

**A Comparison of Canadian and American Treaty-Making
Policy with the Plains Indians, 1867-1877**

by

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**A thesis submitted to the Faculty of Graduate Studies and
Research in partial fulfilment of the requirements for the
degree of Master of Arts.**

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Carleton University
Ottawa, Ontario
May 11, 1998**

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0-612-32381-1

Abstract

This thesis offers an examination of the long-held self-perception of Canada as a benevolent nation in the realm of Indian policy. Through a comparison of Canadian and American Indian policy, specifically in an investigation of the origins, context, terms and programs of the 1867-1868 American treaties at Medicine Lodge Creek and Fort Laramie and the 1870s Canadian Numbered Treaties, questions are raised about the accuracy of this Canadian conviction. Superficial impressions based on the violence of the American west, which contrasts sharply with the more serene Canadian frontier, give way in a closer scrutiny of treaty-making motives and practice to conclusions which challenge conventional wisdom on the nature of Canadian policy. Recent studies of Indian policy in a national context have characterized it as one of "indifference and neglect". This conclusion is confirmed in the broader framework offered by a comparative investigation juxtaposing the Canadian and American reserve and "civilization" programs which were elaborated in these treaties.

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Chapter One - Introduction

In the Speech from the Throne, delivered in early February, 1877, the usually parsimonious government of Prime Minister Alexander Mackenzie offered a defense of the Indian treaties recently negotiated on its authority, despite what were admitted to be provisions "...of a somewhat onerous and exceptional character." Although considerable expense would be incurred by these agreements, it was asserted that "...the Canadian policy is nevertheless the cheapest, ultimately, if we compare the results with those of other countries." The government added that Canada's approach "...is above all a humane, just and Christian policy." Lest the point still elude the parliamentary audience, a more explicit statement of justification was made for the extraordinary expenses these treaties entailed:

Notwithstanding the deplorable war waged between the Indian tribes in the United States territories, and the Government of that country, during the last year, no difficulty has arisen with the Canadian tribes living in the immediate vicinity of the scene of hostilities.¹

The implication that a large expenditure of funds was more desirable than a vicious Plains war was an effective ploy, and the government can hardly be faulted for invoking the shadow of the American disaster at the Little Bighorn to counter accusations of extravagance.

But there was more to the government's imagery than the rationalization of a budgetary matter, although in the depression-ridden 1870s a concern for economy was not

¹ Speech from the Throne, Canada. Debates of the House of Commons, February 8, 1877, p. 3.

unimportant. The comparison to the American experience satisfied a variety of constituencies. In this speech is found the implicit anti-American strand vital to every brand of Canadian nationalism from 1867 to the present. Here, too, were the roots of one of the most deep-seated myths of the Canadian self-image. In historian J.R. Miller's words, this speech "...nicely captured both the frugality of the Mackenzie government and Canadians' smugness about their Indian policy."²

The Throne Speech suggests several avenues of investigation with regard to Canadian policy. The first is the explicit comparison to the American situation. The Canadian policy is promoted as a deliberately benevolent one - "humane, just and Christian". By implication the American one is, at the very least, none of these things. A second assertion in this speech bolsters the view that the Canadian approach to Indian policy was a deliberate one. The suggestion is made that specific decisions by the Dominion government resulted in different developments on the Canadian and American frontier. Again, Canada obviously made the wiser choices.

On the surface, the Canadians appear to have had an argument to make for these assumptions. In the 1860s, and through to the subjugation of Geronimo's Apaches in 1886, the United States was involved in almost unremitting conflict somewhere in the West, characterized in part by sporadic displays of brutality by the U.S. Army. The Canadian frontier, in contrast, at least until 1885, was placid and serene. In the nineteenth century, relying largely on the absence of bloodshed and body counts, and blissfully ignoring other troubling evidence, it was possible for Canadians to rest assured in the

² J.R. Miller. Skyscrapers Hide the Heavens. (Toronto, 1991), p. 162.

conviction of the superiority of their Indian policy.

The pervasiveness of this attitude accounts for the surprise of many Canadians in the latter half of the twentieth century when confronted with the unflattering portraits of Indian life in this country painted starkly by the 1966-1967 *Hawthorn Report* and, more recently, in the 1996 *Report of the Royal Commission on Aboriginal Peoples*³. Imbued with a notion of Canadian “benevolence”, it is difficult for people here to accept that Indians in Canada may endure second-class status and perhaps Third World conditions.

Even more damaging to the Canadian collective ego than the reality of Indian existence within the nation’s borders is the possibility that the standard benchmark for comparison and the major source of evidence for Canadian superiority - American Indians - might be better off than their counterparts north of the forty-ninth parallel. Images of the American Indian wars of the late nineteenth century, abetted by the twentieth-century film industry may assuage Canadian doubts somewhat, but some facts are hard to reconcile with the Canadian self-image as a more benevolent nation. The most glaring of these, in current Indian rights debates, revolves around the question of land. Even a cursory glance at a map of reserve lands in these two North American nations confirms a conviction of Canadian parsimony. All Canadian Indian reserves combined constitute less than one half of the present-day Navajo reserve in Arizona.⁴ With land and resources at the centre of the

³ H.B. Hawthorn, (Ed.) Survey of the Contemporary Indians of Canada: A Report on Economic, Political and Education Needs and Policies. 2 vols. Department of Indian Affairs: Ottawa, 1966-1967; Report of the Royal Commission on Aboriginal Peoples. 5 vols. Minister of Supply and Services: Ottawa, 1996.

⁴ Robert White-Harvey, “Reservation Geography and Restoration of Native Self-Government”, in Dalhousie Law Journal, 17/2, Fall 1994, p. 587.

current struggle for self-government, it is difficult for a sympathetic Canadian observer not to feel acutely uncomfortable when confronted with this information.

This difference in reserve dimensions, too, however, is as potentially misleading as the 1877 assertions of Canadian superiority advanced by the governing party. Maps comparing present-day reserve holdings show only that which exists, not that which has disappeared. As set out in the Fort Laramie Treaty of 1868, the Great Sioux Reserve was to encompass fully half the state of South Dakota, that portion lying west of the Missouri River. The five reserves there today represent much pared-down holdings. As well, maps such as those created by Robert White-Harvey, in his examination of reserve geography, do not show the impact of policies like the *General Allotment Act* of 1887 on peoples who were entirely dispossessed of their lands. Nor do they explain the reasons for the divergence in Canadian and American policy in this matter when, at least at first glance, they seem so much alike in other respects.

Assumptions arising from nineteenth-century perceptions and discrepancies more glaring in a twentieth-century spotlight may find some illumination in a comparative examination of one of the major developments in late nineteenth-century Indian policy. In the final third of that century, the United States and Canada embarked on major diplomatic ventures with the Indian peoples of the Plains and Prairie West. In doing so, both nations employed the instrument of the treaty, long a tool in North American Indian relations.

By an Act of Congress in July 1867 the Great Peace Commission was created. In the seventeen months of its existence, this body negotiated a series of treaties on behalf of the United States government with several Indian peoples of the Plains. At Medicine

Lodge Creek, Kansas, in October, 1867, major treaties were signed with the Comanche, Kiowa, and Kiowa-Apache peoples. The Southern Cheyenne and Southern Arapaho entered into similar agreements within days at the same location. The commission also negotiated a number of treaties at Fort Laramie in Dakota Territory, concluded in April and May, 1868. Among the peoples engaged there were the several divisions of the Sioux nation, as well as the Northern Cheyenne and Northern Arapaho. Although the treaties included land surrender provisions, emphasis was placed on the establishment of peaceful relations between the Indians and the United States. These treaties also introduced to the American West the central components of the nation's Indian policy for the next century - the reserve system and the "civilization" program.

Canada undertook its own major treaty-making venture shortly after the American efforts had concluded. Between 1871 and 1877, Canada negotiated seven treaties with the Indian peoples occupying territory which extended from the western shores of Lake Superior to the foothills of the Rocky Mountains. These were the Numbered Treaties, each signed with a particular people occupying a designated region - the Saulteaux of Red River, the Ojibway of northwestern Ontario, the Swampy Cree of the Manitoba lakes region, the Plains and Woodland Cree of the Prairie West, and the Blackfoot of Alberta. Although concluded in the name of the Queen, in Canadian eyes these treaties represented the inauguration of a relationship between the Indians of what was formerly Rupert's Land and the new Dominion government at Ottawa. The primary purpose of the Numbered Treaties was to extinguish Indian title to the great land mass of the Prairie West, but also in evidence were the rudimentary elements of a Canadian reserve policy and "civilization"

program.

The apparent similarities of Canadian and American treaty policy, as well as the glaring differences in the results and perceptions of those policies, invite comparison. In order to determine the validity of the Mackenzie government's implied claim of the innate superiority of the Canadian approach to Indian affairs it is necessary to examine each of these elements and to do so in a comparative context. The Canadian policy can only be shown to be superior by proving the failings, in the same field, of a different approach to the same problem. A comparison of the 1867-1868 American treaties negotiated at Medicine Lodge Creek and Fort Laramie with the Numbered Treaties concluded by Canada in the 1870s offers the means to make an assessment of the reality of Canadian claims to superiority. The same examination may also yield an explanation for the disparity in levels of violence in the nineteenth-century West as well as for the dimensions of reserve land holdings of present-day Indian communities in each nation. A deliberate focus on government policy from a government perspective precludes an exploration of that policy from an Indian point of view, or the use of the growing body of oral history material which may well conflict in interpretation with the government attitudes herein considered.

The treaties concluded by the Great Peace Commission correspond roughly geographically and chronologically with the Canadian treaties, but they are particularly apt for a comparative study for other reasons as well. The Great Peace Commission negotiated treaties with a variety of peoples in the American West, including the Navajo of Arizona and the Nez Perce in Oregon, as well as with the buffalo hunting cultures of the

Great Plains. For the purposes of an examination of American Indian policy, it is the negotiations with the latter, however, which are more significant. Throughout the 1860s, American Indian conflicts raged in Idaho, Oregon, New Mexico, Arizona, and Texas, but "...developments in these far-off places did not much affect debates on Indian policy. Easterners seemed only dimly aware of hostilities beyond the Great Plains. Ever since Sand Creek, relations with the Plains Indians had almost alone shaped public opinion and government policy."⁵ The impact of the decisions made with these peoples, at Medicine Lodge Creek in 1867 and Fort Laramie in 1868, had ramifications for American Indian policy at large, making these particular treaties a sound focus for a general analysis of that policy.

The Canadian treaties were a more piecemeal affair negotiated, except for Treaties One and Two, at different times and under separate, though similar, instructions. They can, nevertheless, be considered as a body for they reflect the same preoccupations and concerns, or lack thereof, of the Canadian government.

It is not enough, however, merely to juxtapose the treaty terms which resulted from these negotiations. To understand the nuances of American and Canadian policy it is necessary as well to grasp the origins and development of that policy in each nation. Equally important is an appreciation of the circumstances which confronted the two countries as they turned their attention westward at the end of the 1860s. In claiming responsibility for the calm state of affairs in Canada as a direct result of a positive Indian

⁵ Robert M. Utley. The Indian Frontier of the American West, 1846-1890. (Albuquerque, 1984), p. 122.

policy, the Mackenzie government implied that other circumstances had a minimal influence on the differences between the two nations. The accuracy of that assertion will be clarified by an investigation of the context of the treaty-making exercise in the West.

An additional factor of some importance is the role of the Indians themselves in these negotiations. Again the Speech from the Throne implied, by attributing success to the policy itself, that the Indians with whom treaties were made represented only a negligible influence. In fact, the government occasionally went out of its way to paint an inaccurate portrait of the Indians, in order to exalt its own policy even more. The Blackfoot, for instance, long enjoyed a widespread reputation for hostility and danger among those with no direct experience with them.⁶ In his annual report for 1877, commenting on the successful conclusion of Treaty Seven, Minister of the Interior David Mills referred to them as “these intractable and warlike tribes”, a description nowhere substantiated by the practical experience of the Canadian government with these people, but useful in bolstering the victory won thereby.⁷ Naturally, Mills then compared the Canadian success with the Blackfoot to the “open hostilities” immediately across the international border. For the Canadian policy to be accepted as the superior approach, it was necessary to denigrate or dismiss any other factor which may have contributed to an explanation of the difference. Indian influence or input, like the other particular circumstances then prevailing, had to be inconsequential. An investigation of the

⁶ See, for instance, the apprehensions of Methodist missionary Robert Rundle in 1840, in Robert Terrill Rundle. The Rundle Journal, (Calgary, 1977), pp. 56, 73.

⁷ Annual Report of the Department of the Interior for the Year Ended 30th June, 1877. Sessional Papers (No. 10), 3rd Parliament, 5th Sessions, 1878, p. xvi.

development of the treaty-making process in the United States and Canada may also cast doubt on this portrait of “the Indians” in the West as a monolithic entity, playing identical and minimal roles in each nation.

The results of the treaty deliberations are as important as the background and context and the terms themselves. An examination of the ratification process in each nation and an analysis of contemporary understanding of Indian treaties in both Canada and the United States helps to explain some of the frustration and dissension with which Indian relations are fraught even today. Understanding some of the assumptions behind the instruments and terminology which the governments employed, and their motives in doing so, helps to explain if not ameliorate the many confusing contradictions of late nineteenth-century Indian treaty-making policy.

* * * * *

There is a distinct absence, in the secondary literature on Indian policy, of studies in a comparative framework, a void which is somewhat surprising given the importance of the subject matter and the general interest in it in both countries. Paul Sharp’s The Canadian-American West, 1865-1885, offers some illumination on the subject, but the subject is an examination of a region, not of Indian policy, and the comparison made is not explicit. The only truly comparative analysis is that produced by Hana Samek in The Blackfoot Confederacy, 1880-1920: A Comparative Study of Canadian and U.S. Indian Policy. This work, however, focuses on the reserve period and as such offers only a limited appraisal of the treaty policy which established the conditions under which the reserves existed.

The history of Indians and of Indian policy has long been a subject of wide academic interest in the United States and, in the past quarter century, Canadian attention to these subjects has also soared. The absence of any studies of a comparative nature may in part be explained by the direction which these interests have taken in both countries. In the United States, the focus has been on those forces which contributed to the development of Indian policy, in particular the military and religious reformers.⁸ Canadian studies, on the other hand, have been of a wider scope, offering examinations of Canadian Indian policy in a broader context.⁹ Specific studies in Canada have often focused on the Treaties themselves, and developed an understanding of the role of the Indians involved in the process.¹⁰ What is striking about the American literature is the absence of material on treaties in general, and on the Treaties of Medicine Lodge Creek and Fort Laramie in particular, especially in light of their significance in the development of American Indian

⁸ See, for example, Richard N. Ellis. General Pope and U.S. Indian Policy (Albuquerque, 1970), John W. Bailey. Pacifying the Plains: General Alfred Terry and the Decline of the Sioux, 1866-1890 (Westport, CT, 1979) and Robert Wooster. The Military and United States Indian Policy, 1865-1903 (New Haven, 1988). Studies of religious reformers include Robert Mardock. The Reformers and the American Indian (Columbia, 1971) and Francis Paul Prucha. American Indian Policy in Crisis: Christian Reformers and the Indian, 1865-1900. (Norman, 1976).

⁹ See, for example, J.D. Leighton, "The Development of Federal Indian Policy in Canada, 1840-1890," (Ph.D., University of Western Ontario, 1965) and John L. Taylor, "The Development of an Indian Policy for the Canadian North-West, 1869-1870," (Ph.D., Queen's University, 1975).

¹⁰ See, for example, David J. Hall, "'A Serene Atmosphere'? Treaty 1 Revisited", in The Native Imprint: The Contribution of First Peoples to Canada's Character, Volume 2: From 1815, edited by Olive P. Dickason, (Athabasca, 1996), Jean Friesen, "Magnificent Gifts: The Treaties of Canada with the Indians of the Northwest, 1869-1876", Transactions of the Royal Society of Canada, 1986, and John L. Taylor, "Canada's North-West Indian Policy in the 1870s: Traditional Premises and Necessary Innovations", in Approaches to Native History in Canada, edited by D.A. Muise (Ottawa, 1977).

policy.¹¹

* * * * *

There is an abundance of literature on Indian policy in both Canada and the United States. The scarcity lies in attempts to examine these policies in a comparative framework. Such a study offers the opportunity to explore the similarities of a policy evolving from common origins and also contributes to an understanding of where and how these policies diverged as a result of different national experiences. A comparative investigation also permits an examination of national perceptions and how these have developed. In both Canada and the United States, self-perceptions of Indian policy rely in large measure on how the national record measures up to the neighbour's standard. In both cases, myths abound. It is the existing void in the literature on these questions which this work is designed in part to address.

¹¹ The single extensive study of Indian treaties in the United States is that by Francis Paul Prucha. American Indian Treaties: The History of a Political Anomaly. (Berkeley, 1994). Only a single major study exists on the Medicine Lodge Creek treaties: Douglas Jones. The Treaty of Medicine Lodge: The Story of the Great Treaty Council as Told by Eyewitnesses, (Norman, 1966).

Chapter Two - Treaty-Making Precedents and Progress

The *Royal Proclamation* of 1763, issued in the wake of the Seven Years War by a harried British government, represented the foundation on which the practice of Indian treaty-making in both the American republic and, a century later, the Dominion of Canada rested. Although certain aspects of this document became core to treaty-making practices in both nations, common history did not guarantee a parallel course in the development of Indian policy. The *Proclamation* reserved the right to negotiate for land title exclusively to the Crown and also insisted that such negotiations were to be open, public affairs with as broad a representation of the Indians involved as was possible.¹ British concerns, as manifested in this document, were entirely pragmatic. Colonial relations with the various Indian tribes and nations in the trans-Appalachian frontier were fractious and problematic, a situation which had only exacerbated the fragile strategic position of Britain during the late war. Anxious to placate Indians whom they could not possibly control or defeat, Britain offered at least tacit recognition of Indian possessory rights in unceded territory. The restrictive provisions on the extinguishment of that land title, on the other hand, were aimed more directly at the Americans, in an attempt to minimize colonial opportunities to cheat the Indians, thereby reducing the potential for friction and, not incidentally, British frontier expenses.² The *Proclamation* offended American sensibilities, particularly those of

¹ *The Royal Proclamation*, October 7, 1763. Revised Statutes of Canada, 1970 - Appendices, pp. 127 and 128.

² Jack M. Sosin. The Revolutionary Frontier, 1763-1783 (Toronto, 1967), pp. 11, 12; Robert W. Tucker and David C. Hendrickson. The Fall of the First British Empire (Baltimore,

western land speculators, among whom could be numbered men shortly to gain fame for their revolutionary exploits in colonial interests, including Benjamin Franklin and George Washington.

A further provision in the *Proclamation* disseminated colonial dissatisfaction somewhat more broadly. The establishment of the Proclamation Line, a north-south boundary roughly approximating the crest of the Appalachian Mountain chain, restricted colonial expansion to the eastern slopes of that range. Again the British were concerned with practical matters. American infiltration of western territories had resulted in the conflict which sparked the Seven Years War, and Britain had almost lost the ensuing contest that had spilled over onto the international stage. Almost bankrupt, unable to afford a frontier military presence which could enforce peace with the Indians and good behaviour among the colonists, and exasperated by American refusal to provide either manpower or financial contributions for the upkeep of imperial troops, Britain opted for an exclusionary policy instead.³

Although the measures thus established were ones of expediency, never meant to provide a permanent solution to either the westward expansion of the colonies or the “Indian problem”, Americans took exception to the *Proclamation*.⁴ It obstructed the play of both free enterprise in the form of land speculation and the ‘natural’ impulses of

1982), p. 91.

³ Tucker and Hendrickson, p. 92.

⁴ B.D. Bargar, Lord Dartmouth and the American Revolution (Columbia, 1965), pp. 39,68; Sosin, Revolutionary Frontier, p. 11.

expansion and settlement. As long as British authority remained intact, Americans could only grumble under the restrictions. When that authority was ousted, little more than a decade later, the American course, which continued to be dictated in part by the tenets of the 1763 *Proclamation*, brought a number of adjustments to the policy.

The *Quebec Act* of 1774, another measure of British expediency aimed at resolving the dual problems of administration in Quebec and the western territories, only further exacerbated American opinion. Chafing under perceived injustice and the punitive measures imposed in the wake of the Boston Tea Party incident in December 1773, Americans understood more ominous things of the *Quebec Act* which, by unfortunate coincidence, came down at the same time. Designated one of the “Intolerable Acts”, the *Quebec Act* was one of the direct causes of the American Revolutionary War which erupted the next year. The offensive element was the extension of the jurisdiction of the colony of Quebec to the Old Northwest, the territory beyond the Appalachians which Britain had won in 1763 and into which Americans wished to expand. The change in jurisdiction brought with it the dual pariahs of French civil law and Roman Catholicism. These, along with the appointed council which governed the colony, were interpreted by Americans, whose sensitivity to infringements on their legal rights and political freedoms was already at a fever pitch, as confirmation of a conspiracy to enslave them all.⁵ The fact that British troops, relieved of their responsibilities in the west could now be garrisoned in Boston, a violation of the British tradition of no military occupation in peacetime, did not

⁵ Tucker and Hendrickson, p. 57, 392; Ian R. Christie and Benjamin W. Labaree. Empire or Independence, 1760-1776 (Oxford, 1976), p. 193.

help matters. British concerns, as manifested in both the *Royal Proclamation* of 1763 and the *Quebec Act* of 1774, and American reactions to these documents illuminate the future course of Indian policy and Indian treaty-making in the two nations that would come to occupy the North American continent.

Britain was consistent in a policy of expediency and economy. These elements, along with an admirable capacity for delaying actions not of immediate benefit to the central government, were the hallmarks of the nascent British administration. In policy initiatives in the trans-Appalachian west in this decade lie the origins and precedents of the approach and policy adopted by the Dominion of Canada, a century later, when that nation was confronted by the problems of its own west in the abruptly acquired and vast unknown of the Northwest Territory.

How the Americans reacted to the *Proclamation* and the *Quebec Act* is equally important to an understanding of the future Indian policy and treaty-making practice of that country. National weakness, as well as pecuniary considerations in the early days of independence, dictated that the United States make no abrupt changes in Indian policy. National security indicated a conciliatory and cautious approach to the several powerful Indian nations in adjacent regions and Americans turned to the practices enunciated in the *Proclamation* for lack of an alternative, not out of newfound commitment to principles they had rejected in the revolutionary struggle. Jurisdiction for the extinguishment of Indian lands was vested in the federal government to resolve a constitutional states' rights issue, not to impede speculation.⁶ Treaty-making, which had flourished in the decade prior

⁶ Jack P. Greene. Colonies to Nation, (New York, 1975) p. 488

to 1775, as a means to establish the exact contours of the Proclamation Line, was also retained as a practical means to an end. Independence from Britain meant, however, independence from the artificially-imposed Proclamation Line. After 1783, Americans were free to act on their own views in these matters. The superiority of the settler's claim to that of the Indian had only the pragmatic considerations of personal security to keep it in check, and the new national government proved reluctant to impose any restrictions other than reserving to itself the right to make formal arrangements with the Indians over title to the land. This selective application of British policy in the expanding American west would have lethal consequences, not only for individuals on the western frontier, but eventually for the practice of Indian treaty-making itself.

* * * * *

Until the War of 1812, both Britain and the United States had good reason to continue the practice of treaty-making with various North American Indian nations. Their chief motive for doing so was each other. Although bound by the Treaty of Paris (1783) to remove themselves from the Old Northwest which they had thereby formally relinquished to the United States, the British continued to occupy the territory until a second agreement, Jay's Treaty, in 1795. The Americans, wary of British motives as well as of Indian allegiance, could not rest easy in their own Indian relations even then. As long as the two nations remained at odds, there was a role as military allies for Indian nations to play. Diplomatic and commercial clashes, arising out of the Napoleonic Wars, continued

to strain relations between the two English-speaking nations. American suspicions of British-Indian conspiracies became reality when these antagonisms mushroomed into the War of 1812 and the Indian confederacy forged under the leadership of Tecumseh arrayed itself on the British side.

But even in this moment when the worst fears of Americans were realized, when Britain found common ground with Indian compatriots, and Indian nations brokered the balance of power in yet another European contest on North American soil, the relationship between Indian and non-Indian was changing. In the wake of the War, the British and Americans patched up their differences with an alarming ease and, while a deep distrust of Britain remained in some quarters, fears of another direct assault on American nationhood largely subsided. The British, too, relaxed their concerns for the security of British North America, or perhaps merely lost interest in colonial misadventures in America. Inured to the habit of treating Indians as either potential allies or a force to be reckoned with, both nations only slowly came to the realization that the strategic significance of Indians in their administrative operations was in decline.

This revelation came to the Americans in a gradual recognition of their own growing strength, in general terms and *vis à vis* Indians in particular. It was exemplified in the 1810s and 1820s in the career of Indian-fighting general, later President, Andrew Jackson. Significantly both a greater interest in the future of Indians within American territory and questions about the validity of the still youthful treaty-system began in this era. As was usually the case when the matter intruded on official British consciousness, it coalesced on the issue of economics. Unlike the United States, however, British policy-

makers saw no reason to question the practice of treaty-making even as they implemented a change in the direction of Indian policy.

* * * * *

Administrative responsibility for Indian affairs followed a parallel, if unsynchronized, course in the United States and British North America, although there was divergence in practice dictated by differences in circumstance and principle. Under the American Constitution, Indian affairs were adjudged a federal responsibility. Control of treaty-making and commercial relations were divided between the President and Congress, but responsibility for day-to-day administration lay, from the founding of the republic, with the Secretary for War. A similar situation prevailed in British North America, where Indian affairs were directed from England until 1860, and where responsibility resided in the Secretary of State for War and the Colonies. When military exigencies faded in importance, the appropriateness of military authorities for the management of Indian affairs diminished.

Britain moved first in transferring responsibility out of the hands of the military officers, making the shift to civilian control, within the same department, in 1830. At the same time, Britain inaugurated a policy of “civilization” toward the Indians. Both changes applied only to those Indians under direct British jurisdiction, and excluded the peoples in Rupert’s Land who remained, as far as the British were concerned, the responsibility of a commercial corporation, the Hudson’s Bay Company.

As always in matters of Indian relations, Britain's policy initiatives were spawned by economic considerations. Maintaining diplomatic relations with Indians involved an annual distribution of presents, an expense from which a penny-pinching government wished to rid itself.⁷ This impulse to shed what was increasingly perceived as an economic liability characterized the British approach to Indian affairs for the next forty years. In 1860 Britain relinquished authority for Indian affairs to the Canadian colonies, and in 1867 divested itself entirely of responsibility by saddling the new Dominion with the problem. The status which Britain thereby invested in both the Dominion of Canada and Indian relations is indicated by the fact that the imperial government retained control of the more significant administrative jurisdictions of external affairs and defence. Canada was not yet prepared to handle matters involving international obligation, but Indian affairs were clearly not included in this category. In 1869 Britain exercised its last official duty to Indians in North America during the negotiations for the acquisition of Rupert's Land, exacting from Canada a promise to honour the time-honoured principles of the *Proclamation* of 1763 in its dealings with the Indians who came thereby, for the first time, under the jurisdiction of parliamentary government.⁸

Canada, operating under the precedent of recent British administrative practice, and having no military option in any case, assigned Indian affairs to the Secretary of State for the Provinces. It was under this authority that Canada negotiated its first treaties,

⁷ Miller, p. 100.

⁸ Olive P. Dickason. Canada's First Nations: A History of Founding Peoples from Earliest Times (Toronto, 1994), p. 273.

concluded with Indians in the Red River region of the lately-purchased Northwest Territory in 1871. A slight administrative adjustment in 1873 brought forth the Department of the Interior to which Indian affairs were promptly transferred. The office of Indian affairs, a small branch in a large department devoted to, among other things, the administration of Crown lands, oversaw the day-to-day needs of Indian matters throughout Canada, as well as supervising the implementation and administration of the Numbered Treaties with the Indians in the Canadian West. Well into the 1870s Canada's Indian affairs operated in an almost schizophrenic manner. In Eastern Canada, where treaty-making for the purpose of extinguishing land title no longer had practical applications, a policy of "assimilation through civilization" was in progress. In Western Canada, where land control was the fundamental concern, treaty-making was the first order of business, and "civilization" merited little, if any, official attention. Canada, like Britain before it, sought to avoid problems rather than confront them, and blithely followed the path dictated by economy and expediency, and characterized by official indifference.

* * * * *

Different motivations marked the development of American Indian policy. Like the British, the United States after 1812 lost interest in the strategic value or threat of Indians. Although Indians continued to menace individual Americans and their aspirations, they no longer counted as a threat to national existence. But Americans could not just ignore the

Indians. They were actively seizing lands from these people, and needed a justification for doing so. "Civilization" was an easy answer. The idea of "civilizing" the Indians, as a national policy, had emerged prior to the War of 1812 in the musings of President Thomas Jefferson, and in 1819 found more concrete expression in the establishment of a ten thousand dollar "civilization fund" dedicated to uplifting the "savages".⁹ In contrast to Britain, however, the United States could not simply shift from one policy to another. A major element in the American context, almost entirely absent in British North America, was an exploding population base. Complicating matters even more, Americans were, individually, at a state level, and nationally, unrestrained expansionists. The nineteenth century saw manifestations of each of these, as would-be settlers expanded to fill the continent, as states sought to expel Indian populations from reserves within their borders, and as the nation itself swallowed whole territories which had once existed under the jurisdiction of European nations as diverse as Spain, France, Russia and Britain. Operating under this mentality, there was no possibility of the leisurely piecemeal land surrenders effected under British authority between 1820 and 1851. In the United States, settlers did not wait for the government to clear title to the land. They just took it.

Enjoying a growing spirit of national self-confidence - buoyed by Andrew Jackson's victories against the Creeks at Horseshoe Bend and the British at New Orleans in 1814, as well as by his successful seizure of Florida from the Spanish in 1819 - Americans were rapidly losing regard for the Indians who from the dawn of the republic

⁹ Thomas Jefferson is cited in a letter by Colonel Ely S. Parker to General U.S. Grant, January 24, 1867 in House Miscellaneous Document 37(39-2) 1302;. Robert Berkhofer Jr., The White Man's Indian (New York, 1978), pp. 157 and 149.

had existed in their midst. Reform organizations promoted “civilization” of the tribes, but pragmatism dictated the settlement of the land controversy first, and “removal” was the preferred solution.

