly Whalen, *On the North Trail: The Treaty 8 Diary of O.C. Edwards* (Edmonton: Historical Society of Alberta, 1998), x.

puzzling map, which was at variance with the treaty text. Also, he had not met with any groups living to the west of the Rocky Mountains. Perhaps this latter fact explains why the Sekani and Nahani are not shown on his map. On 3 January 1901 the Privy Council approved Macrae's report, albeit without his map (which the Department of Indian Affairs had not included). Therefore, it was not officially sanctioned.⁹⁹ Nonetheless, the department's annual report for 1900, which was published in the Parliament of Canada *Sessional Papers* for 1901, did include the map (Map 4). It has been published repeatedly ever since and has become the "official" Treaty 8 map.¹⁰⁰

In 1909, while still serving in the Department of Indian Affairs, Macrae sent a memo to the deputy minister stating that he thought that the western boundary shown on his map should not be considered the "authoritative" one.¹⁰¹ When asked to comment on Macrae's memo, former treaty commissioner Laird replied that, by using the words "central range of the Rocky Mountains" in 1899, the commissioners had intended to use the "height of land" to the 60th parallel as the border.¹⁰² Thus, as far as Laird was concerned, Macrae's map was, in fact, compatible with the commissioners' original intention. Reflecting on the fact that none of the Indians living to the west of the Rocky Mountains had signed the treaty, Laird added that he thought the government eventually would have to obtain their adhesions. Apparently, only one was ever sought. Late in the summer of 1910 the Slavey and Sekani of Fort Nelson agreed to join the treaty.¹⁰³

The confusion in the minds of government officials about the treaty territory's extent raises a question. What do we know of the Indians' understanding at the time? Macrae's 1900 report makes it clear that commissioners had not explained the treaty sufficiently in 1899. Although he was there primarily to obtain adhesions of groups who had not joined the treaty the previous year, Macrae stated:

⁹⁹ Apparently Macrae had sent it off to the printers. The Privy Council's approval of Macrae's report, less the map, was published with J.A. Macrae, "Report of Commissioner for Treaty 8," Department of Indian Affairs Annual Report, 1900, Parliament of Canada, *Sessional Paper*, no. 27 (Ottawa: Queen's Printer, 1901), xlvi.

¹⁰⁰ Ibid.

¹⁰¹ Cole, "McLeod Lake and Treaty 8," 43-5.

¹⁰² David Laird, *Our Indian Treaties* (Winnipeg: Manitoba Free Press, 1905), 6.

¹⁰³ J. Bruce Melville, "Indian Reserves and Indian Treaty Problems in Northeastern British Columbia," report for BC Hydro, 1981, 2.6-2.7 and Appendix A 27-9. Melville notes that the DIA claimed that Beaver and Salteaux living near Hudson's Hope made an adhesion in 1914, but the documentary evidence is inconclusive.

At nearly all the important points the chiefs and more intelligent men who were present at the making of treaty last year, asked for extended explanation of its terms in order that those of their bands who had failed to grasp its true meaning might be enlightened, and that those who were coming into treaty for the first time might fully understand what they were doing. In the course of the councils held for this purpose, it was possible to eradicate any little misunderstanding that had arisen in the minds of the more intelligent, and great pains were taken to give such explanations as seemed most likely to prevent any possibility of misunderstandings in future.¹⁰⁴



Map 4: "Department of Indian Affairs, 1900: Map showing the Territory ceded under No. 8 and the Indian tribes therein." This map accompanied the 1900 report of Treaty Commissioner J. A. Macrae, who in 1900 obtained the adhesions of the Sturgeon Lake Cree, the Beaver of Fort St. John, the Slavey of the upper Hay River, and the Dogrib, Chipewyan, Yellowknives, and Slavey of the Great Slave Lake area. The map was first published in the Parliament of Canada, Paper No. 27, *Sessional Papers* (Ottawa: Queen's Printer, 1901). The map portrays the height of land as the western boundary of Treaty 8 even though the 1899 and 1900 commissions had failed to negotiate with groups living west of the Rocky Mountains.

¹⁰⁴Macrae, "Report of Commissioner for Treaty 8," xl.

The treaty commissioners' reports for 1899 and 1900 suggest that none of the negotiations dwelt on boundary issues. The primary reason seems to have been that the Indian leaders' paramount objective was to obtain assurances that their people would not be restricted to reserves in the future and that conservation and other government regulations would not curtail their traditional livelihood rights.¹⁰⁵ At each treaty conference, therefore, the commissioners had to go to great lengths to assure the Indians in attendance that they had nothing to fear about these issues. Once Indians obtained these promises, which subsequently proved to be without effect, they signed the treaty.¹⁰⁶ With the guarantee that their lives would continue as before, they had little reason to worry about precisely delimiting the treaty territory. The result of this is that, today, it is not entirely certain what Aboriginal territory was actually yielded up to the Crown in 1899-1900. In his detailed analysis of the treaty for BC Hydro in 1981, J.B. Melville concluded that in British Columbia it was only the Beaver and Slavey territory located to the east of the Rocky Mountains that had actually been surrendered. Subsequently, the Fort Nelson Sekani joined the treaty in 1910.¹⁰⁷

THE LINGERING AMBIGUITIES OF TREATY 8

In 1899, the attempt by the federal and provincial governments to head off an Indian war while avoiding a head-on clash over their policy differences regarding Indians resulted in a treaty that has remarkable ambiguities. These became issues again in 1983, when the McLeod Lake Sekani sued Canada and British Columbia for the right to adhere to Treaty 8.¹⁰⁸ One of the band's goals was to take advantage of the fact that this accord offered more generous land allotment provisions than they had received from the reserve commission in 1892.