Because the expediency which drove Indian policy in Britain, and later Canada, was largely economic, attitudes toward treaty-making where land acquisition was the primary purpose were not directly premised on the relative strength of the parties involved. This was not the case in the United States. That nation had only reluctantly embraced the colonial precedents of British Indian policy, and once the exigencies which had forced that approach - military weakness in the early national period - had dissipated, strength was everything. With the realization that it was no longer necessary for national survival to placate Indian demands, interest in doing so began to decline. American opinion on treaties diverged abruptly into two streams of thought. Attachment to legal niceties based on colonial precedent and national tradition, given voice in the Supreme Court judgments of Chief Justice John Marshall in 1823, 1831, and 1832, ran headlong into the conviction of “might makes right” which prevailed in practice.¹⁰ Although Marshall argued against the constitutionality of it in a case brought by the Cherokee Nation, Indians - north and south - were removed from their homes east of the Mississippi to what was designated a permanent Indian Territory in the trans-Mississippi west. National habit and the Supreme Court required that the land surrenders which preceded this removal be accomplished by treaty, and President Jackson acceded in form, if not in

¹⁰ Marshall’s decisions were made in *Johnson and Graham’s Lessee v. McIntosh* (1823), *Cherokee Nation v. Georgia* (1831), and *Worcester v. Georgia* (1832).

spirit. The treaties of removal accorded technically with the traditional principles of treaty-making practice, but undeniable elements of coercion, an explicit and ruthless application of the technique of “divide and conquer”, and, in many cases, a simple matter of *fait accompli* in terms of land possession, cast a pall on the legitimacy of the proceedings and led to questioning of the legitimacy of the treaty-making process itself. American contempt was already apparent in the cynical description given by a governor of Georgia:

Treaties were expedients by which ignorant, intractable, and savage people were induced without bloodshed to yield up what civilized people had the right to possess by virtue of that command of the Creator delivered to man upon his formation - be fruitful, multiply, and replenish the earth, and subdue it.¹¹

To coordinate the conclusion of removal treaties, and then to implement their terms, a Bureau of Indian Affairs was created in 1824. Although the personnel were civilians from the beginning, the Bureau and the Commissioner remained under the administrative authority of the Secretary of War. Removal was, in the best of circumstances, an unpleasant affair, and the Army was the only force in the United States capable of managing the round-ups, policing, and enforcement involved in what were, in some cases, thousand-mile treks across the continent.

Throughout the removal process the incipient commitment to the “civilization” of the Indians had not faded. It was, in fact, used as a justification for the policy, with President Jackson himself arguing that Indians should be allowed to advance to a “civilized” state in isolation, away from the vices of white society to which they would be

¹¹ Quoted in Utley, The Indian Frontier, p.36.

vulnerable until “civilization” took hold.¹² Once removal had been carried out, neither the government nor the Indian reform movement forgot its duty, continuing to finance the “civilization fund” and other missionary endeavours in the Indian Territory.¹³

Even here, however, the Americans could not manage the uncomplicated transition Britain had implemented to the north. British missionary efforts and “civilization” measures operated in an environment largely free from outside distraction. In the United States, the reform movement had other concerns and, until the abolition of slavery, that issue absorbed the bulk of the energy of the tidal wave of evangelical reform which swept the nation in the *antebellum* period¹⁴. Concern for Indians, along with interest in women’s rights, and a vast number of other causes, did not cease to exist, but they all played a poor second fiddle to the anti-slavery campaign. For the moment at least, Indians were secure behind the “permanent” barrier of the Mississippi.

The complications of and resistance engendered by removal were not resolved until the 1840s, by which time the United States government realized the absurdity of military responsibility for the essentially civilian tasks required of the Bureau of Indian Affairs. In 1849 that office was transferred to the newly created Department of the Interior, a catch-all Cabinet post, the conglomerate responsibilities of which included the

¹² John William Ward. Andrew Jackson: Symbol for an Age. (New York, 1972), p. 41.

¹³ Robert A. Trennert Jr. Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System (Philadelphia, 1975), pp. 2 and 7; Francis Paul Prucha. The Great Father: The United States Government and the American Indians Volume 1 (Lincoln, 1984), p. 270.

¹⁴ William Hagan. American Indians (Chicago, 1971), p. 123.

disposition of the public domain. Finally American Indian affairs had ended up in the American equivalent of the civilian hands where Britain had placed it nineteen years previously.

Circumstances once more overtook the Americans, reinforcing the fundamental premises of national strength, individual aspirations, and the limits of governmental authority where individual freedom was concerned. Between 1845 and 1848 the United States almost doubled in size. The admission of Texas to the Union in 1845, the settlement of the Northwest boundary dispute bringing the Oregon country under U.S. jurisdiction in 1846, and the peace of Guadalupe Hidalgo in 1848, yielding up the territories of Arizona, New Mexico, and California, completed the continental landscape of the United States. Despite the expansion of American authority over tens of thousands of new Indian peoples, the transfer to civilian authority went ahead. This was not, in the very immediate circumstances of 1849, necessarily a contradiction, for the assumption prevailed, for part of the year at least, that the trans-Mississippi Indian frontier would remain inviolate outside of a trickle of emigrants to Oregon. Even the flood of cross-country traffic in the summer of 1849, occasioned by the discovery of gold at Sutter's Mill in California in January, 1848, did not immediately dash the illusion. Emigrants poured west, but they were in transit to the Far West, and had little time for what was considered, at first glance, territory unsuitable for white habitation and christened the Great American Desert.¹⁵ There was some application for traditional Indian policy practices in the negotiation of rights of

¹⁵ Ray Allen Billington. Westward Expansion: A History of the American Frontier 2nd ed. (New York, 1960), p.654.

transit along the Oregon and California Trails, but the American government had little inkling, as yet, of the inadequacy of the civilian administration of the Department of the Interior for the Indian challenge which lay ahead.

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In British North America, in the early nineteenth century, Indians had become an economic burden in the government's eyes. Anxious to divest themselves of this problem, British administrators embraced a long-term policy of "civilization" for the Indians under their immediate authority and gradually saddled the North American colonies with the responsibility under the guise of expanded colonial self-administration. The treaty-making process continued unabated, however, and even broadened in scope with the Robinson Treaties of 1850. The pace of expansion and colonization in British North America permitted treaty-making and "civilization" measures to co-exist. Because Britain, and later the colonial legislatures, sought to secure land title before settlement pressures forced their hand, and had the luxury to do so, the treaty-making process remained largely unquestioned, successfully serving the government's purposes.

This was not so in the United States where both treaty-making and "civilization" efforts were subsumed by more demanding national developments. A growing crisis over the "national sin" of slavery marginalized ideas of the "civilization" of the Indians. It was instead the ever-growing, ever-expanding population which recognized the Pacific Ocean as its only limit and the Indians as a natural obstacle, akin to the Rocky Mountains, which

directed the course of American treaty-making in the *antebellum* era. The practice did not cease. In fact, between 1848 and 1867, the United States signed dozens of treaties with various Indian parties. But it was increasingly a legal formality effected by the federal government, often in the wake of dust churned up by settlers anxious to take advantage of new lands, as well as by railroad interests which made a connection to California, admitted to the statehood in 1850, a priority.

National realities soon intruded on the casual decision to transfer Indian affairs from military to civilian control. The acquisition of the West, and the stream of white emigrants thundering across it, raised the potential for renewed conflict between white and Indian. Until the 1860s, the Plains Indians faced intrusion on their lands and disruption of their game, but by and large encountered white settlement only at trading posts and military forts. Still, incidents occurred and the realization dawned on officialdom that the military had an important and growing role in Indian relations in the West. As long as relations remained peaceful, which they did, surprisingly, except for Texas, until the late 1850s, the potential jurisdictional conflict was in abeyance. When serious disturbances began to erupt, fuelled by Indian response to the same arrogant and obnoxious attitudes towards them that had characterized American settlers from colonial days, the administrative conflict became overt. In British North America, Indian affairs was a burden to be shed. In the United States it was a much fought-for responsibility. This conflict, as much as the violence which precipitated it, impeded and obstructed what was to become, in the post-Civil War years, a gripping national reform impulse which placed a high

priority on the “civilization” of the Indians.¹⁶ British and later Canadian Indian policy was a more compartmentalized affair, where treaty-making and “civilization” were seen as equally legitimate and useful practices, depending on the circumstances. This was not possible in the United States, where both policies were practiced simultaneously, increasingly at odds with each other. This friction, exacerbated by a bitter jurisdictional dispute originating in very real military conflict, eroded the already questionable practice of treaty-making.

Britain and Canada could afford the treaty process. Focused on the acquisition of land title, untroubled by complications of overwhelming power, unrestrained expansion, and military conflict, treaty-making continued to serve a purpose, and to serve it successfully. In the United States, the formal practice of treaty-making, bolstered by the Marshall decisions, remained an integral element of Indian relations, but was increasingly problematic. The federal government may have been committed, by tradition and the perceived restrictions of the Constitution, to treaty-making, but the average American on the western frontier had passed it by.¹⁷ To remain effective instruments, treaties had to do something tangible, as they still did in British North America. Given the violence which erupted on the American frontier in the 1860s, an obvious role for treaty-making was at hand in the negotiation of peace settlements. Thus, unlike the situation in Canada, where the treaty-making process entered the age of national expansion virtually intact in purpose

¹⁶ Mardock, The Reformers and the American Indian, pp. 86 and 307; Loring Benson Priest Uncle Sam’s Stepchildren: The Reformation of United States Indian Policy, 1865-1887 (New York, 1942; Reprinted 1972), p.316.

¹⁷ Ellis, General Pope and U.S. Indian Policy, p. 32.

to its original formulation in the *Proclamation* of 1763, to survive as an institution in the United States the process had to change functions. It also had to work.

Chapter Three - Treaty-Making Problems

In 1867 Canada united in Confederation and the United States initiated the most ambitious round of Indian treaty-making in its history. Within four years, Canada, too, would embark on the most wide-ranging treaty process ever undertaken in British North American Indian relations. It is an irony of history that the treaties negotiated by the Americans in 1867 and 1868 were instrumental in the demise of the treaty system there in 1871, the year Canada concluded the first of the Numbered Treaties. As the United States was discarding the tool which had been a central component in its Indian relations for almost a century, the Dominion was inaugurating its own Indian policy by embracing that same form. Closer scrutiny dispels the irony, however, for the two processes were by then very different, in purpose if not in format. It was not that Canada was behind in the theory of treaty-making, although the practice in British North America had not, in fact, changed much in a century. It was more a matter that in the 1870s there was still a perceived utility for treaties in Canada, whereas in the United States a consensus had been reached that treaties, as a means to deal with Indians, had outlived their usefulness.

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The American system of making treaties with Indians disintegrated, in the most literal explanation of events, as a result of a power struggle between the Senate and the House of Representatives over that procedure. But the conflict was not just about power,

or was perhaps only incidentally so, for the resolution of the struggle in 1871 left Senate treaty authority virtually untouched. The compromise solution accepted by both houses of Congress simply removed *Indians* from executive treaty-making powers. After the passage of Bill 2615, the 1871 Indian Appropriations Act to which the compromise was attached, Indians ceased to be parties with whom the United States could legitimately make treaties. Arrangements between the two parties were henceforth known as “agreements”, subject to general congressional approval, rather than the exclusive property of the executive.

The controversy was one, therefore, not so much of treaties, but of *Indian* treaties. The system foundered only technically on the issue of who made the treaties. In truth, the troublesome element of the quarrel was that of the legitimacy of the practice as it applied to Indians. Questions started to surface as American national power began to assert itself, notably during the Presidency of Andrew Jackson, but serious challenges were the hallmark of the 1860s. They culminated, in an acute twist of historical irony, in the ratification and appropriation debates of the 1867-1868 treaties which were likely the most legitimately sponsored and legally well-founded Indian treaties in American history. The resulting furor brought down the treaty system nonetheless.

The acrimonious debates which ended in 1871 really began in 1865 over the ratification of treaties negotiated in that year with many of the same Plains people who would be the targets of the 1867-1868 peace campaign. This first round in the debate established a climate of opinion, however, which, even before the Great Peace Commission of 1867-1868 was created, boded ill for the future of its work.

The legitimacy of Indian treaty-making was broached in many ways, but questions generally coalesced in three areas of concern: the attitudes and behaviour of the executive branch - i.e. the President and the Senate in “executive” session - in carrying out their constitutionally appointed duties; the competence and status of the Indians involved; and the actual procedures of treaty-making on the ground in the West.

In the post-Civil War era, members of Congress in general accepted that treaty-making was the responsibility of the executive branch of government.¹ The Constitution was the source of that power, true, but it was really very brief on the subject and not particularly explicit where Indians were concerned. Article 2, Section 2 asserted that “He [the President] shall have Power, by and with the Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur....”² It was understood, rather than clearly stated, that Indians constituted a body with whom treaties could be made. Congressional understanding of that status relied on a second item in the Constitution. Article 1, Section 8 described the powers of Congress, among them responsibility “To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes....”³ This appeared to place the Indians on the same level as foreign nations. Although the connection was not explicit, reference to constitutional principles impeded significant changes to official Indian status so long as policy-makers interpreted these

¹ See, for example, Mr. Drake, Congressional Globe, 41st Congress, 2nd Session, Senate Proceedings, April 8, 1870, p. 2516.

² The Constitution of the United States, The Constitution of the United States and Related Documents, edited by Martin Shapiro (Arlington Heights, IL, 1973), p. 12.

³ The Constitution, in Shapiro, p. 7.

terms in this way, despite growing dissatisfaction with the practical manifestations.

Constitutional authority directed that the President play a major role in treaty-making, but in practice this seldom happened. In the first hundred years of the republic's history, perhaps three Presidents - George Washington, Andrew Jackson, and Ulysses S. Grant - took an active interest in the task.⁴ Few others gave the matter more than a passing thought. Presidential disinterest might have been offset had the other branch of authority, the Senate in executive session, exercised its powers under Article 2, Section 2. But in an indication of the languid attitude of officialdom toward Indian issues, the Senate chose, by and large, to abdicate that authority.⁵ "Advice and consent" dwindled to consent alone. It was a constant allegation by members of Congress in the post-Civil War era that Indian treaties inevitably came up for ratification in the summer, making the closed-door sessions required of executive session unbearable to senators sensitive to Washington heatwaves, with the result that treaties were ratified with only a mere handful of the hardier senators present to pay attention.⁶ This was hardly an appropriate attitude toward a procedure ostensibly as weighty as a treaty with a foreign nation. A doubt began to form. Perhaps the Senate was merely negligent. But it was also possible that such behaviour was a pointed indication that Indian treaties did *not* carry the same significance as did other documents of a similar nature. More than one member of Congress

⁴ Prucha, American Indian Treaties, p. 209.

⁵ Prucha, The Great Father, Vol. 1, pp. 57.

⁶ See, for example, Mr. Stewart, Congressional Globe 40th Congress, 2nd Session, Senate Proceedings, July 16, 1868, p. 4120, and Mr. Sherman, 39th Congress, 2nd Session, Senate Proceedings, February 23, 1867, p. 1798.

denounced as “a farce” the practice of concluding an arrangement with the Indians “...and bringing that treaty in here to be ratified as a high negotiation with a foreign Power....”⁷

But the “farcical” nature of this treaty-making process extended beyond questionable ratification processes. Authority may have resided with the President and the Senate, but Presidents never engaged in such negotiations and senators did only rarely. The Secretary of War or the Interior might play a direct role if the negotiations took place in Washington, as they sometimes did, but lesser officials bore the brunt of such work. The Commissioner of Indian Affairs shared the chore with Indian agents and superintendents, military officers, territorial governors, and others who were simply political appointees. Literally anyone could be appointed to the task. In early days the President might have made such appointments, but even this fell to lesser hands as time passed.⁸ When Indian affairs were of little consequence to the nation and the treaty-making function insignificant, such patterns went unquestioned. But with the expansion of the role of treaties in the 1860s, coupled with the increasingly sizable price tag which accompanied this broadening of function, criticism began to mount.

Once attention was focused on the practice, other elements also came under scrutiny, in particular the second party to treaties, the Indians. When in 1867 Congress contemplated the prospect of a conclusive treaty-making venture with the Plains Indians,

⁷ Mr. Sherman, Congressional Globe 39th Congress, 1st Session, Senate Proceedings, April 18, 1866, p. 2010. See also Mr. Pomeroy, 41st Congress, 1st Session, Senate Proceedings, March 6, 1869, p. 23; and Mr. Stewart, 41st Congress, 2nd Session, Senate Proceedings, June 2, 1870, p. 4006.

⁸ Prucha, American Indian Treaties, p. 209.

two facts did not escape the notice of interested observers. The first was that there had already been two rounds of treaties made with these very same peoples since the decade began, one in 1861 and another in 1865-1866. The other inescapable truth was that the United States had been involved in almost constant and increasingly bloody conflict with the same peoples for much of this period. This led some congressmen to question the effectiveness of treaty-making, as well as to speculate on why the Indians kept coming back to the bargaining table. To the cynical mind, it was the generosity of United States treaty presents and terms. "Peace lasts while your provisions last," Senator Stewart declared. "When the provisions run out, in order to get more the Indians commence murdering..."⁹ Disdain for such a result was not limited to Congress. General John Pope, Departmental Commander of the Division of the Missouri which oversaw much of the Plains Indian territory, confirmed misgivings about the effectiveness of Indian treaties. "No country ever yet preserved the peace, either with foreign or domestic enemies, by paying for it," he said.¹⁰

One of the major weaknesses of the treaty system was that even its supporters often found themselves in agreement with critics on the failings of the process, if not on the solution to these problems. This was apparent in the widespread consensus on the "inevitable" fate of the Indian population. The conviction prevailed that Indians were a dying race an idea that could hardly be denied when it was a central conclusion of the

⁹ Mr. Stewart, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, April 18, 1866, p. 2014.

¹⁰ General John Pope, quoted by Mr. Kasson, Congressional Globe, 39th Congress, 1st Session, House of Representatives, July 16, 1866, p. 3846.

several investigatory commissions sent to examine Indian conditions in the West in the 1860s.¹¹ Those who could not be convinced that treaty-making had always been a mistake might waver over its relevance in the 1860s when it was a constantly reiterated “fact” that Indians were not long for this world. This “fact” also raised questions about the legitimacy of the process. Senator McDougall disputed any responsibility to treat with Indians at all, suggesting instead that the United States simply “...let them die out by a law established by a greater Master than confines himself to this sphere....”¹² This “inevitable” result from the collision of “civilization” and “savagery” was echoed throughout Congress. Senator John Sherman, whose famous brother Civil War General William T. Sherman presided over the Army in the West in the immediate post-Civil War years, intimated that it might be the will of “Divine Providence”.¹³ There was a distinct implication in such sentiments that any attempt to counter the “natural” impact of such a collision by, among other things, treaties to alleviate the situation, was unwarranted interference.¹⁴ Even Indian advocates agreed with the “fact”. Senator Doolittle described them as “a feeble people, ... a dying people; they will soon pass away, and nothing will remain of the Indian tribes but the beautiful names which they gave to our rivers and our towns.” For Doolittle, treaties with such

¹¹ Mr. Doolittle, Congressional Globe, 39th Congress, 2nd Session, Senate Proceedings, January 27, 1867, p. 762; Prucha, The Great Father, Vol. 1, p. 486.

¹² Mr. McDougall, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, April 18, 1866, p. 2010.

¹³ Mr. Sherman, Congressional Globe 39th Congress, 2nd Session, Senate Proceedings, February 23, 1867, p. 1801, and 40th Congress, 1st Session, July 17, 1867, p. 680.

¹⁴ Mr. Howard, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 17, 1867, p. 683.

people were also inconsequential, but he supported the practice as a last favour, a deathbed concession.¹⁵ Supporters of the treaty system could, in their way, be almost as devastating as detractors.

These difficulties with and doubts about the partners to Indian treaties were compounded by an emphatic disgust with what were alleged to be standard operating procedures. Castigating the process in 1870, in the midst of an appropriations debate wherein the treaties of 1867 and 1868 were the sticking point, one senator described a procedure he well knew did not apply to those treaties:

We have got to catch him [the Indian] first, put a hat on him, clothe him, give him a little whisky, and then we make a treaty! That is the way we treat with Indians.¹⁶

The pervasiveness of this image, or at least of the willingness of members of Congress to employ it, is apparent in the repetition of the essence of it on many pages of the Congressional Globe.¹⁷ Aggravated by one of his colleague's persistent invocations of the image, Senator Ramsey tried to set the record straight, but few opponents of treaty-

¹⁵ Mr. Doolittle, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, April 18, 1866, p. 2012.

¹⁶ Mr. Stewart, Congressional Globe, 41st Congress, 2nd Session, Senate Proceedings, July 14, 1870, p. 5585.

¹⁷ See, for example, Mr. Sherman, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, March 27, 1867, p. 379; Mr. Butler, 40th Congress, 2nd Session, House of Representatives, May 27, 1868, p. 2615; and Mr. Stewart, 41st Congress, 3rd Session, Senate Proceedings, February 10, 1871, p. 1112.

making could resist the picture.¹⁸ Despite the questionable accuracy of this portrait, the propaganda effect remained a powerful factor in interpretations of Indian treaty-making, and the view continues to be reflected in secondary literature into recent years.¹⁹

Less inflammatory, but still troubling and perhaps more accurate, accusations about the procedures of treaty-making cast further shadows on the practice. Some members of Congress wondered about the representativeness of those Indians who signed treaties, thereby calling into question the legitimacy of the Indian authority involved. There was reason for concern here. The unratified treaty of 1866 with the Sioux, though declared an American diplomatic triumph by its optimistic chief negotiator, had in reality been signed by Indians known, uncharitably, as the “stay-around-the-fort” types.²⁰

Another complaint of wary congressmen was that Indians were not the real partners to the treaties in any case. The effective partners, it was asserted, were “...a few white men who have got among them who want some goods and who use the Indians for their purpose.”²¹ This accusation, too, had some merit and there were instances in American treaty-making where annuities were simply paid over to the traders to whom the Indians were indebted. In Canada, the government refused absolutely to be responsible

¹⁸ Mr. Ramsey, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, March 27, 1867, p. 378.

¹⁹ See, for example, Richard Ellis (ed.) The Western American Indian: Case Studies in Tribal History (Lincoln, 1972), p. 1.

²⁰ Mr. Burleigh, Congressional Globe, 39th Congress, 1st Session, House of Representatives, June 9, 1866, p. 3056; Uteley, The Indian Frontier, p. 96.

²¹ Mr. Pomeroy, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, April 18, 1866, p. 2014.

for Indian debts and left it to Indians themselves to resolve the claims of traders against them.²²

Concerns about the legitimacy of the treaty-making process contributed directly to the deterioration of the system in the United States, but treaties were also the innocent victims of a serious jurisdictional dispute. The problem was a struggle between the Interior Department, which had control over Indian affairs, and the War Department, which wanted it. The “transfer issue”, as it was referred to through the dozen years it existed as a factor in U.S. Indian policy, did not constitute as overt an assault on the treaty-making system as did questions of legitimacy, but it played a role in the overall depreciation of the system by employing it as a pawn in the struggle for control.

If land administration had been the only worry of the national government in the American West, then Interior’s domination would have gone unchecked. But the rising tide of warfare created an indispensable role for the military, which was employed to make peace and enforce it. This purpose collided with the Interior’s own expanding cause in the West - the “civilization” of the Indians. This calling was every bit as immediate, and as serious, as the Army’s goal. Emigration, which caused the conflicts the Army was required to defuse, also threatened the very survival of the Indians. The threat of extinction was perceived, by reformers in the Interior Department and their supporters in Congress, to have only one solution – “civilization” – and that became the major concern of the

²² Lawrence Vankoughnet, Department of the Interior Memorandum, December 2, 1876, NAC, RG10 Volume 3638, File 7253, Reel C-10112.

department in its consideration of the peoples of the Plains.²³ It soon became clear, at least to these advocates, however, that the Indians were threatened not only by extinction, but perhaps also by a concerted policy of extermination, a program in which the Army on the Plains was the chief culprit.²⁴ The battle for exclusive jurisdiction was joined.

Treaty-making became a weapon in the struggle. The Interior Department embraced it as a tool of “civilization”, claimed it was largely Army violations of existing treaties which caused wars, and denounced military officers as “exterminationists”. Support for this position came in part from documents like the Doolittle Report, the result of a joint congressional investigation of conditions on the Plains, and the Sully-Sanborn Commission investigating the Fetterman Massacre. It was noted therein that but for Army aggression on the Plains in the winter and spring of 1866-1867, the Indians would have asked for peace.²⁵ Army personnel, it was pointed out, were trained for war and were hardly appropriate forces to carry out the “civilization” work for which treaties set the stage.²⁶ It could also be noted that, with reference to Indians, “extermination” appeared to be General Sherman’s favourite word, although it would also have been unfair to label the

²³ See remarks by Mr. Doolittle, Congressional Globe, 39th Congress, 2nd Session, Senate Proceedings, January 26, 1867, p. 763; Report by Commissioner of Indian Affairs N.G. Taylor, quoted by Mr. Henderson, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 13, 1867, p. 623; Mr. Pomeroy, July 17, 1867, p. 681.

²⁴ See remarks by Mr. Doolittle, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, June 30, 1866, p. 3507; Mr. Pomeroy, 39th Congress, 2nd Session, Senate Proceedings, February 20, 1867, p. 1624.

²⁵ Utley, The Indian Frontier, p. 108.

²⁶ Mr. Doolittle, Congressional Globe, 39th Congress, 2nd Session, Senate Proceedings, January 26, 1867, p. 763.

general as an advocate of it.²⁷ More telling evidence of military brutality was the 1864 massacre of a peaceful Cheyenne camp by members of the Colorado militia at Sand Creek. Although the troops involved were volunteer militia on a term enlistment, and not Regular Army men, critics did not differentiate. Events of this nature occurred often enough in the next decade to kill every bill introduced in Congress to return Indian affairs to the jurisdiction of the War Department.²⁸

That department was not without its own ammunition in the battle. Its most effective critique of Interior administration were charges of corruption in the Indian service where accountability was non-existent and fortunes were regularly made by a staff in a constant state of turnover.²⁹ The questionable benefits of such a system for either the government or the Indians were frequently raised. While there was a possibility that transfer might be effected, the War Department and its congressional supporters sang the praises and advantages of having Army officers, bound by both the honour of their reputation and a chain of responsibility armed with court-martial authority, as more honest and respectable candidates for Indian agents.³⁰ The prospect of a losing battle turned the

²⁷ General William T. Sherman, quoted by Mr. Henderson, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 16, 1867, p. 669; General W.T. Sherman to John Sherman, December 30, 1866, in The Sherman Letters: Correspondence between General and Senator Sherman from 1837 to 1891, edited by Rachel Sherman Thorndike. (London, 1894), p.287.

²⁸ Mardock, The Reformers and the American Indian, p. 71.

²⁹ See Mr. Sherman, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, June 30, 1866, p. 3506.

³⁰ Report of the Secretary of War, November 20, 1868, p. 10; Mr. Sherman, Congressional Globe 39th Congress, 1st Session, Senate Proceedings, June 30, 1866, pp. 3506 and 3507.

War Department against the whole process. Corruption and charges of an “Indian ring” were significant factors in the decline of support, both popular and congressional, for the treaty-making system. But accusations, in some cases well-founded, of the brutality of the Army and its role in precipitating conflict, were equally devastating. It was, in the words of one disgruntled senator, “...a question of whether the Indians are to be governed by force, by fraud, or both.”³¹ The solution which gained increasing empathy in several quarters was to abolish the process altogether.

The other serious criticism arising from the War/Interior struggle emerged from conflicting priorities. Few military men disputed the view that “civilization” was the only way to prevent the extinction of the Indians.³² They did, however, question the possibility of striving for “civilization” while Indians remained potential aggressors. The Interior Department, by 1867, was sponsoring a policy of “conquer with kindness”, while the War Department was clearly convinced the appropriate approach was “conquer, *then* kindness”. The Army’s position on this earned its officers charges of being “exterminationists”, but they turned that charge back effectively on their accusers. In response, they argued that filling the Indians’ minds with false attitudes about their status, primarily through the treaty process wherein they were accorded status as equals, offered bribes for good behaviour, and not infrequently armed and with the latest model rifles at that, led directly to the massacres, not only of innocent whites, but of the Indians

³¹ Mr. Hendricks, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, July 3, 1866, p. 3553.

³² Richard N. Ellis, “The Humanitarian Generals”, Western Historical Quarterly Volume III, 1972, #2 April 1971, pp. 172, 176-176.

themselves which the humanitarians in the Interior Department ostensibly reviled.³³ The impact on the treaty-making system of these kinds of assaults was not immediately apparent, but contributed in the long run to the dismantling of the process. Unable to reconcile the conflicting practices of war and “civilization”, Americans eventually just discarded the system.

The combined impact of specific questions of the legitimacy of the treaty-making system and the disillusionment encouraged by the administrative infighting at both legislative and executive levels of government, was to place an overwhelming burden of expectation on the next major treaty-making venture, the negotiations carried out under the auspices of the Great Peace Commission of 1867 and 1868. To continue as a viable element of American Indian policy, the system had to undergo a transformation of function, from the simple land transfers of original purpose, now largely irrelevant except as a legal formality, to the means to achieve not only peace on the plains, but also the “civilization” of the Indian peoples there. The treaties of 1867-1868 were to be the test case for the effectiveness of these new goals.

* * * * *

The treaty-making problems endemic to the American system were entirely absent from the Canadian context. There were no troubling jurisdictional wrangles, nor was there

³³ Mr. Brown, Congressional Globe, 39th Congress, 2nd Session, Senate Proceedings, February 21, 1867, p. 1680.

a tremor of doubt about either the legitimacy or function of treaties. Before examining the particulars which explain the absence of these factors in Canada, it is necessary to reiterate the fundamental circumstantial difference between the two nations which overshadowed the course of Indian policy so completely in both places. Canada simply did not experience in any comparable form the emigration waves which engulfed the United States in every decade of its western expansion. The absence of that pressure meant that many of the snarls in which the United States found itself bound up in the takeover of the Plains West never raised their ugly heads in Canada. The impact, in retrospect, is to give the casual observer the impression of a planned, orderly advance into the Canadian West, marshalled by an astute, far-sighted government, a stark contrast to the frenzied free-for-all south of the forty-ninth parallel. The reality suggests instead that the absence of conflict in Canada allowed a somewhat haphazard expansion, under perhaps vague, indifferent, and distinctly myopic governments. In these circumstances, there was much latitude for error and second attempts, if not necessarily correction.

If Manifest Destiny unleashed hordes of unrestrained emigrants on a distinctly militant and potentially hostile Indian population in the American West, then Canada's national policy was its opposite in almost every respect. These processes, more labels imposed for organizational purposes, are not rightly comparable, but they do embody the spirit of expansion which each nation took to the Plains. While the United States government fretted about the population explosion in its West, Canada avidly sought a population to advance the colonization of its own Western territory. Canada could afford a "policy" on the subject. The only west Canadians were rushing into in 1870 was the

American one. Canada's potential colonists for the Northwest Territory were still in Europe, waiting to be recruited. The governmental impulses and dreams of the great Canadian nationalists came together loosely in what would be known as the national policy. This called for a railroad across the new nation, but its purpose was to take settlers west, not to catch up to them, as was the case with the Kansas/Central Pacific line. Canada's pace in arrangements for this dream was affected by elements beyond its control. Indian demands for recognition of their rights and a settlement of the land question prompted the Dominion government to inaugurate the treaty-making system in the new nation. The threat of American encroachment on the proposed colony lent an element of urgency to the purchase of Rupert's Land in 1869, and illegal American trading practices in the foothills and on the plains of southern Alberta advanced the schedule of the dispatch of the Northwest Mounted Police to that region. Even so, these pressures were hardly comparable to the forces weighing on American territorial expansion. The Canadian timetable was telescoped somewhat but there was still sufficient breathing space to maintain a linear order of progression. That, at least, is how it happened, even if it was not planned so exactly.

In Canada there was no reason to question the legitimacy of the treaty system. It had served its purpose so well in eastern Canada that it had no dissatisfied detractors. It might have occurred to Canadian parliamentarians to examine the process for its applicability in the new context of the Northwest, especially as, in practice, the land treated for came in vastly greater swathes than had been the case in the rest of Canada.

But there was some suggestive precedent even for that in the Robinson Treaties of 1850.³⁴

The structure of a parliamentary system obviated some of the power struggles which arose in the United States. The *Proclamation* of 1763, never rejected in Canada as it was by revolution in the United States, remained a constitution-level document of the new Dominion. Its terms had explicitly excluded the Northwest Territory, but in assuming control of the region in 1869, Canada had committed itself to the principle that

... the claims of the Indian Tribes to compensation for lands required for the purpose of settlement, would be considered and settled in conformity with the equitable principles which have uniformly governed the Crown in its dealings with the Aborigines.³⁵

The *Proclamation*, and Canada's subsequent acquiescence to the principles enunciated therein, may have involved tacit recognition of the Indians of Canada as "nations", but there was no explicit statement of status there to complicate parliamentary considerations of treaty-making in Canada, at least not in the nineteenth century. The single and very innocuous reference to Indians in the *British North America Act*, designating "Indians and lands reserved for Indians" a federal responsibility, inspired nothing like the agonized debates in the U.S. Congress over interpretation of the Constitution.³⁶

The *British North America Act* was also mercifully silent on the division of powers within the federal government, a separation simply not possible in a parliamentary system

³⁴ Leighton, p. 289.

³⁵ Debates of the House of Commons, 1st Parliament, 1st Session, November 29, 1867, p. 159.

³⁶ *British North America Act*, Section VI, Article 91(24), Revised Statutes of Canada, 1970 - Appendices, p. 215.

in the same way it was under congressional rule. Canada's power divisions lay along federal/provincial lines, and so long as the public lands of the Northwest remained in federal hands, which they did until 1930, this was not a point of contention.

Responsibility for treaty-making resided with the Prime Minister who, in practice with regard to Indian treaties, made all decisions in consultation with members of the Privy Council, and in particular the Secretary of State for the Provinces or, later, the Minister of the Interior, under whose jurisdiction Indian affairs lay. This cozy coterie of men appointed the commissioners, also usually men with whom they were well acquainted, and recommended the results for approval to the Governor General, again a familiar face. Treaties did encounter some parliamentary inspection, although ratification rested with the Governor General. Parliament had to appropriate the funds for the negotiation and implementation of the treaties, but if more than a cursory acknowledgment of these expenses was ever made, it is not apparent from the debates of the House of Commons. The excessive and acrimonious debates on Indian treaty-making in the United States, almost all of which occurred in debates over Indian appropriations bills, were non-existent in Canada. Executive action then raised no questions or qualms about the legitimacy of treaty-making in the Dominion.

The legal void on the status of Indians, at least where it touched on treaties, eliminated the problems stirred in the United States over the equation of Indian tribes to foreign nations. In practice Canada regarded Indian status, in this situation only, in a category defined a century later as *sui generis*, unique. It was therefore beyond the thought of anyone remotely concerned with the process to question the legitimacy of

Indian treaties in comparison to other treaties. In fact, Indian treaties were the only kinds of treaties which the Dominion was legally empowered to conduct on its own authority, as foreign relations remained the purview of the imperial government until the *Statute of Westminster* in 1931 surrendered all governmental authority to Canada. By implication, unlike the legal quagmire created by the ambiguities of the American Constitution, Indian treaties in Canada did *not* have a status equal to that of foreign nations.

The second level of jurisdictional dispute which embroiled the United States also found no equivalent in Canada. The civilian authority of the Ministry of State or Interior had no competition for administration of Indian affairs. Again the absence of settler pressure in the Northwest Territory created no role for an army to play. A militia existed and was sent West to repress the Red River Rebellion of 1869-1870, but it could in no way compare in either size or importance with the U.S. Army which, in 1865, had emerged victorious and powerful from a major war. Britain had an army and was, technically, responsible for Dominion security, but played only a minimal and reluctant role at the end of the rebellion. In the wake of that conflict, the military presence in the West was reduced, not enlarged, much to the chagrin of the resident lieutenant governor.³⁷

The absence of an army in Canada brought forth other solutions to potential conflict in the territory. Again Canada had a circumstantial advantage over the Americans. It was possible to establish law and order as a goal, rather than focusing on the preservation of peace. The difference was important. Unlike the United States, where the

³⁷ Adams G. Archibald to Sir John A. Macdonald, October 7, 1871, NAC, Papers of Sir John A. Macdonald, Reel C-1587.

Army had been the first force of law and order, Canada had the legacy of the Hudson's Bay Company on which to rely. The company had been charged with law and order in the region, and while its rule may have been haphazard, informal and arbitrary, it had existed, and the ground rules for expected behaviour were known to Indian and emigrant alike.³⁸ Canada replaced this authority with a small civilian force, the Northwest Mounted Police. In contrast to the U.S. Army, reduced to a punitive role by circumstances, the Northwest Mounted Police were there to prevent conflict, not eradicate it.

By the time the police made their way West, the government had already initiated treaty-making with the Plains Indians, but the process in no way impeded police responsibilities. Conflict between the two forces, police and treaty commissioners, therefore did not arise. The Northwest Mounted Police found a part in the procedure similar to that played by the U.S. Army in terms of security and formality, as well as in the role of commissioner in one instance. But the lethargy of the Canadian government in implementing the treaties ensured that the police had no enforcement role until somewhat later, and so there were no grounds for the conflict of jurisdiction which had arisen in the United States between civilian and military jurisdiction on the Plains.

Neither did Canada confront the pressing ultimatum of "civilization" or extinction bearing down on humanitarian policy-makers in the United States. What perceptions there were of Indians dying off focused on different causes, primarily alcohol and

³⁸ John N. Jennings, "The Northwest Mounted Police and Canadian Indian Policy, 1873-1896", (Unpublished Ph.D. Dissertation, University of Toronto, 1979), p. 57.

disease.³⁹ These were accepted as by-products of the clash between “civilization and savagery”, but Canada’s appreciation of these elements was compartmentalized. In the East, where a policy of “civilization” was in full force by the 1870s, the Deputy Superintendent of Indian Affairs could point to statistical evidence that the Indian population was actually on the rise, in contrast to commonly held opinion.⁴⁰ Disease and liquor were factors of more concern in the West, where there was no attempt, before 1880, quite deliberately after the treaties had been concluded, to impose “civilization”. In the United States treaties were transformed into tools of “civilization”, as well as of peace, in order to remain viable instruments. There was no need, as far as the Canadian government was concerned, to alter the function of treaties here as they still served their purpose of extinguishing land title. Canadian disinterest in a “civilizing” policy in the West at this time translated almost into resistance to the idea when it became a factor in treaty-making.

The procedures which accompanied treaty-making also escaped criticism in Canada. Perhaps this came about in part because of a remarkable lack of public interest in the proceedings. In the 1870s, little attention was given to Indian affairs in the press,

³⁹ See, for example, Alexander Morris to Minister of the Interior, October 24, 1876, NAC, Papers of Alexander Morris, Reel M-69; Memorandum by Charles Houtzki, November 27, 1873, NAC, RG10, Volume 3605, File 2912, Reel C-10105; Bob Beal and Rod Macleod. Prairie Fire: The 1885 North-West Rebellion. (Toronto, 1994), p. 52.

⁴⁰ Reports by William Spragge, Deputy Superintendent, Indian Affairs, Sessional Papers, Volume 5, 1st Parliament, 4th Session, (No. 23), p. 6 and Volume 6, 3rd Parliament, 1st Session, (No. 17), p. 6.

outside of local coverage.⁴¹ Then, as now, the bulk of the Canadian population lived outside the Northwest Territory and did not care, apparently, what happened there. Parliamentary debate on the issue was almost non-existent.

Had a critical eye been levelled at the process, however, the accusations made of treaty-making in the United States would not have applied. For the seven Numbered Treaties negotiated in the 1870s, significant public figures were appointed commissioners, and the Privy Council exercised its authority to name these men. There could be no charges of dereliction of duty or not taking the procedure seriously here. Neither was the status of the Indians questioned. There were no qualms about the chiefs and headmen selected to represent their peoples at the treaty meetings. It may be that some (unrecorded) thought was put into this aspect of treaty-making, however, as each of the Numbered Treaties contained a statement verifying the authority of these men by both their own people and the government. Finally, the process itself was a formal affair in Canada, and the pomp and circumstance surrounding an Indian treaty negotiation could hardly have been exceeded by the formality associated with any other treaties. The process was held in the name of the Queen, and she was explicitly identified in the treaties as the partner with whom the Indians were concluding an agreement. In short, there were no grounds on which to challenge the legitimacy of the system within Canada, at least from the white side of the picture.

Canadians therefore experienced none of the jurisdictional bickering at either the

⁴¹ Charles Bell to Alexander Morris, April 16, 1874, NAC, RG10 Volume 3609, File 3229, Reel C-10106; Sarah Carter. Lost Harvests: Prairie Indian Reserve Farmers and Government Policy (Montreal, 1990), p. 51.

executive or cabinet level which gave rise to and shaped the challenges to the legitimacy of the system in the United States. Even if malcontents had focused a critical eye on the Canadian procedures, they would have found little to which they could object. Canada had remained true to the original function of treaty-making and retained the formalities which had attended the process from the beginning. In that role, treaty-making continued to serve the ends of the government in advancing the national policy. So rigidly did Canada adhere to this definition of treaty-making that it resisted attempts, sponsored by the Indians themselves, to broaden the function treaties were to serve.

Canada therefore embarked on a round of treaty-making in the 1870s full of confidence in the very process that the Americans were dismissing as an irrelevant failure. But Canada's treaty-making procedures were not wracked with the dissension in practice and multiplicity of functions imposed on the fragile American system. In Canada, treaty-making remained pristine. If any changes were to be made, and in the development of the Numbered Treaties they were, they would be made in the field, not in the Privy Council, and certainly not in Parliament.

Chapter Four - The Context of Treaty-Making

The nature of the treaty-making process in the United States and Canada was mirrored in the negotiations themselves. An American peace commission, on the highest official authority, ventured forth in 1867 and 1868 to make peace in the Plains West but also to inaugurate a new way of life for the Indians involved, whether they wanted it or not. In Canada, an erratic piecemeal approach focused single-mindedly on land acquisition, conceding only grudgingly to a broadening of the terms it proposed, and always at the insistence of its active and interested treaty partners, the aboriginal inhabitants of the Prairie West. The impact of motivation and philosophical disposition on the development of treaty-making in each nation is apparent in the organization of the treaty-process in 1867-1868 and the 1870s.

In 1867, the United States was convinced that it was on the brink of a general Indian war in the Plains West.¹ There were only two solutions to what had become an intolerable situation - total war or peace. Neither was a satisfactory option, for both had been put to the test as recently as 1865 and found wanting.

The course of violence on the American plains in the previous decade had been sporadic, but by the 1860s the trend was intensifying. The single greatest Indian uprising in American history occurred in 1862, not on the Plains but in Minnesota, when the eastern

¹ Report of the Secretary of War *ad interim* and General United States Army, November, 1867, p. 14; Letter from General John Pope to General U.S. Grant, General-in-Chief, January 27, 1867, House Miscellaneous Document 37 (39-2) 1302; "Indian Movements on the Plains", The New York Times, April 9, 1867, p. 5.

Santee Sioux, a people under treaty with the United States, murdered more than eight hundred white settlers. But the repercussions of this event reverberated across the northern Plains. The pursuit of the Santee perpetrators west brought the western Dakota Sioux into their first sustained contact with the United States Army, and conflict ensued. This development only exacerbated Indian/white tensions where the Sioux were concerned. In 1851, at the first Treaty of Fort Laramie, these people had accorded the United States a right of way through their territory to facilitate emigration to California and Oregon, in return for annuity payments. Tranquillity, such as it was, reigned until, at the end of the decade, silver mines were opened in Montana and the most direct route to them established directly through Sioux territory. The beginning of the American Civil War in 1861 did little to diminish either new settler traffic on the Plains generally, or the rush to the mines. The Sioux were antagonized. In the aftermath of the Minnesota Massacre, clashes between the Army and various Sioux peoples were frequent, and by 1865 the Departmental Commander of the Missouri, General John Pope, was authorizing the third major campaign against the Sioux that he had ordered in three years.

Far to the south, on the Texas border, a century-old conflict between Texans and the Kiowa, Comanche, and Kiowa-Apache continued at its usual pace, in somewhat less dramatic form than events on the northern Plains, but always steady. In 1861 the United States government had signed the Treaty of Fort Wise with these peoples, in an attempt to confine them to specific, although extensive territories. The fact that a sizable chunk of the designated territories lay in Texas, which had retained control of its own public lands on entering the Union in 1845 and refused to make them available for federal Indian reserves, made the treaty

inoperable from the beginning². Even if the Indians had been willing to confine themselves to these delimited territories, as they were not, their generations-old habit of harassing Texans proved too difficult to break. Clashes between these peoples and the settlers of the Lone Star State continued unabated, treaty or no treaty, until the Red River War of 1874 forced the expulsion of the Indians from Texas and imposed confinement on the reserves they had been assigned under the 1867 Medicine Lodge Treaty. The participation of these peoples in a "general" war in 1867 was a tenuous accusation at best, but from the standpoint of politicians in Washington, receiving dire reports from every corner of the West, it was difficult to differentiate between a specific war and a long-term border conflict.³

The catalyst to a major war with the Indians at mid-decade, however, came from the Central Plains. The Cheyenne and Arapaho peoples, occupying a belt of land which included most of Colorado, faced the combined onslaught of prospectors pouring into the Colorado mines and the projected transcontinental railroad, plotted on a route which ran right through the Smoky Hills, a premier hunting ground. Denver, at the crossroads, became a boomtown in the 1860s. The pressures of contact, most acute in Colorado, brought the most severe conflict as white settlers and miners ran roughshod over Indian rights and claims, provoking Indian retaliation. Distressed by what he perceived to be "...an alliance of the Cheyenne and a part of the Arapahoe tribes, with the Camanche [sic], Kiowa, and Apache Indians of the

² William Hagan, United States- Comanche Relations: The Reservation Years (Norman, 1990), p. 21; Utley, The Indian Frontier, p. 55.

³ Report of the Secretary of War ad interim and General, United States Army, November 1867, p. 14; "Indian Outrages and Indian Wrongs", New York Times, April 28, 1867, p. 4; Hagan, U.S.-Comanche Relations, p. 2.

south, and the great family of Sioux Indians of the north plains...”, Colorado Governor John Evans authorized the formation of citizen militia units “...to kill and destroy as enemies of the country, wherever they may be found, all such hostile Indians.”⁴ A Colorado militia unit, under an expiring term limit and out for blood, in combination with an officer ambitious for political office, and armed with the official sanction of the governor's orders, descended on a peaceful Cheyenne village on November 29, 1864. What they did there was so vicious, brutal and barbaric that the action ensured that the shadow of Sand Creek remained a symbol of military barbarity under which the Army laboured for decades to come.⁵ The most immediate impact of the Sand Creek Massacre was to inaugurate the general war which western whites had so feared, as the survivors actively enlisted the support of other Plains nations in exacting vengeance.⁶ The consequences of Sand Creek went farther, however, than immediate military complications. Although the treaty negotiations of 1867-1868 were one round away in 1865, an understanding of some aspects of this event sheds light on the motivations for peace in 1867, as well as on the terms which resulted from those later peace sessions.

⁴ Report by John Evans to the Commissioner of Indian Affairs, and Proclamation K47 by Governor Evans [n.d.] in Report of the Commissioner of Indian Affairs for the Year 1864, pp. 216 and 230.

⁵ The Sand Creek Massacre was the Indian wars' equivalent of the My Lai Massacre a century later. It remains a controversial event and the historiography is vast. At least two hundred Cheyenne Indians, most of them women and children, were brutally slain while encamped under both a United States flag and a flag of truce. Eastern revulsion stemmed in large part from the extensive mutilation of the dead. The hundred-day enlistment of the perpetrators ran out before a court-martial could be mustered, and the culprits escaped answering for their actions. Utley, The Indian Frontier, pp. 92-93.

⁶ Utley, The Indian Frontier, p. 93.

The first reaction to Sand Creek was, of necessity, a military one, as "outrages" multiplied across the Plains. There may have been some understanding, in Army circles, of the provocation Indians felt, but the Army was not the appropriate instrument to effect amelioration. Its role was to bring peace at any price, and the summer campaigns implemented across the Plains in 1865 were meant to do just that.

But the Army faced insurmountable odds that year. Though victorious in the Civil War and unchallenged as the supreme power on the Plains, the Army suddenly encountered massive manpower shortages as Civil War enlistments, in what was primarily a volunteer army, ran out. With the nation finally free of the internecine struggle which had ended in April, 1865, thousands of potential emigrants and railroad financiers turned West and the revelation dawned on many that war on the Plains was impeding financial gain. The governor of Dakota Territory, watching people actually packing up and leaving because of the threat posed by the hostile Sioux, pleaded for peace.⁷ In Colorado, it was the railroad speculators, anxious to embark on the transcontinental railroad link, delayed by the Civil War and Indian conflicts, who brought pressure on the government to negotiate⁸. These forces of crass self-interest coincided with both a dispirited and abrupt collapse of military power in the West, and the emergence of a particularly vital and growing tide of humanitarian interest in Indian reform, to make peace the operative word in 1865.

The military came to grief on two fronts. In the first instance, the massive campaigns of 1865 ended in abysmal failure. Congress, embarking on the first rounds of a bitter and

⁷ Utley, The Indian Frontier, p. 96.

⁸ Utley, The Indian Frontier, p. 97.

acrimonious debate on Reconstruction that would culminate two years later in impeachment proceedings against the President, might not even have noticed except for the price tag which accompanied these disasters. The 1865 campaign purportedly cost twenty million dollars⁹. Expenditures at these levels inspired the commonly uttered criticism of both military authority over Indian affairs and the option of war as a viable solution in the maxim that it was "cheaper to feed them than fight them".¹⁰ Some congressmen, exhibiting a gift for hyperbole, would extend this truism to the fact that putting every Indian up in a first-class eastern hotel would be cheaper.¹¹

Such pragmatic, self-absorbed, and pecuniary motives inspired a solution which accorded completely in 1865 with the burgeoning interest in the Indian reform movement, itself bursting with energy as a result of Sand Creek, and not uninfluenced by the parallel drive to "raise up" liberated Black slaves.¹² Congress was not entirely devoid of humanitarian sentiment and the Senate in particular harboured a number of compassionate men. These figures spearheaded the movement for peace, spurred by a populace in the Northeast awash with sympathy for the Indian. One result was a spate of investigatory commissions, jointly

⁹ Wooster, p. 113.

¹⁰ This exact phrase is repeated frequently. See, for example, remarks by Mr. Pomeroy, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 18, 1867, p. 708; Mr. Butler, 40th Congress, 3rd Session, House of Representatives, January 18, 1869, p. 688; and Mr. Sargent, 41st Congress, 2nd Session, House of Representatives, February 25, 1870, p. 1576.

¹¹ See Mr. Butler, Congressional Globe, 40th Congress, 3rd Session, House of Representatives, January 28, 1869, p. 688; Mr. Stewart, 41st Congress, 2nd Session, Senate Proceedings, June 2, 1870, p. 4005; and Mr. Sargent, 41st Congress, 2nd Session, House of Representatives, March 2, 1870, p. 1639.

¹² Mr. Pomeroy, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 18, 1867, p. 709.

sponsored by Congress, to examine the details of the Sand Creek Massacre, as well as a general report on “the condition of the Indian tribes and their treatment by the civil and military authority of the United States”.¹³ The latter was widely known as the Doolittle Commission, after the senator who sponsored and headed it.

Working in conjunction with the investigatory commissioners were peace commissioners. One, under the direction of Dakota Governor Newton Edmunds who was anxious to bring people and prosperity to his territory, set out to make peace with the Sioux.¹⁴ The Doolittle Commission constituted itself, in one of those questionable practices of irregular treaty-making, into another peace commission to the southern Plains.¹⁵ Both concluded an array of brief treaties concerned primarily with making peace between whites and Indians, establishing non-violent arbitration procedures for inter-Indian conflict, and drawing general boundaries for “reservations”, very loosely defined.

Both sets of treaties were the sort which gave treaty-making a bad name. General Pope, still licking his wounds after the military debacles he had masterminded in 1865, declared “...I do not consider the treaties, lately made with the Sioux, Cheyennes, Arapahoes, Kiowas, and Comanches worth the paper they are written on...”, and he was right.¹⁶ The

¹³ The full title of the Doolittle Commission is given in Utley, The Indian Frontier, p. 96.

¹⁴ Governor and Superintendent of Indian Affairs Newton Edmunds to William P. Dole, September 20, 1864, Report of the Commissioner of Indian Affairs for the Year 1864, Document #115, p. 260; Ellis, General Pope, p. 98.

¹⁵ Mr. Sherman queried this manœuvre in the Senate and elicited an explanation from Mr. Doolittle, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, April 18, 1866, p. 2012.

¹⁶ Letter from General John Pope to Major General W.T. Sherman, August 11, 1866 in Report of the Secretary of War, November 14, 1866, p.23.

commission under Governor Edmunds in Dakota secured assurances of peace from a variety of Sioux peoples, but managed to avoid signing up any of the bands who were actually "hostile". The signatories consisted entirely of "stay-around-the-fort" types, and in the single case of a notable name, that of the Brule Sioux Spotted Tail, surrendered rights to land which that chief had no right to concede, another fact known, but ignored, by the commissioners.¹⁷ The Doolittle Commission also neglected to win the support of leaders of the known "hostile" elements.¹⁸ Both parties incorporated annuities of such exceptional extravagance and engaged to pay for them for terms of unprecedented length, that the normally somnambulant ratification procedures in the Senate erupted in the first of the acrimonious debates on the legitimacy of the process, at a time when Congress was mired in Reconstruction woes. These treaties were ratified, but the battle was only postponed.

As General Pope had warned, these "farcical" treaty-making ventures were all for naught and in 1866 the Plains threatened to disintegrate into war once more. In June, in recognition of the importance of making peace with the real "hostiles", another treaty commission summoned the true Sioux belligerents, among them Red Cloud of the Oglalla Sioux, to Fort Laramie. The ostensible object, reflecting official American awareness of the need to acquire legitimate Indian land cession before territories could legally be claimed, was to gain Sioux acceptance to American use and fortification of the Bozeman Trail, the road leading through Sioux territory to the Montana mines. It was the primary bone of contention with the "hostiles". In another exhibition of questionable treaty-making, the American

¹⁷ Utley, The Indian Frontier, pp. 96-97.

¹⁸ Jones, p. 10.

negotiators relied heavily on their promises of presents to be awarded and tried to minimize, if not conceal, their real goal.¹⁹ The arrival of an Army command, in the midst of negotiations, with the announced purpose of fortifying the Bozeman Trail with or without Sioux permission, abruptly ended the talks and initiated the two-year contest known as Red Cloud's War.

This conflict co-existed until December of that year with what were the usual sporadic outbursts of violence elsewhere on the Plains. Then another critical episode, comparable to Sand Creek in ferocity and atrocity and this time at American expense, brought the cycle of events in the Plains West full circle once more and set the stage for the treaty-making commission of 1867-1868.

On December 6, 1866, a truly arrogant and vastly overconfident Army lieutenant named Fetterman led eighty men out of Fort Phil Kearny on the Bozeman Trail, violated explicit orders, and died with his entire command in a battle with an overwhelming Sioux force under the leadership of Red Cloud. It was the greatest American military disaster in the history of Indian warfare and would remain so until 1876 when it was repeated, in strikingly similar detail although on a larger scale, at the Little Bighorn. By January, 1867, Washington was once more awash with reports of a general Indian war on the Plains, this time against exultant rather than vengeful Indians.²⁰ The southern Plains people had no new reason to engage in hostility, but were encouraged by the apparent Sioux victory to escalate their own

¹⁹ Report by Commissioner of Indian Affairs N.G. Taylor, quoted by Mr. Henderson, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 13, 1867, p. 623.

²⁰ Report of the Secretary of War ad interim and General United States Army, November 1867, p. 14.

expressions of dissatisfaction with relentless settler pressures on land and game, and the continued disregard for their rights as well as their lives, and conflict there, too, escalated.

The Fetterman Massacre also inspired a spate of investigative commissions, but the military found no solace in the scrutiny which now turned with renewed zeal on the situation in the West. The harbinger was the long-awaited report of the Doolittle Commission, ordered in March 1865, published in January 1867. The report included, among other things, the results of a detailed questionnaire circulated among military men, traders, Indian affairs agents and superintendents and others in the West knowledgeable on Indian conditions.²¹ The findings were damning. The long litany of violence on the Plains was traced in every instance to white hands, often those of the military, but primarily to ordinary people, the "pioneers". The precipitous population decline of the Indians was ascertained as a fact and the causes identified as war, disease, alcohol, and the disintegrating basis of Indian life in the diminution of game animals and the decimation of the buffalo in particular. The Indians were found to have had due cause for the hostilities they had perpetrated and they emerged clearly as victims of unrestrained, licentious white expansion.²² A military investigation of the Fetterman Massacre could not exonerate its own service, attributing the continuing violence on the Plains to military actions.²³

The humanitarians - Northeastern public opinion and the press, missionary and reform

²¹ Donald Chaput, "Generals, Indian Agents, Politicians: The Doolittle Survey of 1865", Western Historical Quarterly (Vol.3, 1972, #3), pp. 271-272.

²² "Report of the Committee to Investigate the Condition of the Indian Tribes and their Treatment by the Civil and Military Authorities of the United States", Senate Report 156 (39-2), 1279, pp. 1-2, 5, 6. This is also known as the Doolittle Report.

²³ Utley, The Indian Frontier, p. 108

organizations, and committed congressional representatives - demanded redress.²⁴ Although the military was unable to marshal steam for a comprehensive campaign such as it had managed in 1865, neither did it sit idly by while Congress made plans and Easterners fumed. But continued exertions to control the waves of violence flooding the Plains only strengthened the hands of the peacemakers. In April, 1867, General Hancock, on a punitive expedition on the Central Plains, sacked and burned a Cheyenne village. Retaliation resulted, but in Congress sympathy came down hard in favour of the victimized Indians and the errant general faced rigorous interrogation on the legitimacy of his actions.

The event only hardened congressional intent in favour of a thorough-going and final peace settlement on the Plains to bring this national disgrace to an end. The proposed solution was the Great Peace Commission, enacted by a joint resolution of Congress and made law on July 20, 1867.

The conviction by many that the continuous tumult on the Plains constituted a "national disgrace" was not unimportant in the development of American Indian policy in general and treaty-making in particular. From its earliest days the American republic laboured under the Puritan vision of itself as "a city on a hill".²⁵ Born to serve as an example to the world, the United States suffered real and troubling pangs of conscience when it failed to live

²⁴ In 1867, under the strictures of the Radical Republicans' Reconstruction program, representatives from former Confederate States in the American South did not sit in Congress. Thus the battle over Indian policy, between humanitarian and exterminationist, was a sectional battle fought between the Northeast and the West, without a Southern voice.

²⁵ The first invocation of this image was by Puritan leader John Winthrop in a speech delivered on the *Arbella* just before landing in Massachusetts in 1630. John Winthrop, "A Model of Christian Charity", in *The Puritans in America*, edited by Alan Heimert and Andrew Delbanco. (Cambridge, 1985), p. 91.

up to its own expectations, and to its own perceptions of what was right. An undercurrent of opinion held that the Indian wars were a punishment for the "national sin" of the shadow of American treatment of Indians. In Congress, Senator Warner reminded his colleagues of this:

There is a widespread conviction in the country that our treatment of the Indians amounts to a national disgrace and a national crime second only to that of our treatment of the colored race, and that we are suffering, and will suffer, the like penalty which we suffered in that case if we do not deal with them upon principles of humanity.²⁶

A similar conviction had seized reformers in the pre-Civil War years on the subject of slavery. Many Northern reformers had come to the anti-slavery cause certain that unless this "national sin" was eradicated, the whole nation would be eternally damned. In this framework, the bloodletting of the Civil War had been just punishment for an erring nation. The desire to avoid not only the sin itself, but also another round of Divine fury as it had been manifested in the Civil War, impelled Indian reformers to campaign vigorously for a just solution to the "Indian problem."²⁷ In Congress, Mr. Burleigh declared,

The wrath of Divine justice would be poured out upon us as a nation if we determined upon an act [extermination] so wicked. The civilization of the age would not tolerate it, while the sensibilities of the Christian world would revolt at such a thought.²⁸

Americans were also highly sensitive to outside criticism. Perhaps the most common

²⁶ Mr. Warner, Congressional Globe, 40th Congress, 3rd Session, Senate Proceedings, December 10, 1868, p. 42.

²⁷ Mardock, The Reformers, p. 5.

²⁸ Mr. Burleigh, House of Representatives, July 21, 1868, quoted in Report of the Secretary of War ad interim and General U.S. Army, November 1867, p. 461.

term used in relation to Indian policy, after “farce”, was “honour”²⁹. The string of broken treaties extending back through American history were a stain on its “honour”. When Indian reformer Helen Hunt Jackson sought to shame the nation into action twenty years later, in the drive for allotment, she entitled her book A Century of Dishonor. Given the wretched record of the 1860s, made explicit in any number of official reports, there was a strong current of support in the summer of 1867 for yet another treaty-making venture, this one rooted in the exigencies of national honour. The practical effect of this obsession was to fix in the minds of Congress, as well as the commissioners appointed to the task, the necessity of devising a treaty which could be kept, an apparent flaw in most other American Indian treaties.

This requirement coincided with the humanitarian impulse to establish a working settlement with the Indians. This was to be accomplished by expanding the scope of the treaty-making function. In 1867 the United States was still making treaties to extinguish land title, but on the Plains the importance of this aspect had faded almost to irrelevance before the much more emphasized role of ending war. Now, in setting the agenda for 1867, Congress, under humanitarian influence, overlaid the basic war-and-peace function with that of "civilization".

The several reports on Indian conditions had ascertained two facts: that the Indians were a dying breed, and that whites were the cause of this precipitous decline. It was a common conviction that the former might be arrested, but only one senator ever hinted that

²⁹ See, for example, Mr. Henderson, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 16, 1867; Mr. Doolittle, 40th Congress, 2nd Session, July 16, 1868, p. 4116; Letter from Colonel E.S. Parker to General U.S. Grant, January 24, 1867, House Miscellaneous Document 37 (39-2), p. 1302.

white expansion might be restrained.³⁰ Neither "fact" had been taken into account in the negotiation of earlier treaties, thus the cause of all the trouble - white expansion - had never been satisfactorily handled. The peacemakers of 1867 were determined to address this failing of previous treaties by providing within the treaties themselves a comprehensive solution to "the Indian problem." This commitment, spurred by humanitarian sentiments to reverse the trend of Indian extinction, as well as to eliminate the press of the "exterminationists" in the West and the military and occasionally in Congress, broadened the nature of treaty-making and increased the stakes on the outcome of the already fragile process.