¹⁰⁵ These issues are discussed at length by Fumoleau, *As Long as This Land Shall Last*, 73-104.

¹⁰⁶ Native hunters in the Alberta and British Columbia sections of Treaty 8 have taken the position that their treaty livelihood rights exempt them from provincial conservation laws. The courts have ruled otherwise in British Columbia in *Regina v. Walker* (1987) and in Alberta and the Supreme Court of Canada in *Regina v. Horseman* (1990). See A.J. Ray, "Commentary on the Economic History of the Treaty 8 Area," *Native Studies Review* 10, 2 (1995): 169-95.

¹⁰⁷ J. Bruce Melville, *Report: Indian Reserves and Indian Treaty Problems in Northeastern B.C.* (Vancouver: BC Hydro and Power Authority, 1981), 1.5.

¹⁰⁸ The band named several pulp and paper and forest companies as co-defendants, as they were holders of provincial timber licences on lands in their traditional territories. See Supreme Court of Canada, *Harry Chingee et al. v. Regina*, Amended Statement of Claim, 19 February 1987, Prince George Registry no. 10232/86.



Sekani Chief Charlie Hunter, Fort Grahame. The Sekani living in the vicinity of this Hudson's Bay Company trading post did not sign the treaty in 1899 or 1900 although their lands are included within the treaty boundaries of Macrae's 1900 map. None of the Sekani groups are shown on the government's Treaty 8 map of 1900. BC Archives Photo # G-06440.



McLeod Lake Sekani examining a surveyor's transit, 23 May 1917. In 1983 these Sekani sued for the right to join Treaty 8. Their lawsuit addressed issues arising from the ambiguities of the treaty with regard to its western boundary and federal-provincial cost-sharing responsibilities under the accord. BC Archives Photo # 1-33187.

In their lawsuit, the McLeod Lake Sekani declared that their traditional lands lay within the Treaty 8 territory of British Columbia. Although none of their ancestors had signed the treaty, they noted that Canada had taken adhesions from other bands residing within the “official” treaty territory and, therefore, they claimed the right to do likewise. In their statement of claim, the McLeod Lake Sekani also pointed out that the Royal Commission on Indian Affairs in British Columbia, which was created in 1912 and is generally remembered as the McKenna-McBride Commission, made an important recommendation regarding the Treaty 8 region. In its Interim Report 91, dated 1 February 1916, the commission stated that “provisions of lands for Indians resident in that portion of British Columbia covered by Treaty 8 for whom reserves had not already been constituted and allotted came within the scope of the Commission’s duties and that the allotment of land for the Indians aforesaid should be in accordance with the terms of Treaty 8.”¹⁰⁹ In their lawsuit, the McLeod Lake Sekani also observed that Canada and British Columbia subsequently approved this recommendation.

The federal government responded positively to the McLeod Lake band’s petition and turned to British Columbia to provide the land needed in accordance with Section 13 of the terms of union. British Columbia objected. Provincial officials argued contrarily that in 1899 federal “treaty commissioners were not authorized by, nor did they enter into any obligations on behalf of the Province.”¹¹⁰ The province further denied “any entitlement to land by the Plaintiffs pursuant to Treaty 8 by reason of the fact that the Lands do not come within the boundary of Treaty 8.” In short, British Columbia took the position that it had never formally agreed to Canada’s extension of Treaty 8 into provincial territory and, in any event, the McLeod Lake band’s traditional territory lay beyond the western boundary as described in the treaty. In other words, it gave no credence to the Macrae map. After years of legal manoeuvring and negotiations, the band and the two levels of government finally came to a preliminary agreement on 26 May 1999. The terms of this accord allow the McLeod Lake Sekani to join Treaty 8, provide them with \$9.3 million from the federal government for a trust fund, and allot them 20,000 hectares (49,420 acres) of land from the province in addition to the 240 hectares they

¹⁰⁹ Supreme Court of British Columbia, Cited in “Amended Statement of Defence of Her Majesty The Queen in Right of the Province of British Columbia,” Vancouver Registry No. C964263, 13 August 1996, para. 19, 6.

¹¹⁰ Supreme Court of British Columbia, “Amended Statement of Claim,” p.2.

had received in 1892.¹¹¹ Significantly, Article 15 of the agreement states that the settlement does not constitute an admission by the province that it had any obligation to the McLeod Lake band under Treaty 8, nor is it a recognition of the western boundary of that treaty.¹¹² This means that, although the McLeod Lake band's suit addressed the central questions that arise from the ambiguities of Treaty 8, the two levels of government sidestepped them yet again on the centennial of the accord. Meanwhile, Treaty 8 has effectively become a nullity for other British Columbia First Nations living within the area encompassed by the map of 1900 but who have never adhered to the 1899 agreement. These people, such as those who are members of the Kaska Dena Council, are negotiating modern agreements through the British Columbia Treaty Commission.

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¹¹¹ *Vancouver Sun*, 28 May 1999, B4c. At the time of writing the agreement is still subject to ratification by members of the band and the federal and provincial Cabinets.

¹¹² British Columbia Ministry of Aboriginal Affairs, "draft-without prejudice" "McLeod Lake Indian Band Treaty No. 8: Adhesion and Settlement Agreement," <<http://www.aaf.gov.bc/aasf/mlfinaldraft.htm>>.