Two other, more cynical, compulsions bolstered the move for peace in 1867. Ever-present fiscal considerations, echoing the cries for peace of 1865, were the first of these. Always a cause guaranteed to win approval in a penurious Congress, particularly in the House of Representatives which guarded the public purse, an appeal to frugality was a tool adroit humanitarians put to good use. In pressing for the creation of the peace commission he sponsored, Senator Henderson resorted shamelessly to the tactic:

This war, if it lasts during the summer and fall, will cost us \$100,000,000. ... We are expending from \$125,000 to \$250,000, perhaps, daily in this war, and these expenditures will be rapidly increased from day to day,.... The war is but begun, and it will increase, and alarmingly increase, in its proportions of atrocity and also in its proportions to the public debt. Now, it behooves the Congress of the United States in session to do something, if we possibly can, to put an end to it.³¹

³⁰Mr. Johnson, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 18, 1867, p. 715.

³¹Mr. Henderson, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 16, 1867, pp. 667-668.

This statement is particularly revealing on two points. Undoubtedly, the Army was an expensive operation. But Henderson's figures are nowhere substantiated, although they are widely repeated.³² Like the scurrilous description of Indian treaty-making procedures employed by detractors, these numbers remained an effective propaganda tool, regardless of their accuracy.³³ They complemented perfectly the "cheaper to feed them than fight them" mentality which pervaded even the ranks of those who had no sympathy for the Indians.

The other point of interest is the coupling of humanitarian sentiment with pecuniary concerns, the juxtaposition of "proportions of atrocity" with "proportions to the public debt." The frequency with which these are matched in congressional discussions and administrative reports through to the end of treaty-making in 1871 raises questions about the real basis of American concerns.³⁴ After his impassioned statement as to the immorality of extermination, delivered to the House in 1868, Representative Burleigh added, "But, aside from the moral question, it would bankrupt the nation."³⁵

The second cynical approach to the wisdom of treaty-making in 1867 was that embraced by those who believed that the peace therein made, bought or bribed, would be a

³² "Our Indian Troubles - How to Meet Them", The New York Times, July 19, 1867, p. 4.

³³ General W.T. Sherman, who as Commander of the Department of the Missouri was in a position to know better than Senator Henderson, disputed these figures in private correspondence. Letter from General W.T. Sherman to Senator John Sherman, July 15, 1867, The Sherman Letters, p. 291.

³⁴ See, for example, Mr. Doolittle Congressional Globe, 40th Congress, 2nd Session, Senate Proceedings, July 16, 1868, p. 4116; Mr. Burleigh, 40th Congress, 3rd Session, House of Representatives, February 27, 1869, p. 1702; as well as the Secretary of the Interior in the Report of the Commissioner of Indian Affairs for 1865, p. iii.

³⁵ Mr. Burleigh, House of Representatives, July 21, 1868, quoted in Report of the Secretary of War ad interim and General U.S. Army, November, 1867, p. 461.

useful measure for buying time. It was a position best exemplified in the person of Lieutenant-General W. T. Sherman, the second-highest ranking officer in the United States Army and one of the commissioners appointed to the peace team in 1867. Despite his military position, Sherman willingly participated in the peace commission of 1867 because he saw that a window of opportunity would exist, even if only a few months of peace were won, to complete the transcontinental railroad which he was confident would break Indian resistance as no army could. The railroad would usher in waves of emigrants which would make previous intrusions look like mere trickles. As important, this flood of settlers would bring about the quick extermination of the buffalo and with that loss the Indian would be forced to conform or starve. Sherman was the railroad's most vociferous advocate for in it he saw a technological solution to what had become a military quagmire.³⁶ He was convinced, as were many committed Indian reformers and humanitarians, that Indians were in decline, that the only alternative to their extinction was "civilization", and that they must give way to the strong force of white domination.³⁷

Sherman's confidence in the railroad was in part confirmed by the anticlimactic *dénouement* to Red Cloud's War. It was the single but persistent demand of Red Cloud's Oglalla Sioux that the Bozeman Trail be abandoned. As long as it was the primary link to the Montana mines, the United States hesitated, and the talks with the Sioux in both 1867 and early 1868 stalled on this point. Part way through 1868, however, the railroad moved beyond the contested area, opening up a new and more convenient access road to Montana, and

³⁶ Utley, The Indian Frontier, p. 109.

³⁷ Report of the Secretary of War, November 20, 1868, p. 8.

American interest in the Bozeman Trail evaporated. The United States relented, the trail was abandoned, and Red Cloud retired in victory and signed the peace treaty. It was the single episode in United States history where an Indian treaty was signed on Indian terms, but in truth it was not much of a victory. It was simply that the railroad had made the battle obsolete. Making peace in order to buy time won advocates for the peace process in the most unlikely places.

War and peace, then, bolstered by a number of factors, determined the commitment of the United States to undertake yet another round of treaty-making in 1867. The record of that decade meant that treaty-making could only be viewed as the lesser of two evils, but it was certainly the less expensive of the two options. Treaty-making was a tool chosen for pragmatic reasons, and American commitment to it wavered, dependent only on how effective it could be in achieving the ends sought. In 1867, both the cynical and the confident briefly put their faith in the treaty process, but expectations were greater than those imposed on previous treaties. The likelihood of disappointment, on any number of fronts, was high.

* * * * *

Canadians, in 1867, had much less on their minds. On a very superficial level, the Canadian situation was not so very different from that in which the United States found itself. In 1867, the two nations faced West and embarked on a course to bring under active jurisdiction vast territories to which they laid claim. The western lands in both nations were

occupied by a significant population, representing various Indian nations, whose rights, however limited they were perceived to be, had to be acknowledged and extinguished. Treaties were the preferred method for this process because of a common heritage, but for somewhat different practical reasons. With the exceptions of a painfully acute awareness of every cent spent to achieve their ends and a parallel interest in establishing transportation routes, the similarities between Canada and the United States, in terms of why they embarked on the ambitious treaty processes they did, and the timetable for these negotiations, ended here.

The developments which led to the negotiation of the Numbered Treaties between 1871 and 1877 were considerably less dramatic and less complicated than the intricate, bloody morass which prompted the United States to the same task in 1867 and 1868. Where general war instigated American action, the Canadian process was precipitated in the first instance by a massive real-estate transaction. The ink of Confederation was hardly dry before the empire-builders of Central Canada who had crafted that union, apparently in opposition to large segments of eastern opinion, turned covetous eyes on the Prairie West. Rupert's Land held out the potential for if not empire then at least the trappings of one. Under the leadership of John A. Macdonald and the Conservative Party, Canada set out to acquire this territory.

Many reasons impelled the negotiations, concluded in 1869, to bring this vast territory, hitherto owned and operated by the Hudson's Bay Company, under Canadian jurisdiction, and much discussion resulted. In all of these debates, however, little thought was given to the existing inhabitants of this land. Mr. Chipman wondered if "...all the inhabitants of this territory [were] willing to come into the Union, or were they to be dragged in against

their will also”, but his was a lone voice and may have had more to do with his own disgruntlement than interest in the Indians.³⁸ Canada had made a commitment to do something about the Indians, at Britain's behest, under the terms of the purchase of Rupert's Land. Treaties were the "traditional" means, and imaginative alternatives were not the strong point of the men who forged Confederation. Treaties were not only a standard practice but, unlike in the United States, an unquestioned one. In a parliamentary debate in which the fate of Indians in the sought-after territory was discussed, one member opined that “...with a view of protecting those who may be attracted to this rich and fertile region, in search of either mineral or agricultural wealth, a large and comprehensive treaty will be found necessary. Of the accuracy of this statement, both Canada and the United States have precedents in previous treaties.”³⁹ It is reasonable to believe that Canadian leaders in the early days of Confederation understood they would be obliged to make treaties with Indians sooner or later, although they would clearly have preferred later.

There is no concrete point of departure for the Numbered Treaties comparable to the July 20 Act of Congress in the American case. A general intent to treat with the Indians existed, but Canada's approach to treaty-making was largely reactive, rather than self-directed. As a result, in sharp contrast to the United States, there is little official documentation of the treaty process.

The low regard in which the peoples of the West were held by Central Canadians

³⁸ Mr. Chipman, Debates of the House of Commons, 1st Parliament, 1st Session, December 4, 1867, p. 187.

³⁹ Mr. Grant, Debates of the House of Commons, 1st Parliament, 2nd Session, May 28 1869, p. 498.

became apparent in the procedures whereby Rupert's Land joined the Dominion. The partners in negotiation there included Dominion representatives, Hudson's Bay Company officers, and British government officials. Neither the Metis nor any of the several Indian peoples who resided in the territory were informed, let alone consulted, on the transfer. Uncertain of the significance of this change for their future, they were quick to make their displeasure felt.

The Metis gained the lion's share of attention in short order by striking the Dominion government on several of its most vulnerable points - legitimacy, authority, and national security. The Red River Rebellion of 1869-1870 did not arrest the acquisition of Rupert's Land by Canada, but it did forcefully alert Ottawa to the fact that there were other voices to be heard.

The Indians were somewhat less strident in articulating their concerns, but no less persistent. The Dominion government was unknown to them, and its response to the protests from Red River was hardly reassuring. If Indians in the Canadian Prairie West had little direct knowledge of the implications of Dominion jurisdiction, they could at least extrapolate from events in the American West with which they were not unfamiliar. There was also considerable discontent over the idea of a "sale" of what they knew to be their land. This dissatisfaction was most clearly expressed during the negotiations for Treaty Four, when the Cree demanded that the £300,000 paid for Rupert's Land be turned over to them, rather than to the Hudson's Bay Company.⁴⁰

Other developments brought home the point to Canadian officials. In Manitoba, in the

⁴⁰ Alexander Morris. The Treaties of Canada with the Indians of Manitoba and the North-West Territories including the Negotiations on which they were based, (Toronto, 1880; Reprinted Saskatoon, 1991), p. 106.

neighbourhood of Red River, the Saulteaux employed various tactics to gain Ottawa's attention. Hardly was Lieutenant-Governor Archibald established at his post when he received delegations seeking formal arrangements on the matters of land and the future of the Indians within the Dominion. When, despite his assurances, delays ensued, the Saulteaux persisted.

They have sent repeated messages enquiring when the Treaty was to come off, and appeared very much disappointed at the delay. They have interfered with emigrants, warning them not to come on the ground outside the Hudson's Bay Company surveys, and lately they have posted up a written notice on the door of the church at Portage La Prairie, warning parties not to intrude on their lands until a Treaty is made.⁴¹

As early as 1871 even the peoples of the North Saskatchewan were petitioning for a settlement recognizing their rights and compensating them for losses which association with the Dominion would involve.⁴² Until treaties were signed there, in 1874 and 1876, the western Cree continued to prompt the government by petition, as well as by the more effective means of disrupting the advance of the Canadian presence, through obstruction of telegraph, survey and geological crews.⁴³

Canada came to the bargaining table in the 1870s more by accident than by design.

⁴¹ Adams Archibald to Secretary of State, July 19, 1871, Sessional Papers (No. 22), 1st Parliament, 5th Session, 1872.

⁴² Sweetgrass to Adams Archibald, 1871, cited in Morris, Treaties, pp. 170-171.

⁴³ See letter by G. McMicken to Sir John A. Macdonald, June 22, 1872, NAC, Papers of Sir John A. Macdonald, NAC, Volume 246, Reel C-1670; Petitions from Sweetgrass, Kihewin, and Kiski-on, 1871, in Morris, Treaties, pp. 170-171; Letter from James Seenum to Alexander Morris, June 7, 1876, NAC, RG10, Volume 3632, File 6352, Reel C-10111. On the obstruction of the telegraph line and geological survey see G.A. French, N.W.M.P., to the Minister of Justice, August 6, 1875, NAC, RG10, Volume 3624, File 5152, Reel C-10109.

The determination to use treaties as a means to deal with the Indians in the Prairie West was almost a foregone conclusion, but the Dominion was not really prepared to embark on the procedure at this early date. Debates over Rupert's Land indicated an inclination to treat with the Indians, not a plan to do so. Four of the Numbered Treaties were sparked not by the Canadian government, but by the Indians involved. Two treaties, Three and Seven, were prompted by external events, not Canadian initiative. Only in Treaty Five, where both parties had reason to negotiate, could there be said to be some degree of mutual interest.

Indian pressures to negotiate, precipitated by the presumptuous takeover of Rupert's Land without consulting those most directly affected by the move, were undeniably the most important factor in goading the Dominion government to treaty-making in the 1870s. But Canada was receptive to the process, if not the timetable, for various reasons. For the most part these motivations were but pale shadows of the forces which drove Americans to the treaty table. In the most important impetus for negotiation, Canada and the United States were far apart. This divergence signalled the abrupt departure the Americans had taken very early in the process, and indicated, too, the remarkable consistency of treaty-making in British North America. This difference between the two nations had a tremendous impact on the negotiations of the Plains treaties and on the terms which resulted.

In the United States in 1867 a consensus of opinion settled on treaty-making as the most expedient means, in the circumstances of that year, to solve what were considered the critical problems of Indian relations on the Plains - the necessity for peace and the means to keep it. Canada was not troubled by the conflict which haunted its neighbour. Circumstances on the Canadian Prairies affected the timetable for negotiations and, in the end, also the

outcome of those negotiations. But Canada's primary motive in embarking on treaty-making was not the "war and peace" imperative of the United States, but the much more narrow and "traditional" quest for land title. In American debates over the Indians in the late 1860s, land hardly ever emerged as an issue, except when some compassionate advocate of Indian rights in Congress attempted to impart a historical lesson on how they had gotten themselves into this muddle in the first place.⁴⁴

The Canadian emphasis on land is clear in documented discussions of each of the Numbered Treaties of the 1870s. This consistency is important because, unlike the American treaties which were spawned by the enactment of the Great Peace Commission and concluded as a piece, Canada's treaties were individual affairs. There was a general intent to clear the entire Northwest of Indian title, but it was also recognized from the beginning that this had to be done in separate treaties, according to distinct territories and the distribution of Indians over them. The treaties may be considered in a body but, with the exception of Treaties One and Two which were negotiated almost simultaneously and on the basis of the same instructions, minor differences in circumstances led to somewhat different terms for the Indians. The single consistent fact, from the government's perspective, from 1870 to 1877, was land.

The primacy of land and the extinguishment of Indian land title as the chief goal sought by Canadian authorities was indicated by the emphasis placed on this element in the

⁴⁴ See, for example, Mr. Doolittle, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, April 18, 1866, p. 2014; Mr. Harlan, 41st Congress, 1st Session, Senate Proceedings, April 1, 1869, pp. 421-422; and Mr. Morrill, of Maine, 41st Congress, 2nd Session, Senate Proceedings, July 2, 1870, p. 5111.

treaties. After the initial preamble, each of the Numbered Treaties contained several extensive clauses on the subject of land. These included a statement of the Queen's intentions with regard to the land, an extended statement of extinguishment and cession to "all their rights, titles and privileges whatsoever to the lands included within the following limits...", and an exacting description of the lands *to be ceded*. Four treaties, [Treaties Four, Five, Six and Seven] also contained a provision of cession "to all other lands" to which these peoples might venture a claim.⁴⁵ These terms literally constitute the bulk of the text of the Numbered Treaties. This emphasis contrasts sharply with the format of the American treaties where, in every instance, primacy of place was given, in Article 1, to the cession of war and commitments to peace. The dual purpose of the American treaties was apparent in the focus of the remainder of the documents, which were devoted almost exclusively to measures of "civilization". Only a single brief article, buried in the midst of these treaties, dealt with extinguishment of title, an indication of the weight Americans gave to this consideration. Therein the affected Indians agreed to "relinquish all rights to occupy permanently the territory *outside their reservation*."⁴⁶ The emphasis on the land in question was on what the Indians were to receive, not what they were surrendering, the opposite of comparable clauses in the Canadian treaties. In the American treaties, acknowledgment of Indian title was oblique at best, and the formal recognition of it and the necessity to extinguish it minor points.

The centrality of land to the negotiations in Canada was recognized by the Indians as

⁴⁵ Morris, Treaties, pp. 331 (Treaty 4), 344 (Treaty 5), 352 (Treaty 6) and 369 (Treaty 7).

⁴⁶ Indian Treaties, 1779-1883, edited by Charles Kappler. (Washington, 1904; Reprinted, 1972), pp. 980 (Kiowa and Comanche Treaty), 988 (Cheyenne and Arapaho Treaty), 1002 (Sioux Treaty), and 1012 (Northern Cheyenne and Northern Arapaho Treaty). Emphasis added.

well as the government. It is clear from the pre-treaty petitions from Indian leaders, from the remarks of interested observers reporting on the scene, and in the recorded speeches of Indians at the treaty talks that they, unlike the government, had a variety of preoccupations.⁴⁷ In contrast to the American Indians who signed the 1867 and 1868 treaties, Canadian Indians came to treaty-making with serious and wide-ranging agendas. They worked assiduously, except in the negotiations of Treaties Five and Seven, to broaden the government's focus and adeptly used the government's single-minded zeal for land to force what changes they could.

Canada was not oblivious or immune to the other factors which moved the United States to treaty-making, but the difference in degree is striking. The Dominion government, too, had dreams of a national railway. Gaining clear land title in order to extend the railway was a recognized step in the process, not an unfortunate obstacle. The transcontinental railroad in the United States was to be a link to existing and expanding population centres. What became the Canadian Pacific Railway was viewed, in contrast, as the means to spawn such communities. Neither did railroads in Canada offer the means, envisaged by General Sherman, of a technological solution to the "Indian problem". In the 1870s the Canadian government did not perceive the Indians in this way. They were a minor complication, a potential not real threat, and probably less imposing an obstacle than the sheer physical demands of a railway across the Canadian Shield or through the Rockies. There was no connection made between the Indians and the railroads in Canadian sources or literature,

⁴⁷ See for example the messages of the Cree Chiefs of the Plains to Lt.-Governor Archibald, 1871, in Morris, Treaties, pp. 170-171; the extensive list of demands presented to the Commissioners during the Treaty One negotiations, discussed in Hall, p. 117; as well as the list of demands of the Plains Cree presented to Morris at Fort Carlton, in Morris, Treaties, p. 215.

except the request, in the negotiations for Treaty Three, for free railroad passage by the Indians. The treaty commissioner felt no compunction about denying it.⁴⁸

If there was anything comparable to the American agonies over national honour, it emerged from Canada's commitment to continue the treaty-making process of British tradition, which brought with it the beginnings of that attitude of Canadian superiority toward Americans in the realm of Indian relations. Canada had undertaken the obligation to negotiate with the Indians in the Northwest Territory as part of the deal by which it purchased Rupert's Land. The practice was a "traditional" one, required no revisions of policy, and was expedient. But it also stroked the vanity of the infant Dominion which regarded the British record on Indian treaties as the main reason for the quiet state of Indian relations in Canada. In explaining to Parliament his resolutions on the acquisition of Rupert's Land, Mr. McDougall added that he "...was glad to say that in Canada we had no difficulty in dealing with the Indians, which was experienced in the United States, and the reason was that we had always acted justly towards them, and desired to continue to do so."⁴⁹ In British North America there had been no "century of dishonor". Canadian smugness in this regard was bolstered by the Indian pressures to treat. In this country, the Indians well knew that to sign a treaty with the Crown, or its representatives, was to be assured of a fair and honourable deal. The pomp and circumstance which accompanied the treaty process, the injection of the Crown at every opportunity, and the language of treaty-making, were manifestations of this

⁴⁸ Morris, Treaties, p. 70.

⁴⁹ Mr. McDougall, Debates of the House of Commons, 1st Parliament, 1st Session, December 4, 1867, p. 181.

type of national honour. The Dominion government had no more regard for Indian culture, Indian government, or even Indian responsibility, than had its American counterpart.⁵⁰ Apart from treaty-making, Canada considered Indians as legal wards of the state, and simply was not troubled with the legal wrangles which gave the Americans so much grief. But Canada did have tremendous regard for the treaty process. It overcame the difficult issue of land title, but also resolved so many other problems which plagued the Americans. In theory and practice, aided as always by the absence of settler pressure in Canada which might have put their principles sorely to the test, Canada's treaties could mitigate the circumstances which led to friction in the United States. This was all understood by Canadian officials. Their commitment to treaty-making had not wavered, as had that of the Americans, from the original purpose of the exercise. As such, treaties were a reflection of Canada's national honour, an as yet unstained commodity. If national honour did not serve as a major motivation to treaty-making in the 1870s, it at least ensured that treaties would be the chief instrument in those relations.

The factors which fuelled the American missionary impulse were not entirely absent in Canada, but they were very faint by comparison. Canada may have absorbed the theory of the empire's "white man's burden", but insofar as it affected treaty-making, Canada's missionary drive was dim indeed. There was truly no comparable vision to that of the American "city on the hill". Ideas about the potential and necessity of "civilizing" the Indians, and at least a theoretical commitment to it, were in evidence in the policy-making circles of

⁵⁰ Leighton, pp. 115 and 208; John L. Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy", in Sweet Promises: A Reader on Indian-White Relations in Canada, edited by J.R. Miller, (Toronto, 1991), p. 133.

the Canadian government in the 1870s. In his annual report for the year ending in June, 1875, Minister of the Interior David Laird declared that

...I am firmly persuaded that the true interests of the aborigines and of the State alike require that every effort should be made to aid the red man in lifting himself out of his condition of tutelage and dependence, and that it is clearly our wisdom and our duty, through education and every other means, to prepare him for a higher civilization by encouraging him to assume the privileges and responsibilities of full citizenship.⁵¹

But this issue was seen to be a problem of post-treaty times. The determination of the Canadian government and its commissioners to restrict treaties to limited, “traditional” goals reflects this. The United States in the 1867-1868 treaties had undertaken an extraordinarily ambitious program to resolve every aspect of its “Indian problem” in one effort, or fail in the attempt. Canada stubbornly resisted pressure to take more than one step at a time, only grudgingly acceding with ill grace to any expansion of aims. The missionary impulse was not absent, but the tempo of progress in this area was distinctly muted. As such this did not form a major force in Canada’s coming to the treaty table, although again, it did influence what happened when it got there.

One aspect unique to Canadian motivations was fear of complications occasioned by American conflict. This came to the fore in the move to engage the Blackfoot Confederacy in Treaty Seven. Alone among the Canadian Indians treated with in the 1870s, the Blackfoot do not appear to have sought out the government in a desire for a treaty, although there is some confusion on this point. Contemporary missionary reports, including those from the Reverend John McDougall and Father Constantine Scollen, insisted the Blackfoot were

⁵¹ Report of the Department of the Interior for the Year Ending 30th June 1875, in Sessional Papers, (No. 9), Volume 7, 3rd Session of 3rd Parliament 1876, p. v.

interested.⁵² Historian Hugh Dempsey, whose sources lie among the Blackfoot themselves, claims the Blackfoot were not in the least interested in an arrangement such as that made by the Cree for their land, but were in fact only looking for a means to secure their territory from intruders, Indian and white alike.⁵³ Given the sluggishness of Canadian initiative in treaty-making, this might have been expected to delay the Blackfoot Treaty indefinitely. In 1876, however, events south of the border prompted the Dominion government to give the matter more attention.⁵⁴

In 1876 the Americans had embarked on major campaigns in the Black Hills war with the Sioux. In the Fort Laramie Treaty of 1868, this region was designated part of the Great Sioux Reserve, but the discovery of gold there in 1874 relegated this treaty promise to the dustbin. The Sioux resisted this latest brazen violation by the Americans and war resulted. Even as Canadian treaty commissioners were preparing to sit down with the Cree on the North Saskatchewan in the summer of 1876, the United States Army experienced its greatest disaster in the Indian wars with the annihilation of Lieutenant-Colonel Custer's Seventh Cavalry command at the Little Bighorn. The Canadian government was alarmed at these events, and even more so when word came of a proposed alliance between the Sioux and their customary enemies, the Blackfoot.⁵⁵ Such an alliance threatened the security of

⁵² Alexander Morris to Minister of the Interior, October 24, 1876, NAC, Papers of Alexander Morris, M-69.

⁵³ Hugh A. Dempsey. Crowfoot: Chief of the Blackfeet (Norman, 1984), p. 106; Red Crow: Warrior Chief, (Saskatoon, 1995), p. 103.

⁵⁴ Dempsey Crowfoot, p. 93.

⁵⁵ Alexander Morris to the Secretary of State, July 11, 1876, NAC, The Papers of Alexander Morris, Reel M-69.

Canadian lives in the sparsely settled West. The Northwest Mounted Police, a preventive force of law and order, not a true military organization, could not be expected to offer adequate defence in a real war. There was also the possibility of diplomatic complications, as the Americans might be compelled, in order to quell the opposition, to cross into Canadian territory, a violation which Canada was not prepared to resist.⁵⁶ The necessity of emphasizing to the Blackfoot the difference between Canada and the United States and in binding the Blackfoot to good behaviour suddenly took on greater significance. A treaty commission was subsequently dispatched to effect this agreement in 1877, employing the offices not only of the new lieutenant governor of the Northwest Territory, but also the senior officer of the N.W.M.P., Commissioner James F. Macleod, who was expected to wield his formidable personal influence in persuading the Blackfoot of the disadvantages of war.⁵⁷

There were two points on which Canadian and American motivation did coincide. The United States was anxious to complete its transcontinental transportation link in the form of the railway. Canada was less ambitious in scope, but nonetheless was moved to treat in two cases, at least in part, because of transportation considerations. Treaty Three, which concerned the territory lying between Fort Frances and Red River, covered a region which was recognized as an important transportation avenue during the 1869-1870 Red River Rebellion. If an all-Canadian route to Red River was to be had, this territory was necessary. It was also an issue in Treaty Five, which dealt with the northern part of the abbreviated

⁵⁶ Alexander Morris to the Secretary of State, July 11, 1876, NAC, The Papers of Alexander Morris, Reel M-69.

⁵⁷ Dempsey, Red Crow, pp. 113-114.

province of Manitoba. In this case, it was access to the great lakes of the province which attracted the government's eye. The Indians of this region were particularly anxious to transform the means by which they made a living. The government was unmoved by Indian interests, but was very concerned about clear passage on the lakes in the days before the railroad eased transportation.⁵⁸

Whatever their differences on treaty-making, both governments were equally preoccupied with financial matters. The Dominion government was no less concerned about the costs of Indian relations than was the American government. In fact, given the straitened state of the Canadian treasury and the fragile condition of the economy in the 1870s, there was probably more interest in economy in Canada where, "in the 1870s, when the United States was spending \$20 million a year on Indian wars, Ottawa's entire budget was only \$19 million."⁵⁹ Canadians feared an Indian war as much for the cost as for the turmoil. Alexander Mackenzie had hardly assumed the mantle of government in 1873 before he was being inundated with correspondence from the indefatigable Alexander Morris, Lieutenant Governor of the Northwest Territories, on relations with the Indians. Mackenzie, who represented a different political party, assured Morris of his unfailing support in these matters and remarked, "I never doubted that our true policy was to make friends of them even at a considerable cost, as anything is cheaper and [sic] than an Indian war."⁶⁰ Mackenzie's choice

⁵⁸ Morris, Treaties, p.143; Gerald Friesen, The Canadian Prairies: A History, (Toronto, 1987), p. 142.

⁵⁹ Miller, p. 162.

⁶⁰ Alexander Mackenzie to Alexander Morris, December 6 and 24, 1873, NAC, Papers of Alexander Morris, Reel M-70.

of words echoed the often repeated American refrain on the same subject that it was “cheaper to feed them than fight them.”

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Treaties may have been the accepted means by which relations with the Indians were conducted, but it was circumstances which brought the governments at Washington and Ottawa to employ these means when they confronted the problem of the Indians in the West in the late 1860s. In the United States, war was the precipitating factor, although a host of subordinate causes lent support to a renewed effort at treaty-making in the West. Treaties were new in Canada, to the Dominion government if not in the history of British North America. Inexperience may have had an impact on the sluggish approach to Indian affairs taken by the new government, but more important was the overall lack of consideration given by the coterie of politicians in Ottawa to anyone or anything outside their immediate circle of concern. Nowhere was this more apparent than in the casual absorption of Rupert's Land, where national complacency was jarred by the vigorous reaction of those people most directly affected by the transfer - the Metis and Indians of the Prairie West. Scrambling for a response, Canada, too, turned to treaty-making as the most effective means to address the Indian question.

Chapter Five - The Making of the Medicine Lodge Creek, Fort Laramie, and Numbered Treaties

The treaty sessions on the American Plains in 1867-1868 and the Canadian Prairies in the 1870s were the largest ever held in the two nations. The governments in both places took the meetings very seriously, reflecting both the physical magnitude of the conferences and the magnitude of the tasks to be accomplished. The gravity of the governments is indicated by the practical measures of treaty-making, including the origin of and instructions to the commissions appointed, the calibre and competence of the men selected to serve on these commissions, and the locations chosen and security and social arrangements made to facilitate the negotiations.

The Plains treaties of this era originated, in both countries, at the highest levels of government. The Great Peace Commission of 1867-1868 came into being by a Joint Act of Congress, signed into law July 20, 1867. Although its credentials were seemingly unimpeachable, it did represent a new departure in treaty-making. It was the President's responsibility, under the Constitution, to inaugurate such work, and yet the Act opened with the statement "That the President of the United States be, and he is hereby, authorized to appoint a commission...."¹ In effect, Congress was directing the President and giving him a sanction he did not need. The point is not unimportant. In the contentious appropriations debates which followed the work of the commission, the legitimacy of the

¹ "An Act to establish Peace with certain Hostile Indian Tribes", Appendix to the Congressional Globe, 40th Congress, 1st Session, July 19, 1867, p. 44.

treaties was actually challenged on the basis of these “irregular origins”.²

Canada was new to the practice of treaty-making under its own authority but, with a more streamlined government than that which existed in the divided authority congressional system, dissension in the ranks was non-existent. All decisions regarding the Numbered Treaties rested exclusively with the Privy Council. Parliament, like the House of Representatives, controlled the purse strings of these activities, but the party system, much more rigidly constituted than in the United States, ensured that in Canada policies promoted by the Prime Minister in Council would not fail to win advocacy in the House. Of course, such opposition would also have required interest, but Parliament engaged in none of the agonized self-examination which infused congressional consideration of Indian treaties.

The contrast in objectives to be gained from treaty-making is nowhere more apparent than in the instructions which guided the commissioners sent to conclude arrangements with the Indians. These were made explicit, in the American case, in the July 20 Act, and in Canada in the several directives of the Privy Council, issued in a flurry before each of the Numbered Treaties. These documents defined the goals of each nation, but also indicated the gulf by then existing between the two on the purposes of treaty-making in general. The American directive reflected a desperate need to solve the “Indian problem”. Canada’s instructions were, by comparison, exceptionally narrow and continued

² Mr. Sargent, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, July 14, 1870, p. 5608.

to echo the “traditional” ends of Indian treaty-making. The nature of these instructions would have some bearing on the direction negotiations and terms would take.

The Great Peace Commission went West with a comprehensive mandate of daunting proportions, delineated in the July 20 Act and worth citing at length. The commission, it was declared,

...shall have power and authority to call together the chiefs and headmen of such bands or tribes of Indians as are now waging war against the United States or committing depredations upon the people thereof, to ascertain the alleged reasons for their acts of hostility, and in their discretion, under the direction of the President, to make and conclude with said bands or tribes such treaty stipulations, subject to the action of the Senate, as may remove all just causes of complaint on their part, and at the same time establish security for persons and property along the lines of railroad now being constructed to the Pacific and other thoroughfares of travel to the western Territories, and such as will most likely insure civilization for the Indians and peace and safety for the whites.³

The Act included an additional six sections dealing with reserves to be established (Section 2), monies to be allotted to the purpose of treaty-making (Section 3), a requirement that the Secretary of War provide adequate logistical assistance (Section 4), an “or else” clause threatening military action in the event of failure and specifying the forces to be used in that contingency (Sections 5 and 6), and a demand that the commission submit a comprehensive report on its activities (Section 7).

The goals of the commission could not have been clearer. Nor could they have been any broader. They encompassed most of the concerns which plagued American Indian policy on the Plains - war and peace, settler and railroad security, and the compulsion to “civilize” the Indians. The humanitarian influence was starkly apparent in

³ “An Act to establish...”, Congressional Globe, 40th Congress, 1st Session, Appendix, p. 44.

the expressed desire to determine the causes of Indian hostility and to ameliorate these conditions. This commitment was a direct response to the several commission reports flooding Congress in 1867 and fingering unrestrained settlers, miners and Army personnel as the chief instigators of Indian hostility. The single phrase "...to make...such treaty stipulations...as will most likely insure civilization for the Indians..." was an understated expression of the other significant humanitarian impulse, and hardly indicated the critical nature of this element as the resolution of the vexing "Indian problem". Nor did it accurately foreshadow the weight which the commissioners would give this item. The secondary articles, promising military action in the event of failure, served as a sop to those, in Congress and in the West, who would have preferred an all-out war of extermination instead.⁴

For all its thoroughness, the Act was severely flawed by several critical omissions, perhaps more clear in retrospect than at the time. The most basic of these was the absence, outside the assignment of monies to pay for the actual negotiations, of any fiscal limitations or requirements. The 1865 treaties had sparked furious debate in the Senate over the outrageously extravagant nature of the annuities awarded therein, and yet, less than two years later, Congress itself was constituting a peace commission for which it failed to establish fiscal guidelines on acceptable expenditures. As the treaty system in the United States would fall in a conflict over the Indian appropriations bill meant to pick up the tab for these treaties, this was a significant oversight indeed.

⁴ Report by the Indian Peace Commission, January 7 1868, in Annual Report of the Commissioner of Indian Affairs for 1868, p. 27.

This omission nicely complemented the ambiguous and anomalous position of the commissioners themselves. They were given, as the instructions imply, sweeping authority and responsibility, and yet they really had very little power and even less direction. Congress had essentially unloaded a very contentious problem into the hands of a few men, only one of whom - the commission chairman, Senator John Henderson - had a direct connection to the body which would approve or disallow the work. Congress had created the commission but had no obligation to support or approve the action taken in its name, and few members would feel any compunction to do so.⁵ The commissioners were also told very clearly what to do, but, aside from the section authorizing the establishment of reserves - and even those instructions included a wide degree of latitude - there were no practical guidelines as to how these objectives were to be met. The Great Peace Commission not only laboured under the burden of overwhelming, diverse and conflicting expectations imposed on the treaty-making process, but set out to achieve unprecedentedly ambitious ends with neither explicit guidelines, nor unequivocal support.

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The Numbered Treaties had more nebulous, but no less prestigious origins in the considerably less structured surroundings of the Privy Council. These treaties were not negotiated in a body, and therefore were undertaken in each instance as the result of

⁵ See, for example, Mr. Cavanaugh, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, March 2, 1870, p. 1644 and Mr. Beck, 41st Congress, 3rd Session, House of Representatives, January 26, 1871, p. 765.

individual Orders of the Privy Council. In contrast to the American treaty instructions which are found, typed and printed, as an appendix to the *Congressional Globe* of the appropriate session (among other places), copies of the Privy Council's orders remained handwritten in both the records of the Privy Council Office and in the papers of those involved in the commissions. Frequently more than one Order was issued on each occasion, dealing with different aspects of the particular treaty proposed. The three matters which regularly warranted attention in these transmissions were the appointment of the commissioners, a statement of the point of the treaty which was always and exclusively to extinguish Indian land title, sometimes detailing the lands to be acquired, and some very detailed dickering over the price to be paid, in the form of annuities, for this prize.⁶ The simplicity and directness of the Canadian instructions are startling in comparison to those given in the American case, but then they reflect the very different ends to which the two governments were working. One finds in the Orders no mention of any function other than that of extinguishing land title. What concerns the Dominion government may have had about the disaffection of the Plains Indians were expected to find amelioration in the process establishing an official relationship and settling the troublesome question of land title. The conflict that did exist, and there was some, accelerated the timetable for treaty-making. But Canadians were both more confident of

⁶ See the three letters from A. Campbell to Alexander Morris, July 31, 1873, August 5, 1873, and August 14, 1873, on the amount of annuities to be offered in Treaty Three. NAC, Papers of Alexander Morris, M-70; See also Joseph Howe to W.M. Simpson, S.J. Dawson, and Robert Pether, May 6, 1871, Sessional Papers (No. 22), 1st Parliament, 5th Session, 1871; and Privy Council Minutes, NAC, RG-2, Series 1, Volume 101, Minute 1332, November 4, 1874, for Treaty Four, Reel C-3310.

the appeal of British policy as a pacifying force and less able to recognize a threat which did not come in the form Americans experienced. In Canada there was no war to end, no peace to be made, and no outstanding grievance which could not be resolved within the narrow confines of the government's conception of the treaties, whatever other ideas the Indians may have had. There was no need to ensure the security of railroads specifically as, again, extinguishment of land title would decide this. The distinct absence of any discussion in the Privy Council, let alone manifestations of it in Orders, of any reference to the "civilization" of the Plains Indians as a treaty goal reflects the constancy of Canadian policy. Treaties would precede "civilization", not organize it.

The reiteration of the extinguishment of land title as the chief objective was only a minor point in comparison to the constant refrain over how much this goal was to cost. Here the Canadian government was influenced both by terms in previous treaties in British North America, as well as by the American example. There was some insistence that no more than four dollars per head had been paid in previous treaties.⁷ Treaty Three annuities were initially restricted to this sum, but the failure to conclude a treaty for two years at these rates, and information that the Americans paid much higher annuities to Indians just across the border, forced a grudging concession here.⁸ A change in commissioners, from the less energetic and certainly less powerful Wemyss Simpson to Lieutenant-Governor Alexander Morris, resulted in a compromise solution which won the government's

⁷ Joseph Howe, Secretary of State for the Provinces, to W.M. Simpson, S.J. Dawson and Robert Pether, May 6, 1871, Sessional Papers, (No. 22) 1st Parliament, 5th Session, 1872.

⁸ See the memorandum from Alexander Campbell, [n.d.] 1873, NAC, RG-2, Minute 962, Reel, C-3305.

approval.⁹ The desire of the government to maintain a constant rate in annuities, unless a lower price could be achieved, as was the case in Treaty Five, filled subsequent instructions to treaty commissioners. The ability of the commissioners to adhere to the stingy government guidelines was the basis on which treaties and commissioners were adjudged successful or not.¹⁰ Thus Canada, unlike the United States, despatched its commissioners with some general idea of what the process was going to cost the government on an annual basis.

Canadian treaty instructions, as manifested in the Orders in Council, were really no more clear than the American directions on the power and authority of the appointed commissioners to effect binding agreements. The Privy Council formally embraced no more responsibility to act on the works of its commissioners than did Congress the efforts of the Great Peace Commission. In the seven Numbered Treaties, the lieutenant-governor of the Northwest Territory played an active role, but in terms of the power structure of the federal government, he was a negligible influence. But the Canadian government in the 1870s was a much smaller, much more informal organization than the congressional system. This ensured an intimacy of acquaintance among the power brokers not as apparent in the American context. Treaties Four, Five and Six were negotiated by a

⁹ Alexander Campbell to Alexander Morris, October 28, 1873, NAC, The Papers of Alexander Morris, Reel M-70.

¹⁰ See Campbell to Morris, October 28, 1873, The Papers of Alexander Morris, Reel M-70. By the same terms, disapproval was expressed when the Commissioners failed to make terms acceptable to the tight-fisted Government. See Department of the Interior Memorandum, February 12, 1877, and Letter to Alexander Morris by Lawrence Vankoughnet, Deputy Superintendent General of Indian Affairs, March 1, 1877, NAC, RG-10 Volume 3636 File 6694-2, Reel C-10111.

lieutenant-governor who did not belong to the same party as the government he was representing, yet he was nonetheless well-acquainted with the members of the Privy Council who directed him and corresponded extensively, both officially and privately, with them. Alexander Morris, Lieutenant-Governor of Manitoba and the Northwest Territory from 1871 through 1877, enjoyed the confidence of both his immediate superior in Indian matters, briefly Joseph Howe as Secretary of State for the Provinces, and then Liberal Minister of the Interior David Laird, and the Liberal Prime Minister, Alexander Mackenzie. The latter two warmly enjoined Morris to keep them informed of matters in the Northwest Territory, privately and officially.¹¹ Laird, in despatching instructions extra to the Privy Council Orders on the making of Treaty Six, remarked that “Your large experience and past success in conducting Indian negotiations relieves me from the necessity of giving you any detailed instructions in reference to your present mission.”¹²

This is not to imply that the Canadian treaties met no criticism at all from the Privy Council. Minister of the Interior Laird adjusted the terms of Treaties One and Two to dispel charges made by the Indians with regard to unfulfilled promises.¹³ There was also considerable consternation - hardly comparable to American disputes - over the provisions

¹¹ David Laird to Alexander Morris, May 29, 1874 and Alexander Mackenzie to Alexander Morris, December 6 and 26, 1873, NAC, The Papers of Alexander Morris, Reel M-70.

¹² David Laird to Alexander Morris, July 15, 1876, NAC, RG-10 Volume 3636, File 6694-1, Reel C-10111

¹³ David Laird to Alexander Morris, April 27, 1875 NAC, , The Papers of Alexander Morris, Reel M-70; Laird to Morris, July 7, 1875, NAC, RG-10 Volume 3616, File 4518, Reel C-10107.

of Treaty Six.¹⁴ In general, however, the government, in the form of the Privy Council and the Governor General, accepted without question the work of their commissioners. This may have been a reflection of the parliamentary system, where delegated authority was not subject to such critical second-guessing. The personal element evident in the close association of all parties involved could have had some bearing on this confidence. It may also have been an acknowledgment of the fact, pointed out heatedly by Alexander Morris when his work on Treaty Six was criticized, that the Privy Council was very far from the scene of negotiations and thus a certain flexibility and latitude on the part of commissioners was to be understood.¹⁵ Perhaps it was merely that Indian treaties were not important enough to get exercised about, even when they presented “onerous” terms, as did Treaty Six.

The practical results of the level of responsibility, power, and latitude given the commissioners in both countries was not immediately apparent, as both were somewhat vague and definitely not binding. But in fact Canadian commissioners made treaties which won easy ratification with almost no hint of dissension, while the work of the American commissioners generated stormy debate and precipitated the end of the treaty-making system. Under their instructions, the American commissioners had tremendous freedom to

¹⁴ See a Copy of a Report of a Committee of the Honorable the Privy Council, 10 February, 1877; Department of the Interior Memorandum by the Minister of the Interior, January 31, 1877; Department of the Interior Memorandum by L. Vankoughnet, Deputy Superintendent General of Indian Affairs, February 12, 1877, and Vankoughnet’s letter to Alexander Morris, March 1, 1877, as well as responses to the criticism contained therein by Alexander Morris, March 27, 1877 and James McKay, March 28, 1877, in NAC, RG-10 Volume 3636, File 6694-2, Reel C-10111.

¹⁵ Alexander Morris to David Mills, March 27, 1877, NAC, The Papers of Alexander Morris, Reel M-69.

introduce radical changes in American Indian policy, and they certainly tried to exercise that mandate. The rejection of their work was a considerable surprise to many, even in Congress, where the irony of rejecting what they themselves had wrought was palpable.¹⁶ The Canadian commissioners had a much narrower mandate but considerable latitude nonetheless. While their work was not considered binding either, before approval, they yet enjoyed a measure of confidence not accorded their American counterparts.

This difference in confidence is interesting given the calibre of men involved in the negotiations for both governments. Under the Act of July 20, seven men were appointed to the Great Peace Commission. Congress named the four civilians, leaving it to the President to name the three Army officers “not below the rank of brigadier general.”¹⁷ The civilians included the sponsor of the bill to create the commission, Senator John Henderson, as well as the current Commissioner of Indian Affairs, Nathaniel G. Taylor. Henderson was a Westerner, from Missouri, yet stood in the Senate a committed humanitarian where he chaired the committee on Indian Affairs. Taylor, a former Methodist minister, personified the American missionary impulse to “save” the Indians. Samuel Tappan, the third appointee, also exemplified the missionary spirit. He had been an ardent abolitionist in “Bleeding Kansas” in pre-Civil War years, and in the wake of that

¹⁶ See for example Mr. Morrill of Maine, Congressional Globe, 41st Congress, 2nd Session, Senate Proceedings, July 2, 1870, p. 5112 and Mr. Garfield of Ohio, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, July 14, 1870, p. 5607 and July 15 1870, p. 5638. See also Secretary of the Interior J.D. Cox to President Ulysses S. Grant, March 7, 1870, Senate Executive Document 57 (41-2) 1406, p. 5.

¹⁷ “An Act to establish Peace ...”, Appendix to the Congressional Globe, 40th Congress, 1st Session, July 19, 1867, p. 44.

conflict had focused his attention on the Indian reform movement, exhibiting there all the zeal he had hitherto devoted to the abolitionist cause.¹⁸ Tappan was the sort who would vilify the state of American Indian policy as a “national sin”. The fourth civilian, John Sanborn, had been part of the volunteer army of the Union in the Civil War and had fought Indians in the West. But he had also been a negotiator of the 1865 treaty on the southern Plains, and co-chair of the influential investigatory commission on the Fetterman Massacre, which had pointed an accusing finger at the military. The willingness of Congress to appoint four men so clearly disposed to the humanitarian impulses in Indian policy was indicative of the strength of that quarter, for the moment, in Congress and in the public opinion of the Northeast.

The commission was balanced, however, by the three military officers appointed by the President. The most important of these, indeed the most powerful figure on the commission, was Lieutenant-General W. T. Sherman, whose stature in post-Civil War America was second only to soon-to-be-President General U. S. Grant. Sherman carried the authority vested in his own reputation as well as that of his official position of Commander of the Division of the Missouri (virtually the entire Plains West). He had as well intimate ties with the Department of the War, through his association with General Grant, and in Congress, where his brother was an influential senator and powerful voice in criticism of the Indian treaty-making system.¹⁹ Sherman had operated extensively in the

¹⁸ Bailey, p. 30.

¹⁹ For an example of some of John Sherman’s remarks of this nature see Congressional Globe, 30th Congress, 1st Session, April 18, 1866, pp.2010 and p. 2013.

West throughout his career and was well acquainted with the problems there. He was supported by two lesser-known generals, Alfred Terry and William S. Harney, and later General Christopher Augur. Despite the reputation of the military as brutes and exterminationists, the records of these men, though considerable in Indian military operations, were clean. It was an impressive array of talent and “with the combined skills of the statesman, the soldier, the lawyer, the frontiersman, and the veteran Indian negotiator, the commission expected to produce a final solution to the Indian problem for those who lived east of the Rocky Mountains.”²⁰ Certainly the stature and experience of these men suggested that such a resolution was at least actively and sincerely sought. But they represented exactly the uneasy *mélange* of disparate motivations which had driven the United States to the bargaining table. Their prestige, like the exalted expectations imposed on the treaty-making process, set the system up for a crushing defeat should they fail to achieve their objectives, for if these intelligent, informed and committed men could find no solution, then perhaps there was no solution to find. As critical was the fact that, despite their suitability, expertise and interest, only Henderson, as a member of the Senate, was in a position to work for approval of these efforts once they had been made.

It is difficult to compare the stature of the Canadian and American negotiators. There simply was no Canadian equivalent of Lieutenant-General Sherman. The most prestigious negotiator of the Numbered Treaties representing the government was David Laird, in his capacity as Minister of the Interior, who served as co-commissioner of Treaty Four. A lieutenant-governor was present at all seven treaties, and took the leading part in

²⁰ Bailey, p. 31.

the negotiations of five of them. Lieutenant-Governor Adams Archibald's role in Treaties One and Two was limited to observation and perhaps some unwarranted interference with the work of the chief commissioner, Indian Superintendent Wemyss Simpson.²¹ More significant was Alexander Morris, the lieutenant-governor who oversaw the negotiations of four of the Numbered Treaties, and the revision of the first two. Laird, who succeeded Morris as lieutenant-governor of the Northwest Territory in 1876, concluded Treaty Seven, wherein he took a more active role than he had at Treaty Four, but was operating in the less powerful office of lieutenant-governor rather than Minister of the Interior. The only figure comparable to the American military officers emerged at Treaty Seven, in the person of James F. Macleod, Commissioner of the Northwest Mounted Police, a significant force in the Prairie West. Indian Superintendent Simpson, the least significant of the chief negotiators, gained his appointment by virtue of the fact that he had been present at the negotiations of the Robinson Huron Treaty in 1850, and thus was expected to have a more informed appreciation of what treaty terms were supposed to be than did the Privy Council members who had despatched him.²² Subordinate negotiators included S.J. Dawson, the Dominion Surveyor, who participated in the Treaty Three negotiations in the territory with which he was familiar; W.J. Christie, at Treaties Four, Five, and Six, a former Hudson's Bay Company factor; and James McKay, a prominent Metis trader and politician from Manitoba, who had the distinction of being the only treaty commissioner in

²¹ Molyneux St. John to William Spragge, Deputy Superintendent of Indian Affairs, February 24, 1873, NAC, RG-10, Volum3 3598, File 1447, Reel C-10104.

²² Leighton, p. 288.

either Canada or the United States to speak the language of the people with whom he was treating.²³

The chief Canadian negotiators may have held more prestige than did most of the American negotiators, outside of Lieutenant-General Sherman. American cabinet ministers, particularly the Secretaries of War and the Interior did participate in Indian treaty-making when it was conducted in Washington, but these treaties were not, leaving the Commissioner of Indian Affairs as the highest-ranking bureaucrat involved. What is significant, different, and comparable about the treaty commissioners, however, is their connection to the territory and people with whom the treaties were being made. General Sherman's offices were in St. Louis, but he had only just arrived there and would shortly be re-appointed to Washington. Senator Henderson represented Missouri, but did his work in Washington. Only the three subordinate generals - Terry, Harney and Augur - could boast of an extended association with the Plains people of the 1867-1868 Treaties. In Canada, the lieutenant-governors, in contrast to the senior American negotiators, lived and worked in the Prairie West. The lieutenant governors were personally acquainted with many of the Indian chiefs and headmen, and had received either these men or their official supplicants in their gubernatorial offices.²⁴ Superintendent Simpson was criticized by Lieutenant-Governor Archibald because he exhibited a distinct reluctance to take up

²³ Morris, Treaties, p. 195.

²⁴ See for example Adams Archibald to the Secretary to State, July 19, 1871, Sessional Papers (No. 22), 1st Parliament, 5th Session, 1872; Alexander Morris to Minister of the Interior, February 18, 1876, NAC, Papers of Alexander Morris, Reel M-69; Alexander Morris to Minister of the Interior, October 20, 1876, NAC, Papers of Alexander Morris, Reel M-69.

residence in the territory where his charges, the Indians of the Prairie West, lived.²⁵ Even the subordinate commissioners had much closer ties to the Indians involved in the treaties. Dawson became acquainted with the peoples of Treaty Three while attempting to survey the road through northwestern Ontario in 1869-1870. Christie and McKay had extensive experience in trading relationships across the West. It is difficult to credit the easy passage of the Canadian treaties to these connections as there is no direct evidence to corroborate such an assertion and too many other factors were involved in the Canadian treaty-making process. But it is clear that Canadian commissioners had direct, long-term acquaintance with the peoples with whom they dealt, more extensive even than the American military officers who were likely the most expert on the situation in the United States.

In both countries the treaties were negotiated in Indian country itself. This was the standard practice in British North America, but not always the case in the United States. American negotiators had long recognized the psychological impact of transporting Indians from their home territories via “modern” means of transportation, through the increasingly populous centres of the burgeoning American West to the metropolises of the East Coast, and the home of the “Great Father” in Washington.²⁶ Neither Britain nor Canada indulged in this practice. It was not practical to take large bodies of Indians to London to meet the Queen, for treaty-making purposes. Ottawa would not have served

²⁵ Adams G. Archibald to Joseph Howe, Secretary of State, February 12, 1872, in Sessional Papers, (No. 23), Volume 5, 2nd Parliament, 1st Session.

²⁶ At a meeting with the Brule Sioux on September 19, 1867, General Sherman issued a general invitation to any of the assembled Indians to make such a trip for this purpose. Proceedings of the Great Peace Commission, p. 62.

these purposes, being neither an impressive metropolis in the 1870s, nor the home of the “Great Queen Mother”, although member of Parliament J.C. Schultz did suggest it as the proper venue in which to resolve the quagmire of the “Outside Promises” of Treaties One and Two.²⁷ The British and Canadians were also less pressed by the need to awe the Indians into submission, which was really the purpose of the American ventures of this kind. Cost would also likely have been a factor for the Canadians, where it was not for the Americans.

The commissioners not only went to Indian territory, but also to locations favoured by the Indians. Medicine Lodge Creek was a regular gathering place for the Indians of the southern Plains, and had been suggested by Ten Bears, a Comanche chief.²⁸ The Fort Laramie Treaties were actually negotiated over several months at a series of military forts and trading posts, including Forts Sully, Rice, and David Russell, as well as Fort Laramie. The latter was an established trading post and easily accessible to the Americans. Medicine Lodge Creek was particularly inconvenient for the commissioners. It lay in the heart of untrammelled Indian country, seventy miles from the nearest outpost at Fort Larned, and thus vulnerable should the conference turn sour. It was also difficult to transport the tons of treaty presents, goods, and food supplies to such an isolated spot.

The Canadians chose similar places for similar reasons. The Stone Fort and Manitoba Post of the Hudson’s Bay Company served for Treaties One and Two; Fort

²⁷ Taylor, “The Development of an Indian Policy for the North-West, 1869-1870”, p. 79.

²⁸ Cora Hoffman Parrish, “The Indian Peace Commission of 1867 and the Western Indians” (Unpublished M.A. Thesis, University of Oklahoma, 1958), p. 36.

Frances for Treaty Three; Fort Qu'Appelle for Treaty Four; and Forts Pitt and Carlton for Treaty Six. All were outposts of the Hudson's Bay Company. The commissioners went to the Indians themselves in the Treaty Five negotiations, landing at various communities on Lake Winnipeg to secure this agreement. Treaty Seven was negotiated at Blackfoot Crossing, a site chosen by Blackfoot Chief Crowfoot.²⁹ Fort Pitt had been added to the locations where the assemblies of Treaty Six were to take place, at the specific request of the one of the Indian chiefs, Mistawasis, as being more convenient to the Cree people along the western reaches of the North Saskatchewan.³⁰ These places were not always convenient for the government commissioners. The Stone Fort required a trip of only twenty miles from Fort Garry, but the negotiations at Fort Frances compelled the lieutenant-governor to travel more than a hundred miles. By his own reckoning, Morris travelled a thousand miles to complete Treaty Five. An even more extensive undertaking was required for Treaty Six, with the lieutenant-governor travelling from Fort Garry to the North Saskatchewan, and in the course of that summer covering sixteen hundred miles.³¹

Both nations felt obliged to add military forces to their treaty commissions as support staff. In the United States, the Army handled logistics, as directed by the Act of July 20. This involved a massive effort, as the baggage, provisions, presents and treaty

²⁹ Dempsey, Crowfoot, p. 93-94.

³⁰ Mistawasis to Alexander Morris, January 16, 1875 and Alexander Morris to the Secretary of State, February 22, 1875, in NAC, RG-10, Volume 3636, File 4490, Reel C-10107.

³¹ Alexander Morris to Sir John A. Macdonald, November 4, 1875, NAC, Papers of Sir John A. Macdonald, Reel C-1673; Alexander Morris to Alexander Mackenzie, January 22, 1877, NAC, Papers of Sir Alexander Mackenzie, Reel M-199.

items were substantial. The camp at Medicine Lodge Creek was established at least a month in advance of the actual treaty negotiations in order to accommodate the logistical demands³². But the five hundred soldiers and array of Gatling guns which also went to Medicine Lodge Creek reflected the very central security concerns involved in venturing into territory acknowledged to be hostile in an attempt to sign a treaty of peace.³³ There was also some concern, at Medicine Lodge Creek, that conflict between some of the southern Plains peoples themselves might put the treaty commissioners in jeopardy, and thus warranted the presence of the Army in force. Such requirements were not as essential at Fort Laramie which, although a trading post, was already fortified, or at the other locations for the northern negotiations, as they were all military forts.

Canada also employed military forces, but for different reasons. The militia accompanied the commissioners in Treaties One, Two and Three, and the Northwest Mounted Police attended the final four treaty sessions. They served a logistical purpose, although in Canada the Hudson's Bay Company was as effective in providing transport and supplies as the Army was in the United States.³⁴ The primary purpose of the militia and later the Northwest Mounted Police was to add to the ceremony of the occasions. The belief that the Indians were impressed by uniforms was evidenced in the urgency to get Indian Superintendent Simpson into a uniform for his negotiations in Treaties One, Two,

³² Parrish, p. 37.

³³ Prucha, American Indian Treaties, p. 218.

³⁴ See for example W.J. Christie and M.G. Dickieson to David Laird, October 7, 1875, NAC, RG-10, Volume 3625, File 5489, Reel C-10109.

and Three.³⁵ The lieutenant-governor always appeared in full regalia.³⁶ For such a representative to appear without a retinue would have been to diminish his authority, and thus the role of the militia and the police. But the Northwest Mounted Police played this point to particular effect. They had already been established as the Queen's soldiers, and this connection to the royal authority, as well as the striking impact of their red uniforms, emphasized the nature of the relationship being established by treaty. This force was deliberately employed for ceremonial effect, with particular success at Treaties Six and Seven.³⁷

A final matter of some interest to a comparison of treaty-making procedures was the distribution of presents. The different approaches of each nation toward this very simple aspect of treaty-making reveals yet again the divergence in the meaning of treaties to the two governments. The United States was famous among the Indians for its extensive gift-giving, and the promise of presents was an alluring inducement in getting Indian crowds to gather. Gifts were distributed to all in attendance, not just to important figures, and at Medicine Lodge Creek consisted of "...bales of beads, buttons, bells, iron pans, tin cups, butcher knives, blankets, bolts of gaudy calico, pants, coats, hats, and, most enticingly, pistols and ammunition."³⁸ In fact, it was the promise of guns to be distributed

³⁵ Memorandum by Joseph Howe, April 17, 1871, NAC, RG-2, Series 1, Volume 45, Privy Council Minutes 19 April-4 May 1871, Copy 872(a), Reel C-3297.

³⁶ Blair Stonechild and Bill Waiser. Loyal Till Death: Indians and the North-West Rebellion, (Calgary, 1997), p. 13.

³⁷ Peter Erasmus. Buffalo Days and Nights. (Calgary, 1976), p. 239.

³⁸ Utley, The Indian Frontier, p. 116.

which brought the Sioux to the peace table in the ill-fated negotiations of 1866, and encouraged them to try again in 1867.³⁹ Although this practice was condemned as a waste of money and tantamount to bribery, its defenders in Congress tried to invoke its historical precedents as a common feature of treaty-making, and pointed to the potentially unpleasant ramifications if it suddenly came to an end.⁴⁰ It remained a factor in the treaties of 1867 and 1868, but the details of presents distributed do not figure in either the treaty text or recorded deliberations.

Canadians took a much more formal position on presents. All communications to the Indians, especially those either postponing or promising treaty negotiations, were accompanied by presents for the chiefs or other leaders.⁴¹ It was an accepted element of Indian relations. Presents, which in Canada were as likely to include money as well as gifts in kind, were specified in each of the treaties. The role of presents as an element in the formal proceedings, as opposed to a general pacifier or bribe, is indicated by the fact that not everyone was accorded a gift under the Canadian system. Regarding presents to be sent to calm the Indians of the North Saskatchewan in 1872, it was suggested that the gifts

³⁹ Report of the Indian Peace Commission, January 7, 1868, Annual Report of the Commissioner of Indian Affairs for the Year 1868, p. 29.

⁴⁰ See Mr. Chaves, Congressional Record, 39th Congress, 2nd Session, House of Representatives, February 19, 1866, p. 1344, and Mr. Doolittle, 39th Congress, 1st Session, Senate Proceedings, April 18, 1866, p. 2014.

⁴¹ See, for example, A. Campbell to Alexander Morris, August 14, 1873, NAC, Papers of Alexander Morris, Reel M70; Alexander Morris to Minister of the Interior, September 20, 1873, NAC, Papers of Alexander Morris, M-70; Department of the Interior Memorandum from E.A. Meredith, August 24, 1875, NAC, RG-10, Volume 3624, File 5152, Reel C-10109.

include everyone, indicating that this was not the common practice.⁴² Gifts were more commonly made to the chiefs and headmen. Each of the Numbered Treaties did include a monetary gift, one-time-only, to all who accepted the treaties, but even then the chiefs and headmen were accorded more money, and this was accompanied by specific gifts of clothing, medals and flags given just to them.

* * * * *

All of the practical factors - origin of instructions, stature of the commissioners, and goals of the process - as well as the extensive *accoutrements* of negotiation, suggest a formal and serious diplomatic exchange between peoples in the several treaty meetings of 1867-1868 and the 1870s. At the same time, however, it was clear that American disillusionment with the practice was reaching a crisis point for the future of the policy. In Canada, the chief attitude of those responsible for Indian affairs was disinterest. The peoples of the Prairie West had been ignored as irrelevant in the transfer of their lands to Canadian jurisdiction. Ottawa remained inattentive to their concerns until such matters were coupled with persistent and threatening protests. Only then did indifference transform to action. The implications of these attitudes become more apparent in an

⁴² Wemyss Simpson to William Spragge, Deputy Superintendent of Indian Affairs, September 27, 1872, NAC, RG-10, Volume 3576, File 376, Reel C-10101.

examination of the treaties themselves, wherein it can be seen that the diplomatic balance affected by the formal proceedings gave way to a relationship heavily weighted in favour of the governments involved.

Chapter Six - Reserves

Settlement was the primary reason for expansion into the West. In 1867, Americans were already there, and Canadians were beginning to dream of similar growth. The problem in both countries was that these lands were occupied by Indians. Both recognized, in keeping with age-old practice and “tradition”, the necessity of extinguishing Indian land title which was acknowledged, in some form, in each nation. But Canada and the United States faced the additional problem, once title was secured, of what to do with these people who would not simply disappear just because their rights to the land had been liquidated. Treaties were the effective instrument for extinguishing land title, and were employed in 1867-1868, by the United States, to the broader ends of ending war and establishing peace. But they also embodied other, far-reaching implications for Indian policy, instigated specifically by the problem of what to do with the occupants once the land was under the legal jurisdiction of the national governments. The two central components of Indian policy expanded in the treaties of 1867-1868 and the Numbered Treaties were those of reserves and “civilization”.

The idea of reserves was not new when the North American nations faced West at the end of the 1860s. The French had established Indian reserves, after a fashion, in New France, and New England also had its version of such enclaves.¹ Both Britain and the new United States continued sporadic efforts in this direction in the latter half of the eighteenth

¹ Dickason, p. 233; Trennert, p. 3.

century. A significant divergence in policy between the two regions took place in the wake of the War of 1812. Confronted by populations no longer of military utility, Britain embraced the practice in earnest. The United States embarked on what might be described, given the overall direction of reserve policy in the nineteenth century, as a detour. After 1812, the United States began to expand in a serious way, pushing into the territories of the Old Northwest (Ohio, Wisconsin, etc.) and the Old Southwest (inland Georgia, Alabama, and Mississippi), and here encountered sizable indigenous populations. Unrestrained American expansion sparked the usual problems of friction and the blatant disregard, by white settlers, of Indian rights. These populations, unlike those in the older states, were too large to absorb into irrelevance, but another solution was at hand. In the first quarter of the new century, the United States formulated the policy of removal, implemented in the 1830s. The Louisiana Purchase of 1803 had provided the nation with a substantial holding ground for the peoples thus expelled, and the vast territory west of the Mississippi was deemed well beyond the grasp or interest of the white population for generations to come.²

American optimism was short-lived. By the 1840s the United States found itself on the brink of yet another major expansion, and confronting yet another Indian barrier, a situation which approached crisis proportions a generation later in the wake of the Civil War. Canada, perched on the edge of its own vast western territory in Rupert's Land, was by then in a comparable position. The numbers of Indians in both places were considerable, but this time removal was no longer a possibility.

² Trennert, p. 2.

Both the United States and Britain had experimented in reserve policy in the 1830s, 1840s and 1850s, and had also dabbled in “civilization”. The only British effort at removal had taken place in 1836, under the lieutenant-governorship of Francis Bond-Head. Like the American experience it was widely criticized and, in British North America, the practice was swiftly abandoned as an aberration, as was Bond-Head himself.³ The more conventional approach was the establishment of large reserves in Upper Canada, but by the 1850s Indian policy-makers had come to the conclusion that these were ineffective in advancing “civilization” and were considering smaller reserves adjacent to white population centres as an alternative.⁴ The United States came to a similar stage in the 1850s, leading to reserve experiments in that decade on the tribal remnants of peoples who had been removed from the Northeast in the 1830s and who were now on the fringes of “civilization” once more. Smaller reserves, awash in a sea of white settlement, were established, and allotment was even implemented in some cases.⁵ The disastrous results of this approach in the American Midwest encouraged the search for a different solution to the problem of Indians and reserves. By the 1860s, the United States, faced with huge numbers of new Indian peoples, required a more comprehensive and systematic reserve policy.

Canada, too, had to adapt to a new situation. Prior to the Robinson Treaties of 1850, territory had been acquired piecemeal on the basis of the advance of settlement, and

³ Miller pp. 103-104.

⁴ Carter, p. 24; Tobias, “Protection, Civilization, Assimilation”, p. 130.

⁵ Prucha, The Great Father, Vol. 1, pp. 326, 348.

Indians resident there removed to lands frequently bought from other Indian nations. Once British North America, and then Canada in the West, began acquiring land in huge cessions, it was necessary to revise the policy. Now it became a requirement of treaty making to set aside a quantity of land for the Indians from that surrendered, and the commitment to establish reserves became an essential component of the treaty process.

The sophistication of the reserve policy in each nation was paralleled by the development of the function reserves were to serve. Protection and “civilization” were central elements to the idea of reserves in each nation, more acutely so after the War of 1812 when it was understood that Indians, no longer an equal partner in national affairs, would require not only protection because of their weaker, vulnerable status, but also a transformation if they were to remain in existence. These two functions remained at the core of the reserve system in the nineteenth century, although the balance between them shifted in time.

Crass greed propelled the American removal policy of the 1830s, but President Thomas Jefferson had speculated as early as 1803 that the Louisiana Purchase would benefit the Indians in both their protection and “civilization”.⁶ Even Indian sympathizers in the United States in the 1830s, seeing the villainy, particularly in the Southwest, could appreciate the argument for the protective aspects of removal.

It was disillusionment with the apparent lack of advancement toward “civilization” exhibited in the western Indian Territory which led to a shift in the size of reserves to

⁶ Thomas Jefferson’s views are invoked in a letter from E.S. Parker to General Ulysses S. Grant, January 24, 1867. House Miscellaneous Document, 37 (39-2) 1302.

smaller and sometimes allotted ones in the American Midwest.⁷ Britain, too, had initially favoured reserves for their protection function more than “civilization”, although increased interest in “civilization” as the final purpose grew after 1830 with the transfer of Indian affairs to civilian authority. The protection function did not disappear, but became instead, along with the idea of reserves themselves, a necessary step on the road to “civilization” rather than ends in themselves.⁸

There was a basic contradiction in the framing of reserve policy as it was expressed in the Treaties of Medicine Lodge Creek and Fort Laramie and the Numbered Treaties. Both sets of treaties promised “permanent” Indian land holdings and yet equally clearly, the architects of these documents were committed to the view of reserves as what some have called “laboratories of civilization”.⁹ Inherent in the idea of “civilization” was the transformation of Indians into whites. But whites did not have reserves. Thus “reserves”, with their common land holdings and extensive territory (even the Canadian government thought the reserves it established were too large), were by definition temporary.¹⁰ The contradiction is blatant, yet it made complete sense to the governments and to the reformers and humanitarians who supported the reserve policy at the time.

The process of “progress” was conceived of as a linear development, with peoples moving along the lines of nomads on unrestricted land holdings, to nomads on restricted

⁷ Prucha, The Great Father, Vol. 1, p. 325.

⁸ Trennert, p. 195; Tobias, “Protection, Civilization, Assimilation”, p. 131.

⁹ Carter, p. 23; Tobias, “Protection...”, p. 133.

¹⁰ Carter, p. 23; Tobias, “Protection...”, p. 133.

land holdings, to semi-agriculturalists on limited territory, to yeoman farmers on allotted lots.¹¹ It was “inevitable”, although the timetable imagined for this process might vary from place to place, people to people, country to country. The inviolability of Indian lands, promised in treaties, and the stress on the permanence of these holdings, “as long as the water flows and the sun rises”, was not so much hypocritical, (although it may seem so in retrospect), as understood differently. It would be impossible to “save” the Indians from extinction unless reserves were established, a fact which was widely accepted in both countries. It would also be impossible to effect “civilization” if reserves were overrun by white settlers. Thus reserves had to be made inviolable to impress whites. If Indians required this assurance, perhaps to induce them to take up these restricted land holdings in the first place, then it was there for them, as well. They could hardly be expected to understand that “progress” and “civilization” were “inevitable”, although a few whites did try to explain it to them.¹²

It is not surprising that many Indians might have found this contradiction confusing. Given treaty promises of the permanence and inviolability of their reserves it may have appeared to some that they were getting what they wanted or needed: permanent lands where whites would not be permitted to go, and the right to continue to pursue their usual practices of hunting, fishing and trapping unhindered. The treaties in both countries did recognize these things. Without the conviction, which whites held to

¹¹ General Nelson A. Miles, “The Indian Problem”, The North American Review, (Winter, 1973; Reprinted from March, 1879), p. 42.

¹² See, for example, remarks by General John Sanborn at Fort Rice, July 2, 1868, Proceedings, p. 135.

firmly, that reserves were a temporary holding place until “civilization” dawned, it is understandable that Indians believed that “permanent” meant “permanent”.

These views of reserves - permanent but not permanent, and as stepping stones to “civilization” - governed the approaches which Canada and the United States adopted in their treaty-making ventures in the 1860s and 1870s. The necessity to establish reserves was included in the instructions imparted to the Great Peace Commission by statute in 1867, and formed the second article in each of the treaties signed at Medicine Lodge Creek and Fort Laramie. Somewhat farther down the list in the Numbered Treaties was the commitment wherein the Queen “...hereby agrees and undertakes to lay aside reserves [for farming lands]...” for the use of her Indian subjects.¹³ Despite this apparent similarity of purpose, the reserves which resulted from these efforts were notably different, at least in size, with the American ones constituting huge blocs of territory, while the Canadian were considerably smaller and less imposing. What a cursory glance at either the reserves established in that era or even the physical dimensions of such reserves today does not convey is the shared motive upon which the two countries acted because the reserves are emphatically not the same sizes.¹⁴ An examination of the factors involved in creating reserves in the treaties illustrates the basic similarity of approach and coincidence of purpose inherent in the policies of both nations. An understanding of their motivations, in conjunction with an analysis of treaty terms, helps to clarify the discrepancies.

¹³ Morris, Treaties, pp. 314 (Treaty 1), 318 (Treaty 2), 322 (Treaty 3), 331 (Treaty 4), 344 (Treaty 5), 352 (Treaty 6) and 369 (Treaty 7).

¹⁴ See comparative maps of reserve size in White-Harvey, pp. 593 and 594.

In both countries, reserve policy bore some relation to the official disposition of public lands through legislation designed to encourage settlement. By the time the United States and Canada came to treaty-making on the Plains, both had homestead policies in place to organize the settlement, in progress and proposed, envisioned for the Prairie West. The American *Homestead Act*, passed in 1862, allotted 160 acres for a nominal fee after five years' occupation. Canadian law, in the *Dominion Lands Act* of 1872, also permitted a 160-acre claim, after three years' residence.

The United States established reserves in the actual treaties and laid them out in exacting detail. They were huge territories, with the exception of that awarded the Northern Cheyenne and Arapaho who were expected to share the reserves assigned to others.¹⁵ The designation of such extensive territories accorded with both the recommendations of the Senate Committee on Indian Affairs and the instructions given the Great Peace Commission, and consisted of the two remaining "empty" regions on the Great Plains - north of Nebraska and south of Kansas. Americans very deliberately conceived of this "concentration" of the Indians as the first step in a gradualist policy toward the specific ends of acculturation and assimilation.¹⁶ Agriculture was an instrumental element of this policy, and the emphasis on this aspect in subsequent articles in the treaties makes clear the fact that there was nothing inconsistent in an American

¹⁵ See Article 2 in the Treaties with the Kiowa and Comanche, the Cheyenne and Arapaho, and the Sioux for the lands reserved to these peoples, and Article 2 in the Treaty with the Northern Cheyenne and Northern Arapaho for the provisions requiring them to choose a reserve on the lands allotted to the others. Kappler, *Indian Treaties*, pp. 977-978, 985, 998-999, 1012-1013.

¹⁶ See remarks by Secretary of the Interior J.D. Cox, quoted in Prucha, *American Indian Policy*, p. 103.

assimilationist policy which began with the allotment of territories almost the size of states.

The territories designated as reserve lands under the American treaties were substantial, but subsequent terms in the same documents reflected an intent more in keeping with the homestead policy than the initial reserve size indicated. Various articles made clear the intention that Indians were to become agriculturalists, and that sections of the reserve territory were eventually to pass into the hands of individuals in an effort to create that “yeoman farmer” which animated American idealism. This intention was particularly apparent in the sixth article in each treaty which dealt with “Lands for Farming”.

Treaty with the Sioux, Fort Laramie, April 29, 1868 - Summary of Terms

Article 6. Lands for Farming

- Heads of families can select a piece of reservation land to start farming, not exceeding 320 acres.
- On doing so, this piece of land will cease to be held in common.
- Land to be held by this person as long as it is cultivated.
- Any person (including women) over 18 can choose land not exceeding 80 acres.
- These transactions to be recorded in a Land Book.
- Status of land not fee simple, but may be made so at President's discretion.
- US can make laws on the alienation of this type of property and other matters relating to it.

* * * *

- Any *male* Indian over 18 who shall occupy a piece of land *outside* the reservation, and which shall not be mineral lands or any other reserved for use by the US, who has made improvements of more than \$200 value and occupied this land for 3 years continuously, shall be entitled to receive a US patent for 160 acres, including his improved land.
- After providing written application, & proof of 2 disinterested witnesses, the Indian can get this land registered at the General Land Office and hold it as long as he continues to live there.

Citizenship

- Any Indian receiving a patent under the above rules may become a citizen of the US and be entitled to all rights of citizenship and shall “at the same time, retain all his rights to benefits accruing to Indians under this treaty.”

In comparison to homestead allotments, these terms were generous indeed. But Indians endured restrictions, imposed by treaty, on the lands they thus acquired, which no other settler faced. Land could be held only as long as it was cultivated, yet another reinforcement of one of the central purposes of the reserves in fostering an agricultural existence. Only if the individual concerned embraced citizenship, a possibility explicitly allowed for under the Sioux treaty but probably understood to apply to the others as well, could he as a matter of course enter into full and unhindered possession of this land. These restrictions were intended to serve the protective function of Indian policy, but they also impeded the advance of “civilization” by differentiating between Indians and non-Indians.

In Canada, the connection between land and agriculture was made more explicit. In determining the size of reserves, Canada applied an exacting mathematical formula of either 160 or 640 acres per family of five, pro-rated for families of different sizes.¹⁷ These terms were at least the equivalent of the *Dominion Land Act*'s provisions, and in the cases where 640 acres were allotted were more generous not only than the homestead allotments, but also the American terms. But the object remained the same and was, in fact, more explicitly stated. In explaining to the Indians of Treaty One the amount of land to be set aside for them, Lieutenant Governor Archibald explicitly invoked farming as a justification. “These reserves will be large enough,” he said, “but you must not expect them to be larger than will be enough to give a farm to each family when farms shall be

¹⁷ Treaties One, Two and Five allowed for only 160 acres per family of five. In Treaties Three, Four, Six and Seven, 640 acres per family of five was the basis of the calculation.

required.”¹⁸

The Canadian government continued to emphasize the agricultural purpose of the reserve lands, insisting that the Indians surrender their rights to the vast bulk of the western Plains. However, under pressure from Indians in various negotiations, the government was forced to relent on reserve size. Indeed, the Canadian government seemed more concerned with consistency than the amount of land. Once the Treaty Three Indians had forced an accommodation of 640 acres to be allotted per family of five, the commissioners applied this amount across the board without further thought, except in the case of Treaty Five. There it was acknowledged, and used as a justification for the amount of land assigned per family, that the land in question in northern Manitoba was of minimal use for agricultural purposes.¹⁹ It might have been expected, then, that lands of lesser quality would have induced a more generous settlement from the government. But this was not the case. Government emphasis was on farming. If the lands available were not to be used for farming, then there was no purpose in burdening the Indians with lands that might be fit for other purposes, such as mining or lumber. These enterprises did not fit in with the intent to “civilize” the Indians and might interfere with the government’s own exploitation of these lands. It was easier, on the Prairies, blithely to hand over 640 acres to the Indians there, as no purpose other than agriculture was thought possible, at least at the time the treaties were made. The only place where the questionable nature of the land for

¹⁸ Adams G. Archibald, quoted in The Manitoban, cited in Hall, p. 129.

¹⁹ Raoul McKay, “Fighting for Survival: The Swampy Cree of Treaty No. 5 in an Era of Transition, 1875-1930”, (Unpublished Ph.D. dissertation, University of Toronto, 1991), pp. 76-77.

farming purposes and the government's desire to retain lands for other purposes for itself came into conflict was in Treaty Three, and there the Indians were quite aware of the potential additional values of their land and drove a harder bargain.²⁰ The fact that they were in a position, in the early 1870s, to exert strategic pressure on the Canadian government may account for the success they achieved in winning the larger amount of land allotted per family.

There were no provisions in the Canadian treaties for allotment in severalty or the assumption of title in fee simple. Like the various American restrictions on individual land holding, the absence of such terms was meant to assure the protection of the Indians' land base until such time as they were capable of undertaking the responsibilities of private property.²¹ The guidelines for that stage of Indian development in Canada were governed by statute, not treaty, and were part of the leisurely approach of the Canadian authorities to the settlement of Indians. Measures of this nature were to be found in such Eastern Canada legislation as the *Gradual Civilization Act* and the *Gradual Enfranchisement Act*, combined and augmented in the all-encompassing 1876 *Indian Act*. Allotting lands was a "civilization" measure which, except for the agricultural implements and assistance the Indians demanded be put into the treaty, remained a legislative concern. This was understood to come later, although when exactly that would be applied to the West, no one could say in the 1870s. The United States, having no legislative equivalent, had to

²⁰ Report by William Spragge, Deputy Superintendent of Indian Affairs, July 27, 1872, NAC, RG-10, Volume 724, Reel C-13413; George G.F. Stanley, The Birth of Western Canada: A History of the Riel Rebellions (1936; Reprinted Toronto, 1992), p. 210.

²¹ Morris, Treaties, p. 288.

incorporate what “civilization” measures it envisaged as part of the treaties.

* * * * *

Canada and the United States shared the vision of Indians settled on individual lots, and this was reflected in the similarity of treaty terms to homestead provisions. The difference in the size of the reserves allotted in the two countries, however, does not immediately indicate this impulse on the part of the United States. The Americans initially carved huge chunks from the public domain to be set aside for the Indians. Their first concern was to get the Indians off the remaining lands, and then to break down the extensive territories into more conventional land holdings. The Canadian government was more determined on the single-minded goal of acquiring title to the whole territory at once, but felt no immediate compulsion to relocate the Indians. The Dominion government could reasonably say, at the treaty negotiations, that reserves were for farming only and were to be established permanently for Indian use when they wanted to turn to farming, although there was no rush to do so.²² But because reserves were to be used for farming purposes, this was how they were calculated. The results may have been substantial in the eyes of Canadian land speculators or aspiring farmers or the Canadian government, but hardly amounted to half of South Dakota as did the Great Sioux Reserve, even had the reserves under each of the Numbered Treaties had been consolidated, which they were not.

²² See remarks by Adams G. Archibald quoted in The Manitoban, in Hall, pp.128-129.

Both Canada and the United States designated lands in excess, considerably in excess in the American case, of what they believed would be necessary for Indian use with the purpose intended - which was agriculture on individual farms.²³ But they also believed the excess lands would serve a purpose in themselves in providing a source of income to Indians who could not possibly farm such extensive territory.²⁴ Indeed, such was American optimism on this score, that all treaty annuities and assistance were finite, restricted to a period of ten or twenty years, because it was expected that by that time the Indians would begin to sell off their excess lands and so could fund their own purchases of seed and implements and hire their own instructors.²⁵

Thus in both nations the agricultural purpose of reserve lands was unquestioned, and was in fact simply understood. The United States had no more inclination than did Canada, and in reality probably had considerably less, to encourage a continuance of Indian ways. Circumstances in each nation dictated the policies. By promising huge territories the United States made it easier for themselves to convince Indians to retire to them, although this was not entirely successful. Canada had more success in convincing the Indians to accept much smaller reserves by not insisting on immediate occupancy. In Canada, the establishment of the limited reserves and an agricultural existence for the

²³ Morris, Treaties, pp. 29, 287.

²⁴ Morris, Treaties, p. 205.

²⁵ William Hagan, "The Reservation Policy": Too Little and Too Late", in Indian-White Relations: A Persistent Paradox, edited by Jane Smith and Robert Kvasnicka, (Cambridge, 1972), p. 164; Hagan, U.S.-Comanche Relations, p. 7; Francis Paul Prucha, The Indians in American Society (Berkeley, 1985), p. 46.

Indians were concerns for the future, not the present.

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Decisions on location of reserves also reflected the narrow purposes and beliefs of governments at the time, rather than a considered policy which, in retrospect, may appear insidious. The American Plains reserves, though no longer the united territories they initially were, are still relatively adjacent, while Canadian ones are scattered. These results are due to the way reserves were chosen and by whom.

In the United States it was the Senate Committee on Indian Affairs which established the general outlines of the western reserves to be located “so as not to interfere with travel on highways located by authority of the United States, nor with the route of the Northern Pacific railroad, the Union Pacific railroad, the Union Pacific railroad eastern division, or the proposed route of the Atlantic and Pacific railroad by way of Albuquerque.”²⁶ Pouring over maps of the West, the commissioners determined that this left only two substantial empty territories, and the decision was made to concentrate the Indians there even before a single Indian had been encountered. The idea of consulting with the Indians on this matter was never considered. This meant the removal of all the peoples concerned. The southern Plains nations of the Kiowa, Comanche and Kiowa-Apache were to be re-located to territories within Indian Territory, to lands surrendered

²⁶ “An Act to establish Peace...”, Appendix to the Congressional Globe, 40th Congress, 1st Session, July 19, 1867, p. 44.

by treaty by the Five Civilized Nations because of their role, on the losing side, in the American Civil War.²⁷ The Sioux were to be shifted east, to a reserve in present-day South Dakota, although they retained, under a unique provision, rights to the Powder River country in Montana.²⁸ Others, specifically the Northern Cheyenne and Arapaho of the Central Plains were required to abandon not only their lands but the entire region. They did not gain their own reserve, but were offered the alternative of joining either of the ones established for northern and southern peoples.

Congress and the peace commissioners did engage in some discussion on the number of reserves to be created, pondering the advantages of one, two, or more.²⁹ One would have meant removing the Sioux to the south, and although this remained a point of discussion until the late 1870s, it was generally accepted that this would probably cause a war.³⁰ When Little Raven, of the Southern Arapaho, requested a separate reserve from that promised the Cheyenne and Arapaho together, he was denied.³¹ Given the extensive nature of the “civilization” provisions, which required various instructors, implements, buildings, and agents for each reserve, it was in American economic interest to keep the number of reserves at a minimum. Eventually three were formed.

²⁷ Utley, The Indian Frontier, p. 116.

²⁸ Treaty with the Sioux, Article 16, in Kappler, Indian Treaties, p. 1002-1003.

²⁹ See remarks by Mr. Harlan, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 17, 1867, p. 678; Mr. Howe, July 17, 1867, p. 681; Billington, p. 661.

³⁰ See remarks by Mr. Harlan, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 17, 1867, p. 678 and July 18, 1867, p. 713.

³¹ Jones, p. 145.

Reserves were assigned to peoples, not to bands, although the size of the reserve lands did not preclude settlement on the basis of bands and in practice, this is what happened. Theoretically, the Indians were free (that is, not directed) to choose where they could live within the reserve, but this was constricted indirectly as the United States arbitrarily established posts to dispense rations and annuities and assigned particular bands to them, thus obliging some accommodation.³²

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Canada treated with various peoples - the Ojibway in northern Ontario, the Cree on the Plains, the Blackfoot in the foothills of the Rocky Mountains - but reserves were assigned on the basis of bands. Instructions as to specific locations did not come from the highest authority, as was the case in the United States. Instead, treaties either included terms specifying the regions wherein the Indians concerned expressed a desire to settle, or included provisions promising the selection of reserves at a later date "in consultation" with the people concerned.³³ In theory this left the Indians with considerable latitude as to where they wished to live, a more relaxed arrangement than that accorded the American Plains Indians. It also implied that Indian consent was important. In practice, however, it

³² Robert M. Utley. The Last Days of the Sioux Nation (New Haven, 1963), p. 41.

³³ Treaties One, Two, Five and Seven included general designations of areas where reserves were to be established. See text of Treaties in Morris, Treaties, pp. 316, 318-319, 344-345, and 369-370. Reserves in Treaties Three, Four, and Six were to be laid out "after conference with the Indians". See Morris, Treaties, pp. 322, 331, and 353.

was not always honoured, particularly as time wore on and the Dominion government began to see the disadvantages of permitting the Indians to make these selections. Those who managed to have their reserves surveyed shortly after the treaties were made were more successful in obtaining their choices.³⁴ Government reluctance to survey reserves was one factor in impeding the exercise of this right. In Manitoba, the ongoing dispute over the contentious “Outside Promises” delayed reserve surveys in some cases more than five years, and when the Indians came finally to settle on the lands they had chosen, they discovered in one instance at least that they had already been surveyed for Hudson’s Bay Company and homestead purposes.³⁵ A more direct and heavy-handed interference by the government became apparent in the selection of reserves in Saskatchewan under Treaty Four, where Indian choices were vetoed for railroad reasons.³⁶

In both nations at least some concerns were raised about the quality of lands involved. A few American senators wondered about the possibilities of transforming the already recalcitrant Sioux into farmers when their reserve consisted of a territory long known as the “Badlands”.³⁷ Such critics could be soothed by assurances that there was enough arable land even in this region to accommodate the existing, and declining, Indian

³⁴ Carter, p. 60.

³⁵ Alexander Morris to the Secretary of the Interior, January 19, 1877, and Morris to the Secretary of the Interior and the Secretary of State, February 19, 1877, NAC, The Papers of Alexander Morris, Reel M-69.

³⁶ Carter, p. 60.

³⁷ See remarks by Mr. Sherman, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 17, 1867, p. 680 and by Mr. Howe, p. 681.

population.³⁸ The commitment to acquire additional arable land outside the reserve also assuaged doubts. In Canada, explicit instructions were made in the creation of Treaty Seven reserves to assure that some arable land was available in the arid tract the Blackfoot had chosen because of its proximity to the buffalo ranges.³⁹

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American policy in these treaties was explicitly one of concentration. The idea of concentration was a loose one, for these were vast tracts of land. But the theory was that it would be easier to cultivate “civilization” when the Indians were together, as the “civilized” would influence the “uncivilized”, and it would be cheaper to provide the necessary elements of “civilization”, i.e. education and agricultural instruction, to many at once. The impulse to concentrate as the first step was the reason for the large reserves. They were to be moved along gradually, but there was also some concern that potentially hostile peoples not be crowded on top of one another.⁴⁰ The negative strategic implications of concentration did not apparently occur to American policy-makers until later. Despite the emphasis on reserves as incubators of “civilization”, little attention was

³⁸ Mr. Butler, Congressional Globe, 40th Congress, 3rd Session, House of Representatives, February 27, 1869, p. 1699.

³⁹ David Mills, Minister of the Interior, to David Laird, Lt.-Governor N.W.T., August 1, 1877, NAC, RG-10 Volume 3650, File 8347, Reel C-10114.

⁴⁰ See remarks by Mr. Harlan and Mr. Howard, Congressional Globe, 40th Congress, 1st Session, House of Representatives, July 17, 1867, pp. 678 and 684.

given to the fact that isolation from railways and travel routes would impede market access when that ideal of individual farms came to fruition. Agriculture was seen in the first instance as a means to self-support, not as an avenue to mainstream American society.

Canada was more ambivalent about both agricultural marketing potential and security. Treaties established that reserves were to be selected by bands which made possible a "scattering" of reserves across a wide area, but it did not preclude concentration either, leaving at least the initial inclination up to the Indians themselves. In Manitoba, under Treaty Five where bands seemed the preferred choice as the unit for reserve organization, the only instruction given was to avoid the surveying of reserves that were too small.⁴¹ Farther west, there were at least three requests for consolidated reserves. Pagan received a non-committal and confusing response to his request which was never realized.⁴² Big Bear's attempts to forge a consolidated reserve, first in the Cypress Hills in 1878 and then on the North Saskatchewan in the early 1880s, were both thwarted for security reasons.⁴³ Crowfoot won the right to a consolidated reserve, only to have one of his own compatriots, Red Crow, foil his plan.⁴⁴

Apparently Canada was willing initially to permit the Indians a degree of latitude, especially as there was a great deal of land and very few settlers. Lieutenant Governor

⁴¹ E.A. Meredith, Deputy Minister of the Interior to J.A. Provencher, Acting Indian Superintendent, July 6, 1876, NAC, RG-10, Volume 3677, File 11 528, Reel C-10114.

⁴² Beal and Macleod, p. 57.

⁴³ John L. Tobias, "Canada's Subjugation of the Plains Cree, 1879-1885", reprinted in The Native Imprint, edited by Olive P. Dickason, (Athabasca, 1996), pp. 156, 157, 159.

⁴⁴ Dempsey, Crowfoot, pp. 104, 110.

Morris underscored the value of settling them on their own lands, acknowledging the attachment that they felt to particular regions.⁴⁵ Only as conflict with railway and settler demands, and increasing security concerns, grew, did Canada begin to interfere and reject choices the Indians had made. One result of these later considerations was a disinclination to support concentration.

Alexander Morris also suggested the utility of small reserves for agricultural marketing, but this was not a Canadian priority, indicating a divergence between the man on the ground in the West and the long-term interests of Ottawa.⁴⁶ Again self-sufficiency at best seems to have been the highest goal. Even this was later transformed into agriculture as a character-building exercise.⁴⁷ Morris's views in this, and other things, indicate some belief on his part that Indians would be a part of the settlement of the West, whereas government policy seems to have come down more on the idea of Indians as irrelevant to that settlement once they had been pacified.

There was nothing either particularly thoughtful or particularly venomous in American or Canadian policy. The differences emerged out of the circumstances facing the two nations. In the long run concentration may have had advantages. Canada, which chose to avoid it, should have insisted on concentration as the cheaper alternative, while the United States would have found scattering a more suitable strategy in the face of

⁴⁵ Morris, Treaties, p. 287.

⁴⁶ Morris, Treaties, p. 288.

⁴⁷ Carter, pp. 209-210.

potential Indian aggression. But neither was thinking this way. In the United States, a scattering policy would have countered both desires to move Indians out of the line of settlement and also have defeated the compulsion American policy-makers felt to protect the Indians from the extermination or extinction they would face outside of reserves. For the Dominion government, any hurry to establish reserves would place undesirable strain on the fragile national economy. Concentrated reserves might have proven more economical for Canada in the long run, but in the 1870s, with the conviction that reserves were to be a temporary phenomenon, there was no need to make arrangements for unforeseen long-term consequences.

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How reserve policy was framed in the treaties of both nations was an indication of motive and commitment. The American treaties specified the lands the Indians could *retain*. Although confinement to reserves was not compulsory initially, Americans wanted the Indians to move there promptly. The absence of a compulsive element may have resided in the recognition that to require adherence would have induced conflict. It is also possible that some Americans, perhaps even the treaty commissioners, believed that the extravagant offers of food and assistance on reserves could not be turned down by a sensible people.⁴⁸ Getting the Indians on to the reserves would have solved the American problems of racial friction, as well as setting the scene for the “civilization” policy which

⁴⁸ “The Indian Peace Commission”, New York Times October 16, 1867, p. 4 and “Indian Peace Treaties”, October 29, 1867, p. 4.

was, as has already been stated, an important humanitarian concern.

The Canadian treaties specified the land to be *ceded*, reflecting the primary Canadian goal of extinguishing Indian land title. Canada also believed in “civilization”, and so saw reserves as an alternative to extinction, but did not face the pressures which made this an immediate imperative as in the United States. There was time enough to save the Indians and to “civilize” them. Canada’s priority was the economy, and reserves would be expensive, since they would require the *accoutrements* of “civilization”, especially once the Indians called for the fulfilment of the terms they had required be added to the treaties.

The American decision to create extensive reserve territories was an explicitly temporary arrangement designed to facilitate the overtly gradualist approach the United States government embraced. Over the century and a quarter since these reserves were established, these lands have diminished. The Great Sioux Reserve of 1868, which once comprised fully one half of South Dakota, is now five much reduced reserves, although they still retain vastly more “excess” lands than any of the Western Canadian reserves. This was not the intention of the framers of the treaties, the reform organizers who supported them, or the Congress which ratified the treaties. As historian Francis Prucha has suggested,

The modern concern of Indians to protect a community land base has led to an emphasis on land arrangements of these treaties (especially the 1868 treaty with the Sioux at Fort Laramie) that distorts their meaning in the context of the circumstances under which they were signed. These treaties were reformist documents aimed at attaining the humanitarian civilizing goals of the Peace Commission, even though the reforming tendencies were probably not well understood by the Indians and have been overlooked by historians *because they were not*

*effective.*⁴⁹

The Canadian approach was, by this definition of the reformist mission, more direct and perhaps more successful. Reserves were allotted on the basis of the current population, leaving no room for future growth and certainly not for subsequent generations to enjoy the same extensive land holdings in common as had their ancestors. The result, a century later, is a series of many tiny reserves.⁵⁰

From a late twentieth century vantage point, and without looking at the historical context, it is hard to escape the conclusion that the government which imposed such puny and inadequate land holdings was villainous at best. This observation is particularly acute in comparison to the current American Indian land holdings on the Plains, although it does not take into account the many American Indian peoples whose collective land holdings disappeared altogether in the allotment in severalty drive which persisted from 1887 through the 1930s. But to condemn Canada is to ignore the guiding principles of reserve policy as they existed in 1870 in both countries. Both nations were convinced that reserves were a temporary holding action which would disappear under what both believed was the unchallenged and unswervable destiny of a linearly-defined Progress. Reserves were explicitly recognized in both nations as the cradles of Indian “civilization”, something to be cast off once maturity had been attained. The choice to create reserves on the different dimensions of the Canadian and American models were decisions taken directly in response to existing conditions in each

⁴⁹ Prucha, The Great Father, Vol.1, p. 493. Emphasis added.

⁵⁰ White-Harvey, p. 587.

nation. The United States had pressing problems to resolve: settler pressure, Indian wars, and the imminent (so it was believed) extinction or extermination of the Indians. It was important to get them out of the way first, and easier to get them to swallow this accommodation if a gradualist program was adopted. The commitment of the United States to a formal "civilization" program leaps out from the treaty texts where such provisions predominate. Canada had no comparable pressures. But to open the West legitimately to settlement, the nation needed title to the land and hence the sweeping extinguishment clauses embodied in each treaty. Canada's commitment to "civilization" was less certain in the treaties, more implied than apparent in the size of reserves which were established on the basis of adequate farming lands, and in the willingness of the government and its commissioners to accede to demands for farming implements. The difference is a subtle one. Canada could afford not to have a policy. In fact, as far as the government was concerned this was all it could afford. This was not an option in the United States. A century later this difference in pace has resulted in physical differences which overshadow the similarities of approach. A twentieth century perspective and understanding of Indian issues has cast the American and Canadian reserve experiences in a different light which should not be allowed to obscure their original purposes which were quite clearly not that far apart.

Chapter Seven - Civilization

The second major component of Indian policy reflected in the Treaties of 1867-1868 and the Numbered Treaties was that of “civilization”. By 1867, “civilization” was a familiar idea. In the United States, it could trace its origins almost to the birth of the republic, and its earliest philosophical underpinnings to President Thomas Jefferson.¹ In British North America, policy lagged somewhat behind the Americans in this regard, and “civilization” first appeared as an official policy only after 1830, with the change of Indian administration from military to civil hands and under the realization that these people were no longer of strategic value.² This change came harder to the British, for it jarred with their long-time approach to Indian affairs. All of the European nations which struggled for control on the North American continent solicited the military aid of the various Indian peoples, but “the great distinguishing feature of English relations with the Indian groups was replacement of the Indians on the land by white settlers, not conversion and assimilation of the Indians into European colonial society.”³

There was no doubt that the Americans, from the beginning, shared this original English purpose. Indeed, the *Royal Proclamation* had emerged out of an understanding of American eagerness to expand. But almost from the earliest days of that nation’s existence, a different philosophical approach to the Indians had developed. The republic

¹ Utley, *The Indian Frontier*, p. 35.

² Leighton, p. iii; Taylor, “Development of Indian Policy”, p. 20.

³ Prucha, *The Great Father*, Vol. 1, p. ii.

envisaged itself very much in the old Puritan image of a “city on a hill”, leading the rest of the world to redemption through its own shining example. This conception of national exceptionalism, grounded in the tenets of the Enlightenment, and then subsumed in an evangelical reform fervour which swept the United States in successive waves in the nineteenth century, spilled over into Indian relations. Americans were bent on seizing Indian lands, but some rationale had to be devised not only to justify that seizure, but also to celebrate it. Such an attitude led to many contradictions in American society, slavery in the land of the free being only one of them. In the case of the Indians, American absorption of the land was to be balanced by a *quid pro quo* of “civilization”, which would render extensive Indian use of the land obsolete. From this perspective, “removal” could be interpreted as a positive good for the Indians, as it was considered an encouragement of “civilization” among them.

Canada, in its approach to a “civilization” policy in the 1870s, was truer to its English antecedents. Britain, too, was swept in the early part of the nineteenth century with an evangelical religious fervour which animated such organizations as the Aborigines’ Protection Society, an influence in the re-direction of British policy.⁴ Some have suggested that Britain came to this change in policy for rather more mundane and less humanitarian reasons, perhaps as the result of an imaginative bureaucratic solution to the threatened elimination of jobs in the Indian affairs office in England.⁵ Whatever the level of

⁴ Miller, p. 288.

⁵ Carter, p. 23; Hana Samek. The Blackfoot Confederacy, 1880-1920: A Comparative Study of Canadian and U.S. Indian Policy, (Albuquerque, 1987), p. 17.

commitment to this purpose, “civilization” measures did take shape in British North America over the next forty years, the most notable characteristics of the process being the constant lack of proper funds and the sluggish nature of the exercise.⁶ Reserves were established, missionaries were encouraged to undertake work among the Indians, and legislation working to the ends of “civilization” was passed. This legislation included the *Gradual Civilization Act* (1857) and the *Gradual Enfranchisement Act* (1869). These laws indicated not only the intent of the governments for the future place of the Indians in a British settler society, but also, importantly, the pace of this program which was explicitly gradual. The fact that such measures came in the form of legislation was also of some significance for the future structure of Canadian Indian policy. British policy in the Canadas set precedents for the Dominion’s foray into the West in the 1870s, but did not itself apply directly to the Northwest. Until Canada purchased Rupert’s Land in 1869, the Hudson’s Bay Company held sway there and was ambivalent about missionary interest in the West, as “civilization” would impede the fur trade business. The Company’s attitude on this issue won it some criticism from those who advocated “civilization”.⁷

Early American commitment took more interventionist forms. As early as 1819 a “civilization fund” was established by Congress, the purpose of which was actively to promote the education and “civilization” of the Indians.⁸ Missionary activity, with both

⁶ Leighton, pp. 48, 81, and 87.

⁷ Mr. Howe, Debates of the House of Commons, December 4, 1867, p. 184.

⁸ Hagan, American Indians, pp. 87, 88.

government and private funding, was officially encouraged.⁹ American belief in this duty, and the particular role of missionaries in it, was apparent in the initial report of the Great Peace Commission, which castigated Americans for ignoring the Indians: “While our missionary societies and benevolent associations have annually collected thousands of dollars from the charitable, to be sent to Asia and Africa for the purposes of civilization, scarcely a dollar is expended or a thought bestowed on the civilization of Indians at our very doors.”¹⁰

In approaching the treaty-making sessions on the Plains and the Prairies, both nations had precedents for “civilization” as a core element of their Indian policy, although the American impulse, motivated by a broader mission commitment, had made more practical steps in the direction of implementing it. Two basic assumptions supported the shift to “civilization” as a major feature of Indian policy in the United States and the Dominion of Canada. The nations shared these assumptions although they were more acutely felt in the United States where all matters dealing with Indians were more acute, the result of the advanced stage of white expansion in that country.

The first of these was the conviction that the Indians were a dying race, although the terminology most often employed was that they faced “extinction”. In the United States, this was attributed to a number of causes, including disease, alcohol, internecine wars, all indirectly the result of contact with whites, as well as the possibility of deliberate

⁹ Trennert, p. 7.

¹⁰ Report of the Indian Peace Commission, January 7, 1868, in the Annual Report of the Commissioner of Indian Affairs for the Year 1868, p. 42.

extermination by whites.¹¹ Canada recognized the same indirect causes as diminishing the numbers of its own Indian populations in the West.¹² That the Indians were dying was thus an established “fact”. Popular opinion in both countries was convinced of it, and the formulation of Indian policy was affected by it, although at least in Canada there was some reason to doubt the validity of the claim.¹³

The impact of whites on Indians was cast in both countries, although with somewhat less insistence or repetition in Canada, as the “inevitable” result of the a clash between “civilization” and “savagery”.¹⁴ This pat answer to the dilemma of one race’s recognized responsibility for another’s endangerment, cloaked in the overtones of ‘divine Providence’, largely relieved the culprits of doing anything to address the real issue - the intrusion of whites on Indian lands. When the Great Peace Commission embarked on its mission in 1867, this conviction was made explicit.

We do not contest the ever-ready argument that civilization must not be arrested in its progress by a handful of savages.... We earnestly desire the speedy settlement of all our territories. None are more anxious than we to see their agricultural and mineral wealth developed by an industrious, thrifty, and enlightened population. And we fully recognize the fact that the Indian must not stand in the way of this result. We would only be understood as doubting the purity and

¹¹ Chaput, p.274.

¹² See for example letter from Reverend George McDougall, January 7, 1874, NAC, Laird Papers; Memo by Charles Houtzki, November 27, 1873, NAC, RG-10, Volume 3605, File 2912, Reel C-10105.

¹³ Report by William Spragge, Deputy Superintendent of Indian Affairs, Sessional Papers (No. 23), Volume V, 1st Parliament, 4th Session, 1871, p. 6.

¹⁴ See Mr. Howard, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 17, 1867, p. 684.

genuineness of that civilization which reaches its ends by falsehood and violence, and dispenses blessings that spring from violated rights.¹⁵

One senator did raise his voice in favour of restraining American citizens citing, as proof of the ability of the United States to enforce regard for Indian rights, the fact that “we have in subjection, absolute subjection ... ten States with a white population of eight or nine millions....”¹⁶ It was an allusion to the military control of the post-Civil War South, but this formula found no application in the West, where it was a lone cry among the many forces - pioneer, capitalist, humanitarian and military - which accepted the inevitability of white expansion. Neither did Canadian policy-makers, plotting the colonization of the Canadian West, doubt the “inevitability” of this conflict, although they were somewhat more concerned about avoiding the violent aspects of such a collision.¹⁷

The second assumption underlying the emergence of a concerted policy of “civilization” was the belief that race was at the bottom of the difficulties. As they existed, the two races were incompatible, as seen in the effects of contact on Indians. The solution was not, as indicated by the sentiments of the American commissioners, a nineteenth-century form of cultural plurality. It was instead to make Indians like whites, to assimilate them into the settler societies. As one senator informed his colleagues, “...the only ultimate

¹⁵ Report of the Indian Peace Commission, January 7, 1867, in the Annual Report of the Commissioner of Indian Affairs for the Year 1868, p. 32.

¹⁶ Mr. Johnson, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 18, 1867, p. 715.

¹⁷ See Mr. McDougall, Debates of the House of Commons, 1st Parliament, 1st Session, December 6, 1867, p. 203 and 1st Parliament, Second Session, May 28, 1869, p. 487; and Mr. Connell, 1st Parliament, 2nd Session, May 28, 1869, p. 503.

solution to this whole question is, that the Indian shall take his place among other men and accept the march of civilization; as he must ultimately, or there is nothing except his destiny that awaits him, which is extinction.”¹⁸

Both Canadian and American policy-makers were convinced, on the evidence before them which relied rather heavily on impressions of people in the West rather than hard numbers, that the Indian was a dying breed.¹⁹ The United States understood that the conflict was their fault, and Canada understood that an influx of settlers into the Canadian West would likely produce the same result, and that alcohol and disease had already proved to have devastating effects. But there was no move to remove the cause of this problem by restricting white advancement, and few if any suggestions in this direction were ever made. Instead, policy-makers posed the dilemma in terms which put the onus for change on the Indians. It was simply a matter of extinction or “civilization”. The perplexing quandary in each nation was how to achieve this.

The first step was admitted to be the establishment of reserves, which served the purpose of “protection”, a necessary preliminary on the road to “civilization”. The critical elements of reserve policy were the fact that these lands were, by the definition of the governments which established them, temporary, and, in the longer-term, were to be what

¹⁸ Mr. Pomeroy, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 17, 1867, p.681.

¹⁹ Chaput, p.271; Department of the Interior Circular distributed by E.A. Meredith, Deputy of the Minister of the Interior, November 7, 1874, NAC, RG-10, Volume 3614, File 4063, Reel C-10107.

several historians have labelled “laboratories of social change”, the container in which the crucial “civilization” elixir would be concocted and administered. Americans and Canadians differed on how they chose to implement policies of “civilization”, but almost everyone conceded that there were three essential components to such a policy: Christianity, education, and agriculture.²⁰

The Christian faith, particularly in its evangelical Protestant form, was recognized by policy-makers, governments and humanitarians, as one of the strengths of white “civilization”, and as one of the benefits to be imparted to the Indians as a matter of course.²¹ General Pope understood that the goal of American policy was to make the Indian “...a good citizen and a good Christian.”²² In a discussion of the future status of Indians in the United States, Senator Henderson remarked, “I understand that the object is to have these Indians Christianized; to have them become citizens of the United States; to have them become in all respects civilized like white men.”²³

Despite the linking of Christianity to “civilization”, what is striking about American and Canadian invocations of religion is the self-serving nature of them, even more blatant

²⁰ Taylor, “Development of Indian Policy”, p. 20; Report of the Commissioner of Indian Affairs for the Year 1868, p. 11.

²¹ Samek, p. 25.

²² General John Pope to Major General W.T. Sherman, August 11, 1866, in Report of the Secretary of War, 1866, p. 23.

²³ Mr. Henderson, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, March 28, 1866, p. 1702.

than in plans for education and agriculture. Commenting on President Grant's Peace Policy, the Anglican Archbishop of Rupert's Land told Lieutenant Governor Morris,

I do not at all suggest that it is desirable to adopt such a course but I still believe the Government may materially further its own ends and what is necessary with the Indians by working harmoniously & sympathetically with the Missions.²⁴

There was no great concern here for Indian souls, but rather more consideration of the practical effects of Christianity in furthering official ends. More specifically, Christianity served as a critical rationalization for what otherwise might be suspected as an unwarranted eviction of the Indians from their lands. Mr. Harlan informed Congress that "it has been maintained from the beginning that Christian nations had a right to the soil occupied by other nations."²⁵ He neglected to mention that this rationalization was one originating entirely with and recognized only by Christian nations themselves. At the negotiations for Treaty One in 1871, Lieutenant-Governor Archibald, faced with the reluctance of Indians to surrender the bulk of their land, invoked this justification. "His Excellency, put the matter in its true light. God, he said, intends this land to raise great crops for all his children, and the time has come when it is to be used for that purpose."²⁶

There is no doubt of the overwhelming evangelical impulse behind Indian policy reform, particularly in the United States, but it did not manifest itself in many concrete

²⁴ Robert Machray, Archbishop of Rupert's Land, to Alexander Morris, May 24, 1875, NAC, Papers of Alexander Morris, Reel M-70.

²⁵ Mr. Harlan, Congressional Globe, 41st Congress, 1st Session, Senate Proceedings, April 1, 1869, p. 421.

²⁶ Adams Archibald, quoted in The Manitoban, cited in Hall, p. 142.

ways in terms of provisions for the actual conversion of the Indians. Instead, policy-makers appeared more interested in using Christianity to attain their own ends. By converting to Christianity, Indians would be more receptive to the practice of agriculture and, more importantly, to the relinquishment of their lands for purposes “ordained by God”.

The sources do not lend themselves to a definitive explanation of this apparent contradiction between rhetoric and practice. Americans were committed to Christianity as part of their mission to the Indians, but did in fact shy away from any tangible support of this, at least in the treaties. Perhaps it was a reflection of a consistent American practice of maintaining the separation of church and state which led them to be more cautious in a formal treaty document about linking the two. But two years later, President Grant initiated his “Indian Peace Policy” which broke from conventional Indian bureau practice by employing as agents and superintendents men nominated by specific Christian denominations, initially Quakers only, but expanded to include Episcopalians, Methodists and even Roman Catholics. It may have been that the role of missionaries was simply assumed, whereas education and agriculture would need further assistance. One historian has suggested that Americans understood the antipathy of the Plains Indians in particular to the Christian religion, and therefore left it out in recognition of this.²⁷ This explanation seems unlikely since nothing the Americans offered in the treaty negotiations appealed to the Indians and yet, as the treaties illustrate, there was no compunction about filling the document with equally obnoxious provisions for reserves, agricultural assistance, and

²⁷ Jones, p. 122.

other elements of “civilization”.

The Canadian position was equally contradictory. Although supportive of the idea of Christianity, the government was reluctant to make a commitment in practice, and so Lieutenant-Governor Morris re-directed Indian inquiries on that subject to representatives of the denominations themselves.²⁸ It is possible that Canadian reluctance was rooted in economic concerns. Perhaps the government did not want to link itself to organizations which might require or demand funding. Missionaries had already undertaken this function without official support and it, too, may simply have been assumed. As in the United States, there may have been some hesitation to interfere in a social aspect which was considered the purview of private organizations. Perhaps governments in both nations, at least at the time the treaties were being made, wished to avoid being drawn into interdenominational conflicts and offering official sanction to one group or another. It is possible that the narrowness of Canadian official perceptions of treaties precluded any active support. The issue may not have been the importance of Christianity but rather whether it was appropriate to include it at this time.

Whatever their reasons, commissioners did not try to burden the treaties with a framework which advanced Christianity among the Indians in either nation. Aside from “...a vague assumption that Christianity would lead to civilization...”, policy-makers avoided commitments of a practical nature.²⁹

²⁸ Morris, Treaties, p. 217.

²⁹ Utley, The Indian Frontier, p. 35.

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Education was the second fundamental of a policy of “civilization”. In the United States, education was considered vital for the resolution of the “Indian problem”. The Great Peace Commission, in its first report, confronted this question. “What prevented their [whites and Indians] living together? First. The antipathy of race. Second. The difference of customs and manners arising from their tribal or clannish organizations. Third. The difference in language....” This was a reasonable assessment, but the solution was, of course, entirely one way: “Now, by educating the children of these tribes in the English language these differences would have disappeared, and civilization would have followed at once.” The announced object was “...to fuse them into one homogeneous mass. Uniformity of language will do this - nothing else will.”³⁰

In a way, Indians were the preferred minority in the United States. They were distinctly different from white society, but their differences could be eliminated. It was possible to assimilate them. This could not be said of the more numerous Black population, for whom only the most radical of humanitarian sympathizers would have suggested a similar solution.

Education was the route to the eradication of these troubling differences, and assimilation the goal. Agriculture might physically save Indians by providing them a means of subsistence, but education would solve the fundamental conflict problem of “civilized”

³⁰ Report of the Great Peace Commission, January 7, 1868, Annual Report of the Commissioner of Indian Affairs for 1868, pp.43-44.

and “savage”, because the inferior population could be elevated. Education could make Indians more like whites, and, as well, persuade them of the superiority of the white culture they were to embrace.

Education had many elements, but the single most important of these was the teaching of the English language. This would dissipate, in the first instance, the differences among tribes, creating that sought-after “homogeneous mass”. But it would also obliterate what were described as “barbarous dialects”, which impeded instruction of further “arts of civilization”, like agriculture.³¹ There was no respect to be had for Indian languages as something of value in themselves, at least for the Indians. In his annual report of 1864 the American Commissioner of Indian Affairs remarked that “The Indian race, by what seems to be the law of its existence, is fast passing away, and in contact with the white race the tribes are rapidly losing their distinctive features, in language, habits, customs, & c.” This was the ostensible object of American policy, yet the commissioner was somewhat troubled by an anthropological problem, and suggested that “A modest appropriation, judiciously expended, would enable the office, through its agents, teachers, missionaries, and others interested in the various tribes of red men, to collect annually a large and increasingly valuable collection of the memorials referred to”, including “portraits, implements of industry or of warfare, specimens of apparel, &c....”³² Indian culture was to be maintained only for white educational purposes, not because of any use it might have for the Indians.

³¹ Prucha, American Indian Policy in Crisis, p. 22.

³² Annual Report of the Commissioner of Indian Affairs for 1864, pp. 3-4.

A second aspect of education was the value of this program for imparting to Indians the superiority, and therefore the attractions, of white culture, and thereby, or so it was assumed, winning them to an acceptance of their transformation. Although American treaty commissions had been accused of treachery in the past, and with some justification, the Great Peace Commission was at pains to make clear to the Indians what they were being offered, because Americans believed it was an offer which could not be refused. The terms were laid out as explicitly in the negotiations as they were in the treaty documents themselves:

We desire to set apart a tract of your country as a home for yourselves and [your] children forever,.... Upon the reservations you select, we propose to build a house for your agent to live in, to build a mill to saw your timber, and a mill to grind your wheat and corn, when you raise any; a blacksmith shop and a house for your farmer, and such other buildings as may be necessary. We also propose to furnish to you homes and cattle, to enable you to begin to raise a supply of stock with which to support your families when the game has disappeared. We also desire to supply you with clothing to make you comfortable and all necessary farming implements so that you can make your living by farming. We will send you teachers for your children.³³

Reviewing these terms, the New York Times understood the role that education would play in the process of persuasion. "If we can show the savages, ... that the white man's mode of living is easier, better and more satisfactory to the physical man than theirs, the young savages will speedily adopt it. The Indians, as a rule, have good sense...."³⁴ This left the Americans a comfortable rationalization for the distinct lack of enthusiasm for these

³³ Indian Commissioner N.G. Taylor, quoted in the Proceedings of the Great Peace Commission, pp. 86-87. These sentiments were echoed by Senator Henderson (p. 41) and General Sanborn (p. 143).

³⁴ "Indian Peace Treaties", The New York Times, October 29, 1867, p. 4 c. 4.

terms among the Indians they faced at the treaty talks. If they did not immediately appreciate what they were being offered, English would eventually make them see the light.

American seriousness in the realm of education, perhaps an indication of the more straightforward and less problematic nature of this element of “civilization” policy, is clear in an examination of the obligations for education which the government undertook in these treaties.

Treaty with the Kiowa and Comanche, Medicine Lodge Creek - Summary of Terms
<p>Article 4. Buildings on reservation</p> <ul style="list-style-type: none"> - schoolhouse or mission building to be built “so soon as a sufficient number of children can be induced by the agent to attend school”
<p>Article 7. Civilization and Education</p> <ul style="list-style-type: none"> - “in order to assure the civilization of the tribes... the necessity of education is admitted” - children (6-16) to be compelled to attend school - for every 30 children, U.S. will supply a house for the teacher, and a teacher “competent to teach elementary branches of an English education” - this article to continue “for not less than 20 years”
<p>Article 14. Personnel to be provided</p> <ul style="list-style-type: none"> - U.S. will hire the teachers (among other professionals) and provide money to pay for them

These articles were identical in each of the treaties signed at Medicine Lodge Creek and Fort Laramie in 1867-1868, indicating both the consistency of the commission and the fact that the terms originated with the government. These were ideas the commissioners took to the treaty talks, not ones which were inspired by Indian input. Article 4 suggests a possible loophole in implementation, permitting the United States to delay fulfilling obligations in a “so soon as” clause, but in practice the government’s zeal, or at least that of the Indian Bureau, led them to begin constructing buildings before even ascertaining whether children would go. This elicited some criticism in Congress from economy-

minded representatives.³⁵

* * * * *

In many aspects of Indian relations - violence, conflict, missionary impulse, reserves - Canada seems like a pale shadow of the American experience, and the approach to education was no different. Both Canadians and Americans viewed education as an important element of "civilization". Understanding was recognized as an important factor in persuading the Indians to change. Minister of the Interior David Laird put this into words in 1874:

Even under the most favorable circumstances time must be given him [the Indian] to understand the motives and acquire the habits of the white man.... But when these motives come to be understood and acted upon by the Indian, the evidence of which is the possession of considerable property acquired by his own industry and thrift, it shows that he may safely be entrusted with the rights of full citizenship.³⁶

In 1875, Indian Commissioner J.A.N. Provencher was emphatic on the role of education in this process and for reasons comparable to those advanced by American advocates. "All those who have taken an interest in the future welfare of the Indians have directed their minds to their education and have insisted on the necessity to raise the level of their knowledge, to enlighten their minds and above all to act early on the minds of the children

³⁵ Mr. Morrill of Maine, Congressional Globe, 40th Congress, 3rd Session, Senate Proceedings, February 15, 1869, p.1208 and February 18, 1869, p.1349.

³⁶ Report of the Department of the Interior for the Year ended 30th June 1874, in Sessional Papers, (No. 8) 3rd Parliament, 2nd Session, 1875 p. 5.

so as to give them...intellectual habits, which are the most striking feature of civilization.”³⁷ Yet reflection of this conviction is not nearly as evident in the Numbered Treaties as in the American treaties.

One difference with the American approach to education was the dissenting voice, perhaps the only one, of the Indian Commissioner on the value of Indian languages. In a thoughtful critique of many aspects of Canadian Indian policy in the West, Commissioner Provencher questioned the value of making English the centrepiece of an Indian education program. Remarking on the likelihood of Indians continuing to use and maintain their own languages anyway, and on whether it was indeed “the duty of a civilizing Government to throw its influence to extinguish a language spoken by thousands”, he offered a pragmatic rationalization for the use of Indian languages. “The first principle in education is to attract the attention of the pupil to what he is taught...”, a goal not likely to be generally successful in a widespread program of language repression.³⁸ Provencher’s suggestions bore no fruit, but are an indication that no matter what the policy in Ottawa, whether planned or indifferent, some people, including even persons in the bureaucracy of Indian affairs, were giving thought to Indian matters. Provencher’s concerns appear to fit in perfectly with a logical, rational, planned “civilization” program. The question lurking in the shadows of any discussion of a Canadian “civilization” program, however, is whether in fact one existed at all.

³⁷ Report of the Indian Commissioner, J.A.N. Provencher, 30th October 1875, NAC, RG-10 Volume 3830, File 62, 509, C-10145.

³⁸ Report of the Indian Commissioner, J.A.N. Provencher, 30th October 1865, NAC, RG-10, Volume 3830, File 62,509, C-10145.

Canada's treaty terms in the matter of education raise some doubts. The commitment to education seems hardly more concrete than the official promotion of Christianity, although at least there is official acknowledgment of this responsibility. Unlike other treaty features devised in the field - enlargement of reserve size and annuities, the inclusion of agricultural implements - it is uncertain, from the evidence, where the impetus for educational provisions originated. From correspondence after the treaties were signed, it is clear that many Indian communities were interested in school and instruction, an impulse which the lieutenant governor supported and encouraged.³⁹ But in Morris's accounts of the treaty negotiations themselves, an explicit reference appears only in the Treaty Six talks, and this does not really clarify matters. "You ask for school teachers and ministers," Morris is recorded as having said. "I had already promised you that when you settled down, and there were enough children, schools would be maintained."⁴⁰ The absence of clear evidence makes it difficult to ascertain whether education, like agricultural implements, was a demand originating with the Indians and accepted as "standard" by Treaty Six, or whether it had always been included as a fundamental part of the treaties. The fact that such a provision appears in both Treaties One and Two suggests that it may have been put there by the government, as the commissioners who negotiated those treaties resisted inclusion in the treaties of terms other than those they had been

³⁹ See, for example, Alexander Morris to Sir John A. Macdonald, October 26, 1872 and February 25, 1873, Papers of Sir John A. Macdonald, NAC, Reel, C-1673; and Alexander Morris to the Secretary of State for the Provinces, December 13, 1872, NAC, RG-10, Volume 3586, File 1137, Reel C-10103.

⁴⁰ Morris, Treaties, p. 217.

specifically authorized to offer.

Even so, the vague nature of the obligation therein undertaken exists in marked contrast to the details supplied in the American treaties. Six of the seven Numbered Treaties contained a commitment to establish a school “on each reserve”. The timetable for establishing such schools was predicated on when the Indians concerned “desire it” or when the Indians were “settled and prepared”. In Treaty Seven, the Blackfoot Treaty, the promise was to pay teachers’ salaries, when deemed advisable and the Indians settled.⁴¹

The absence of detail may cast the Canadian commitment to this aspect of “civilization” into some doubt, but other explanations suggest themselves. The vague references to schools would have been consistent with Canada’s constricted view of treaties as land extinguishment documents alone, and a manifestation of a reluctance to expand the functions of such documents. In Canada “civilization” had, in keeping with the practice in British North America since 1830, been a legislative function. As well, “civilization” was acknowledged to be a costly enterprise, and the parsimony of the Canadian government in the 1870s in particular was a factor of which commissioners, through treaty-making instructions, were ever mindful. Joseph Howe, in instructions to the commissioners originally appointed to conclude Treaty Three, reminded them that “The powers intrusted to you are large, and they should be used with constant reference to the responsibility which the Government owes to Parliament and to the country for the judicious and economical expenditure of the funds and supplies intrusted to your

⁴¹ See the text of the Treaties in Morris, Treaties, pp. 315, 319, 323, 333, 346, and 353. The commitment to the Blackfoot appears in Morris, p. 371.

charge.”⁴²

Again the question intrudes - was Canada committed to “civilization”, or just making half-hearted gestures under pressure from the Indians to provide the services they demanded? Certainly the Indians who expressed interest in education, agricultural assistance, and even Christianity, did not view these things, as Canadian officials did, as tools of “civilization”. Nor did the Indians likely intend to surrender control while they were altering their ways.

The commissioners’ encouragement of Indian interest in education did not necessarily accord with Ottawa’s interpretation of the same question. Still, it is possible that the Canadian government and its commissioners, in no hurry to encourage Indian settlement because there were no settler pressures forcing the issue, saw no purpose in making cut-and-dried provisions when there were as yet, except for Indian demands, no reasons to act. If government actions were as directed by Indian pressures as some historians have suggested,⁴³ perhaps officialdom would have been more susceptible to continued pressures to act on these measures. They were not. Once the treaties were

⁴² Joseph Howe to W.M. Simpson, S.J. Dawson, and Robert Pether, Sessional Papers (No. 22), 1st Parliament, 5th Session, 1872.

⁴³ David Hall argues that the Indians compelled the government to make several alternations to its treaty-making plans, specifically in the form of terms which came to be known as the “Outside Promises”. Hall, ““A Serene Atmosphere?””, p. 118; Stonechild and Waiser describe the persistent Indian negotiators of Treaty Six as having “...extracted a number of concessions from Morris...”, Stonechild and Waiser, p. 20. John L. Taylor claims that the treaty terms were augmented “in the field” and that they “..were made in response to Indian demands.”, Taylor, Ph.D., p. iii. These authors are all attempting to make a point about an active Indian role in treaty-making, and their evidence supports such conclusions. They do not, however, extend the assertion of Indian influence beyond the expansion of treaty terms.

signed, the government proved reluctant to survey reserves and to confirm them officially. Casually phrased treaty terms which irrationally promised agricultural assistance “for every family *actually* cultivating” were narrowly interpreted so that Indians who required aid to *begin* farming could not easily acquire the means to do so. As in the timetable for treaty-making itself, the government was moved to a response admittedly more quickly than it otherwise would have done, but it is difficult to imagine that there was not some loosely defined framework for future policy.

Pressures which apparently forced the government to concede on terms in the field proved ineffective when applied to the fulfilment of those terms. The explanation may reside in the different bodies responsible for the negotiation and implementation of treaties. The treaty commissioners “in the field”, notably Morris, agreed to an expansion of the terms to be offered. The government accepted these terms by ratifying the treaties, but implementation was in the hands of Indian affairs, which was considerably more rigid and less open to influence from the Indians. Perhaps Indian pressure could only be effective in the field, where even a vaguely receptive bureaucrat could see the sense in their demands. The decision makers in Ottawa, on the other hand, seldom if ever ventured West to visit their charges and thus could remain impervious to their appeals.

Americans had made “civilization” an explicit goal of the treaties, and as education was recognized as an element in any “civilization” program, it was only natural and logical that provisions for such should appear in these documents, which they did in exacting detail. Canadians seem to have agreed on the necessity of education as a “civilization” tool, but the treaties reflect nothing more than a vague commitment. It may be that there

was a distinct gulf between the level of devotion to this task in the two countries, with the United States illustrating far more dedication to “civilization” than did Canada.

Again circumstances intrude as the critical factor. The United States did not force Indians to reserves, but did want them to remove there as quickly as possible. The very real threat of “extinction” made a “civilization” program an imperative. It was recognized that “civilization” was an expensive process, but the Americans had a convincing rationalization for that lament in the refrain that it was “cheaper to feed them than fight them”. For those who objected to feeding people who wilfully would not provide for themselves, the energetically embraced “civilization” program offered at least a time limit for such unprecedented generosity.

If what Canada had could be called a timetable, then it was operating at a different speed than that of the United States. Money was a factor here, in all things. In Canada there was no push to get Indians to reserves, and priorities lay more clearly with avoiding any premature financial commitments. Canada’s commitment does look doubtful and puny in comparison to the American terms, but Canada’s “civilization” measures had never been expressed in treaties. In Eastern Canada, “civilization” legislation had followed treaties for land extinguishment. Expansion in the West had begun with the thoughtless application of the treaty process there, and so it is hard to imagine that Canadian policy-makers imagined any other course for future “civilization” policies other than the one pursued elsewhere in the country.

The United States did not have this alternative. Until 1871 Congress was not empowered to legislate for the Indians outside of commerce. The United States put

detailed measures of “civilization” into the treaties in a deliberate expansion of the functions of the questionable practice of treaty-making as it had previously existed.

Canada had no need to do so, and its treaties remained, except under pressures which resulted in vague declarations of intent, more narrowly defined.

* * * * *

Christianity and education had both their strengths and their advocates as pillars of “civilization”, but agriculture was arguably the most important component of the three. Aside from the “God-given” mandate of an agricultural existence which justified the seizure of Indian lands, agriculture had any number of practical functions which made it a centrepiece of a “civilizing” effort. It was an education in itself, for by it one learned the value of work, the value of private property, and a sense of individualism. All of these were believed central to the success of the white world and essential to the transformation of the Indian. For troubled consciences, the gift of agriculture imparted to peoples dependent on such an insecure means of subsistence as the buffalo, would prove payment enough for the land which was surrendered in the process. On top of everything else, agriculture would solve the perplexing and very basic problem of how the Indians were to survive once the buffalo was no more.

Americans and Canadians alike were disgusted with what they perceived as an unwillingness of Indian men to “work” as they defined it. Representative Benjamin Butler

objected to an appropriation for the subsistence of one group of Indians by denouncing the practice: "...I do not understand why it is that the Indian alone, of all the people on the globe, should be exempted from the penalty of the primeval curse of man to earn his bread by the sweat of his brow. We have to tax our constituents to feed lazy Indians...."⁴⁴ In Canada, Indian Agent M.G. Dickieson agreed in substance, in a report to the Minister of the Interior in 1873. "One of the greatest impediments...is the belief inherent in the minds of every Indian that it is derogatory to the dignity of a man to work."⁴⁵ Agricultural work was perceived as an answer to this problem, as it would naturally involve the absorption of the values of discipline and reliability, essential to white "civilization".⁴⁶ In the period before reserve life became a compulsory aspect of Indian relations, sooner in the United States than in Canada, policy critics could only grumble about the inequity of benefits extended to the Indians which were not available to citizens. Once Indians had been successfully confined to reserves, both governments were in a position to use coercive measures to overcome this alleged resistance of Indians to work, by employing the distribution of rations in a coercive fashion.

The ideas of private property and individualism were connected and of similar importance in both nations. The intent of the two nations to absorb, rather than co-exist with, the Indian populations was clear in views on these matters. Communal property

⁴⁴ Mr. Butler, Congressional Globe, 40th Congress, 2nd Session, House of Representatives, May 28, 1868, p. 2639.

⁴⁵ M.G. Dickieson, to the Minister of the Interior, January 7 1873, NAC, RG-10, Volume 3609, File 3229, Reel C-10106.

⁴⁶ Carter, p. 18; Utley, Last Days of the Sioux Nation, p. 23.

inhibited an appreciation for private property, the fundamental element of the burgeoning capitalist societies in North America. It also encouraged tribal relations in a society fixated on the individual. Private property was seen as a remedy to Indian internecine conflict, the tendency to which whites objected and which was perceived as a character trait to be eliminated.⁴⁷ American recognition of the role of private property in diminishing such conflicts was first apparent on the Plains in the 1851 Treaty of Fort Laramie, wherein each of the Indian peoples was assigned a specific district, in the hopes that they would remain on their own territory and thereby avoid conflict with each other.⁴⁸ Tribal relations were interpreted as a particular impediment to both of these things - individualism and private property - and thus were an object of particular scorn by policy-makers both north and south of the forty-ninth parallel.⁴⁹

Although reserves were granted in blocs, extensive in the United States, more limited in Canada, neither nation ever envisioned communal agriculture. The American reserves did not suggest an inclination on the part of the government to encourage the communal or tribal basis of Indian life. This is not so clear in the Canadian context, as reserve lands in Canada were to be held "in common". This was not, however, meant to impede individual farmsteads. By granting the lands *en bloc*, explained Commissioner Provencher,

⁴⁷ Carter, pp. 17, 18.

⁴⁸ Trennert, p. 191; Utley, The Indian Frontier, p. 61.

⁴⁹ Carter, p. 16; Mr. Stewart, Congressional Globe, 41st Congress, 3rd Session, Senate Proceedings, February 22, 1871, p. 1508.

...we preserve the property intact, which thus belongs to the whole Band. A portion will afterwards be divided into lots, according to circumstances, and such families as may desire it shall be put in possession of one of these lots. The rest of the Reserve shall remain undivided to satisfy new demands, or be converted into a common for pasturage, firewood, building wood, and hay.⁵⁰

In commenting on the extensive size of the reserves allowed to the Treaty Six Indians, Morris told them they could not possibly farm such an extent - 640 acres - but suggested that they might sell the excess to establish for themselves an annual income, such as Indians in Ontario had done.⁵¹ The devotion of the government policy-makers and treaty commissioners toward these elements is apparent in the treaty terms accorded, which again reflect the different emphases and priorities, and perhaps levels of commitment, of the two nations.

Four articles in the American treaties dealt extensively with matters relating to agriculture. It is important to make note of a few points as they relate to the "civilization" aspects of agriculture.

⁵⁰ J.A.N. Provencher, Report of Indian Affairs in Manitoba & NWT for year ended 31st December 1873, 31 December 1873, NAC, RG-10, Volume 3608, File 3071, C-10105.

⁵¹ Morris, Treaties, p. 205.

Treaty with the Kiowa and Comanche Summary	Treaty with the Sioux -Summary
<p>Article 6. Lands for farming</p> <ul style="list-style-type: none"> - heads of family can selected a piece of reservation land to start farming, not exceeding 320 acres - on doing so, this piece of land will cease to be held in common - to be held by person as long as it is cultivated - any person (including women) over 18 can choose land not exceeding 80 acres - these transactions to be recorded in a Land Book - status of land not fee simple, but may be made so at President's discretion - U.S. can make laws on the alienation of this type of property and other matters relating to it 	<p>Article 6. Lands for farming</p> <ul style="list-style-type: none"> - heads of family can selected a piece of reservation land to start farming, not exceeding 320 acres - on doing so, this piece of land will cease to be held in common - to be held by person as long as it is cultivated - any person (including women) over 18 can choose land not exceeding 80 acres - these transactions to be recorded in a Land Book - status of land not fee simple, but may be made so at President's discretion - U.S. can make laws on the alienation of this type of property and other matters relating to it - any male Indian over 18 who shall occupy a piece of land <i>outside</i> the reservation, and which shall not be mineral lands or any other reserved for use by U.S., who has made improvements of more than \$200 value and occupied this land for 3 years continuously, shall be entitled to receive a U.S. patent for 160 acres, including his improved land - after providing written application, & proof of 2 disinterested witnesses, the Indian can get this land registered at the General Land Office and hold it as long as he continues to live there <p>Citizenship</p> <ul style="list-style-type: none"> - any Indian receiving a patent under the above rules may become a citizen of the U.S. and be entitled to all rights of citizenship and shall "at the same time, retain all his rights to benefits accruing to Indians under this treaty"
<p>Article 8. Agriculture</p> <ul style="list-style-type: none"> - once an Indian selects land for farming, he/she is entitled to: <ul style="list-style-type: none"> - seeds & implements [unspecified], up to \$100 worth for 1st year, up to \$25.00 worth for subsequent 3 years - farming instruction by farmer provided by U.S. - for every 100 person cultivating, a blacksmith will be provided, as well as iron, steel & other material. 	<p>Article 8. Agriculture</p> <ul style="list-style-type: none"> - once an Indian selects land for farming, he/she is entitled to: <ul style="list-style-type: none"> - seeds & implements [unspecified], up to \$100 worth for 1st year, up to \$25.00 worth for subsequent 3 years - farming instruction by farmer provided by U.S. - for every 100 person cultivating, a blacksmith will be provided, as well as iron, steel & other material.

<p>Article 10. Other Necessities</p> <ul style="list-style-type: none"> - \$25,000 each year for 30 years to be spent by Secretary of the Interior, at C.I.A.'s recommendation, on necessities [unspecified] for Indians - if, during the 30 years, it is found money can be better spent on Indians in some other way, Congress may change the appropriation to other purposes, but can not change or withdraw the appropriation for 30 years - an Army office to inspect goods & supervise delivery 	<p>Article 10. Other Necessities</p> <ul style="list-style-type: none"> - \$10.00 per person to be appropriated for 30 years while such persons roam and hunt - \$20.00 per person per year for 30 years if engaged in farming - money to be used by Secretary of Interior to purchase articles deemed to be of necessity for Indians - if, during the 30 years, it is found money can be better spent on Indians in some other way, Congress may change the appropriation to other purposes, but can not change or withdraw the appropriation for 30 years <p>Food Provisions</p> <ul style="list-style-type: none"> - to every Indian over 4 years of age, who has settled permanently on reserve & adhered to treaty, to be provided with 1 pound of meat & 1 pound of flour per day for 4 years, if they cannot furnish their own subsistence at an earlier date <p>Cows and Oxen</p> <ul style="list-style-type: none"> - U.S. will give each family/lodge who have settled to farm, "1 good American cow and 1 good well-broken pair of American oxen" within 60 days of their having settled.
<p>Article 15. Reward for crops</p> <ul style="list-style-type: none"> - \$500 to be awarded annually to 10 best agricultural producers 	<p>Article 14. Reward for crops</p> <ul style="list-style-type: none"> - \$500 to be awarded annually to 10 best agricultural producers

Article 6 designated "Lands for farming" and the strictness of the "farming" part was made more explicit in the extended terms of the Sioux treaty, wherein Indians were permitted to select off-reserve lands so long as they did not include "any mineral lands or any other reserved for use by the United States". Indians were to undertake property only in an agricultural framework, as this was the only road to "advancement" Americans would accept.⁵² Under these terms, Indians who did not choose the agricultural option, could not acquire individual property rights, limited as they were.

⁵² Hagan, "The Reservation Policy", p. 164.

The terms detailed in Articles 6 and 8 make it clear that the basis for distribution was the individual, or perhaps the family. Agriculture was to be an inducement to white “civilization” and the basis for that was the individual and the family farm. These terms stand out in greater importance when compared to the Canadian provisions for implements, animals and financial assistance where aid was distributed to a number of families or to bands.

The seriousness of the Americans in their commitment to introducing agriculture was apparent, too, in the voluntary provision of a farming instructor, something the Canadian government would offer, only grudgingly, when disaster struck the West after the complete disappearance of the buffalo from the Canadian Prairies in 1879.⁵³ The general nature of the agricultural assistance offered, in Article 8, in the form of unspecified implements or amount of seed, as well as short-term monetary assistance, left room for adaptability to circumstance, and did not circumscribe the forms this assistance might take in the future. Again this is something which becomes clearer in comparison to the Canadian terms.

Each of the Numbered Treaties contained some provisions for agricultural assistance and, with the exception of the Blackfoot Treaty, these terms came as the result of pressure from the Indians.⁵⁴ The government - the treaty commissioners in the first instance and Ottawa itself in that no objections were raised to the introduction of

⁵³ Carter, p. 69.

⁵⁴ Hall, pp. 114 and 117; Carter, pp. 55 and 57; G. Friesen, p. 142.

agricultural terms - was receptive to expanding treaties to incorporate such demands.

After this had been established as a given in the Treaty Three negotiations, subsequent treaties involved haggling over the specifics of such terms rather than over whether or not to include such terms at all.

The most notable thing about the Numbered Treaties is that the agricultural aid offered reads like a hardware store inventory list. This was a contrast to the American treaties where aid was in dollars' worth rather than specific implements. It is without doubt that these articles appear in the Numbered Treaties because of the insistence of the Indians on agricultural aid, but it was the government which determined the form that aid should take and here the commissioners, in operating without clear instructions from Ottawa, may have done more damage in the long-run than good by their concessions. This practice of listing specific items narrowed the commitment to agricultural assistance and permitted a future literal-minded and mean-spirited bureaucracy to continue to convey to the Indians items, under treaty promises, which were no longer recognized as particularly helpful in the circumstances of agriculture on the Plains. The more general American terms theoretically allowed for some flexibility, although whether this was the case in practice is another matter. But the Canadian terms made for a literal and ungenerous interpretation which accorded with the attitudes of the men who oversaw Indian affairs in the reserve period.

Treaty No. 4 Summary	Treaty No. 5 Summary	Treaty No. 6 Summary	Treaty No. 7 Summary
<p>Agricultural Aid 2 hoes 1 spade 1 scythe 1 axe - to every family "actually cultivating"</p> <p>1 plough / 10 families 2 harrows / 10 families</p> <p>1 crosscut saw 5 handsaws 1 pitsaw the necessary files 5 augers - per chief for use of band</p> <p>1 chest ordinary carpenter's tools per chief for use of band</p> <p>"enough" seed, oats, wheat, barley, potatoes to plant land "actually broken up"</p> <p>1 yoke of oxen 1 bull 4 cows - per chief for use of band</p> <p>All aid "once and for all"</p>	<p>Agricultural Aid 2 hoes 1 spade - to every family "actually cultivating"</p> <p>1 plough / 10 families</p>	<p>Agricultural Aid 4 hoes 2 spades 2 scythes 1 whetstone 2 hayforks 2 reaping hooks - to every family now or later cultivating</p> <p>1 plough / 3 families 1 harrow / 3 families</p> <p>2 axes 1 crosscut saw 1 handsaw 1 pit saw the necessary files 1 grindstone 1 auger - per band 1 chest ordinary carpenter's tools per chief for use of band</p> <p>"enough" wheat, barley, potatoes, oats to plant land "actually broken up"</p> <p>4 oxen 1 bull 6 cows 1 boar 2 sows - per band 1 handmill when amount of grain warrants it</p> <p>All aid "once and for all"</p>	<p>Agricultural Aid 10 axes 5 handsaws 5 augers 1 grindstone the necessary files 1 whetstone - for each chief, minor chief, & Stony chief, for their bands</p> <p>2 cows per family of 5 or less 3 cows per family of 6 to 9 4 cows per family of 10 or more</p> <p>For those who want to cultivate: 1 less cow than above, BUT ALSO 2 hoes 1 spade 1 scythe 2 hay forks - per family</p> <p>1 plough / 3 families 1 harrow / 3 families</p> <p>"enough" potatoes, oats, barley, wheat (if suitable) for land "actually broken up" 1 bull per chief</p> <p>All aid "once and for all"</p>

Another striking point about these items in the Numbered Treaties is the distribution of goods. Unlike the Americans, where the individual was the basis for goods allotted, in the Canadian treaties all implements and stock were to be shared. How many or how few families were to share these things depended on the pressure the Indians brought to bear on the commissioners, or how much regard or fear the commissioners had for those with whom they bargained. As a result, Treaty Six, which involved protracted negotiations on these points from the aware and insistent Plains Cree, and Treaty Seven, with the Blackfoot who were held in fearful awe by Canadians without any actual cause for doing so, contained the most generous distribution of implements and stock. The Swampy Cree of Treaty Five, on the other hand, posing no threat to the government and making few demands, were awarded the least generous terms.

The agricultural policy of the government, as imparted in the Numbered Treaties, indicates what Sarah Carter has called a “period of indifference and neglect”.⁵⁵ But the receptiveness of the commissioners, and the lack of objection by the government especially to terms which in one instance would be described as “onerous” (financially) and yet ratified nonetheless, also suggests an uneasy compromise between accepted practice and “necessary innovations”. The Canadian government saw the treaties only in the narrow terms of extinguishment, but learned through the negotiations that Indians demanded more. Because the government wanted the treaties signed, it acceded to demands which fit the pattern if not of previous treaty terms, then at least of past general intentions in Indian policy. Thus terms which accorded with the “civilization” measures which in eastern

⁵⁵ Carter, p. 78.

Canada had been implemented later in legislation, the commissioners and, by ratification, the government shifted from legislation to the treaties themselves. Perhaps because this was a break with past practice, perhaps because Alexander Morris wanted to acknowledge the Indians' demands without overstepping Ottawa's limits, the agricultural terms offered proved an unsatisfactory compromise during the implementation phase later. The Indians discovered that their paltry terms, which they had to fight to get to *begin* farming because the treaties promised them only when they were *actually* farming, were insufficient in either quantity or appropriateness to the tasks at hand. Had the government interpreted its own treaties in the spirit in which such terms were negotiated by both the Indians and the commissioners, this would not have posed such a problem. But there were different men, a different spirit and different circumstances, especially in the wake of the 1885 Rebellion, abroad in the land in the matter of Indian relations, and a literal interpretation of the treaties upheld both these attitudes and Canadian smugness about honouring treaty terms.

The single greatest contradiction in the American treaty provisions, given the emphasis on private property and the individual as the centrepiece of the transformation to "civilization", was the restriction on fee simple title set out in Article 6 of the 1867-1868 treaties. Surely if the object was a property-holding individual, a proper "Jeffersonian yeoman farmer" which was the American ideal, then the final piece of the puzzle was missing here. The creation of freehold farmers was the ultimate goal of this Article, and the Sioux treaty went the farthest in actually establishing grounds for citizenship for those

who fulfilled the stringent requirements of property-holding. But there was a distinct air of reluctance to impart to the Indians full ownership and fee simple title, and in the emphasis that such lands were to be held as long as they were cultivated or as long as the person involved remained in occupation of them. The Americans, so optimistic in other aspects of their “civilization” policy, could not overcome this. Indeed, a reluctance to convey full title on the Indians appeared again in the *General Allotment Act* of 1887, the purpose of which was explicitly to break up tribal relations and induce private ownership among the Indians.⁵⁶ In part this reticence stemmed from the American conception of Indians as “wards of the state” unready for such responsibilities, which proved a self-serving and useful designation. But Americans had other fears which may have justified this hesitation. One was that Indians would be swindled out of their property in short order, a prospect which alarmed those humanitarians and reformers who sought a gradual evolution of the race. American Indian relations held enough precedents to make this a viable fear. The *Royal Proclamation* had specifically reserved the surrender of Indian title to federal oversight because of this very tendency by Americans. Implementation of severalty under the *General Allotment Act* would prove this again. In this instance, the waning protective function of the American treaties edged out the more strident “civilization” impulse.

The Americans had other reasons to fear fee simple title by the Indians. As suggested by the “citizenship” provisions of Article 6, those Indians who received a patent under the established rules, might become citizens of the United States and this, by definition and under the Fourteenth Amendment of the Constitution adopted in 1868,

⁵⁶ Billington, p. 670.

would have won such Indians the right to vote. Some American congressmen would have applauded this advance as it would also have included the right of the government to tax such Indians, the tax-free status of American Indians being a sore point with the economy-minded members of the House.⁵⁷ But the voting rights of domestic minorities - Blacks and Indians - as well as of racially dissimilar immigrants - Chinese, Japanese, and even southern and eastern Europeans - was an increasingly troubling issue in the United States in the post-Civil War era. In 1867 and 1868 the most pressing of these questions was the matter of Black voting rights and, in the midst of the Reconstruction and Fifteenth Amendment debates, this was a particularly sensitive issue. American treaty commissioners may well have shied away from any direct commitments to fee simple title, and the citizenship it implied, for fear of compromising larger questions. The designation of Indian land ownership under treaty provisions, therefore, echoed the ambiguous strains of conflicting American reform movements.

As in the terms for education, the American program for the promotion of agriculture among the Indian signatories to these treaties reflected a comprehensive bid to advance "civilization". All the means necessary to establish a family farm - a lot of an appropriate size, seed, implements, instruction and sometimes even stock - were provided. American generosity reflected in part the conviction that even Indians would recognize a good deal when they saw one. General Sanborn told the Sioux he met with at Fort Rice in the summer of 1868 that "The terms we propose are more liberal than you have ever had.

⁵⁷ Mr. Hubbard, Congressional Globe, 39th Congress, 1st Session, House of Representatives, March 27, 1866, p. 1684.

Perhaps more liberal than any Indian Nation. You should not think of rejecting them, for so liberal terms are not likely again to be offered.”⁵⁸ Some congressional critics heartily agreed, and decried the generosity shown the Indians when the Blacks, whom some alleged to be a much more deserving minority, were given nothing at all.⁵⁹ The extent of these terms clearly reflected the commitment of the peace commissioners (at least the humanitarian reformers among them) to a system of agriculture, which Americans believed would as effectively destroy the cultural barriers which led to conflict as would education. Agriculture offered a practical route to the acquisition of several of the fundamental values whites held dear - a work ethic, an attachment to private property, and the development of individualism - all traits supported by specific treaty terms.

Unlike the Americans, who clearly devised and imposed agricultural terms without the interest, input or enthusiasm of the Indians at whom such a program was aimed, Canada did not initiate the agricultural aspects of its Numbered Treaties. With the exception of the Blackfoot Treaty, the impetus for agricultural assistance as it appeared in the treaties belonged in every instance to the Indian participants. In light of Canada's subsequent pathetic record in agricultural assistance and encouragement of Indian agriculture, characterized as obstructionist at best if not downright sabotage, perhaps Canadian treaty commitments to agriculture may have been less than sincere. Perhaps they

⁵⁸ General Sanborn, quoted in the Proceedings of the Great Peace Commission, July 2nd 1868, Council at Fort Rice, p. 135.

⁵⁹ See remarks by Mr. Howe and Mr. Stewart, Congressional Globe, 41st Congress, 3rd Session, Senate Proceedings, February 22, 1871, p. 1502.

were just lip service concessions to people who would not otherwise have signed the treaties, promises to be abandoned once Canada was in a position to ignore Indian demands. Evidence for Canada's performance in the implementation phase under reserve conditions is certainly convincing of the government's willful undermining of Indian agricultural efforts.⁶⁰ It is more difficult, however, to accept this conclusion extrapolated back into the negotiation of the Numbered Treaties. Resistance to this point of view emerges from an examination of several pieces of evidence at the time, which suggest that at least in the treaty-making phase of Canadian Indian relations, several significant voices among government officials and treaty commissioners believed there was an intent to introduce a practical agricultural policy to address the future situation of the Indians in the West.

In a report to the Governor General in August, 1873, then Minister of the Interior Alexander Campbell offered a brief assessment of the situation on the Plains west of Manitoba, urging that treaties with all of the peoples in these territories - Cree and Blackfoot - be made the following year. He noted the diminishing numbers of buffalo, the increased population pressures as a result of the westward migration of the Manitoba Metis, and how both of these factors were likely to exacerbate an already difficult situation when the buffalo, the single means of Indian subsistence, failed. In view of these elements, Campbell stated his belief "...that it is expedient with reference to the maintenance of the peace of the country to expedite the negotiations of treaties with these tribes so as to offer them the means of subsistence in exchange for their surrender of the Indian title of the

⁶⁰ Carter, pp. 156, 211-213, 218-219.

lands over which they roam.”⁶¹ With this statement Campbell made explicit the nature of the treaties as understood by the cabinet minister responsible for Indians, and can be assumed to be making a policy statement reflecting the will of the government he represented. The extinguishment of Indian land title remained, as it always had, the point of Canadian treaty-making, but Campbell coupled this with a specific commitment to pay for it with a program that would ensure the subsistence of the Indians involved. This was not as explicit a statement of intent as that given in the American Act of July 20, 1867, but it is as significant in advertising the intentions of the Canadian government. Campbell did not identify agriculture as the means to be supplied, nor did he link it with the concept of “civilization”, but he did not have to do so. These three elements went together in contemporary thought.

Evidence for this interpretation is more apparent in the actions and statements of treaty commissioners in the field. It seems clear from the government’s reports and records that the Crown’s representatives did not inaugurate any of the agricultural terms. But so also is it apparent that they were not resistant to them. Commissioner Simpson objected to the extra demands of the Indians of Treaties One and Two only because he had not been authorized, in his scanty instructions, to admit such stipulations. But Lieutenant-Governor Archibald’s opening remarks at the Stone Fort Treaty surely made clear government receptiveness to such demands. He assured the Indians present that “She [the Queen] wishes them [the Indians] to live in comfort. She would like them to adopt the

⁶¹ Alexander Campbell, Department of the Interior, August 6, 1873, NAC, RG- 2, Series 1, Volume 83, Privy Council Minutes, Minute 983, Reel C-3305.

habits of the whites - to till land and raise food, and store it up against a time of want." He also indicated the lethargic pace which the Canadian government was willing, indeed perhaps hoping to follow, by insisting that "...the Queen, though she may think it good for you to adopt civilized habits, has no idea of compelling you to do so."⁶² Archibald was the Lieutenant-Governor of Manitoba and the Northwest Territory, but he had only recently been appointed to this position, and came from Ottawa where he had been a close confidante of John A. Macdonald, with whom he still cordially corresponded. That he should be advocating a course out of keeping with that of the government is unlikely. He supported Simpson's reluctance to include terms reflecting these intentions in the actual treaty, but put his name, along with the Indian Commissioner's, to the memorandum of additional items, including the sought-after agricultural provisions, which became the root of the "Outside Promises" fiasco. The government's response to Indian complaints over the non-fulfilment of these additions, which the Indians understood to be part of the treaty and which the government did not, lends some credence to the view that Ottawa was unsympathetic to the demands contained therein. But it also may reflect an inefficient bureaucracy and parsimonious government, inclined to suspect Indians of wanting more than they had been promised, especially in light of the more "extraordinary" demands put by the Indian signatories of Treaty Three. Simpson, in his capacity as Indian Commissioner, did in fact distribute some of the assistance called for in the memorandum,

⁶² Archibald, quoted in The Manitoban, cited in Hall, p. 128.

although he did so unevenly and unsatisfactorily.⁶³ Archibald's successor as lieutenant governor, Alexander Morris, took the Indians' part from the beginning, however, and repeatedly urged a resolution to what he considered a vexing problem.⁶⁴ During a visit to the West in 1874, then Minister of the Interior Laird made his own inquiries and on his return to Ottawa acted on the promises he had made to the Indians concerned. Belatedly, it is true, the Privy Council accepted the "Outside Promises" as part of the treaty officially, and instructed Morris to gain Indian acceptance to the terms, as well as to notify them that the promised action had been taken.⁶⁵

Alexander Morris served as chief negotiator of the four subsequent treaties and thus offered a degree of consistency to these arrangements. He accepted the demands of the Treaty Three Indians for agricultural assistance, although they were outside the purview of the limited instructions he had been given as well. Morris identified his acceptance of these terms as the point which won acceptance of the treaty by the Indians when they had rejected it twice before.⁶⁶ In all subsequent treaties, the question of whether to include agricultural provisions was not disputed by the commissioners, who included them in treaties as a matter of course, nor by the government, at least as such things are

⁶³ Wemyss Simpson to William Spragge, Deputy Superintendent of Indian Affairs, September 21, 1872, NAC, RG-10, Volume 3578, File 539, Reel C-10102; Memorandum of the Department of the Interior by David Laird, April 24, 1875, NAC, RG-2, Privy Council Minutes, 21 April-4 May 1875, Series, 1, Volume 108, Minute 427; Hall, p. 119.

⁶⁴ David Laird to Alexander Morris, July 7, 1875, NAC, RG-10, Volume 3616, File 4767, Reel C-10108.

⁶⁵ Copy of a Report of a Committee of the Honorable the Privy Council, April 30, 1875, NAC, RG-10, Volume 3621, File 4767, Reel C-10108.

⁶⁶ Beal and Macleod, p. 53; Carter, p. 55.

recorded in the Privy Council Minutes, parliamentary debates, or the Governor General's ratification.

That the government, and even the commissioners, had their limits is apparent in other instances. In the Treaty Six negotiations, Lieutenant-Governor Morris confronted perhaps the most prepared Indians he had encountered in his offices as treaty commissioner. The Cree of the North Saskatchewan were keenly aware of the passing of their way of life, and most anxious to find a means to subsist when the buffalo disappeared altogether. The negotiations at Fort Carlton were the most contentious Morris would face. As was the case in each of the Numbered Treaties, the Indians won more concessions than the government had been prepared to offer by presenting a list of demands and arguing their reasons. On the fifth day of the proceedings Morris, having heard an extended list of Indian proposals, presented by their own interpreter, responded with the government's counter-offer. Impressed by their concerns for the future and their expressed desire to embark on an agricultural future, Morris expanded the list of agricultural implements to be supplied, increased the amount of stock offered, agreed to provide a handmill to each band settled and raising sufficient grain, and offered, of his own volition, a thousand dollar payment for each of three years to the Fort Carlton bands after they had settled. It is possible to explain this as simply a response to the pressures at hand. Morris himself concluded that the success in persuading the Indians to sign rested exclusively on his response to the "food question" which so plagued these people.⁶⁷ But he could be receptive to the terms because they were not out of keeping with his understanding of the

⁶⁷ Morris, Treaties, p. 185.

spirit of Canadian intent with regard to the Western Indians. That Morris had an agricultural future in view, rather than just capitulation to any demands made in the heat of the moment, is clear in his refusal of other things for which the Fort Carlton Indians asked. These included “responsibility of promising provision for the poor, blind and lame” which he evaded by emphasizing that “in all parts of the Queen’s dominions we have them”. He also denied the requested free passage on bridges and scows.⁶⁸ These things were not as crucial, perhaps, as direct agricultural assistance, but they also did not accord with conventional white views of a “civilization” policy, while the agricultural provisions did.

Morris was certainly sympathetic to the Indian point of view, an attitude which grew on him in the course of his lieutenant governorship and is suggested by the evolution of his receptiveness to the Indians as he negotiated four treaties and renegotiated two others in his five years’ service in the Northwest. But if his concessions were out of keeping with the general purposes of the government, it is likely he would have been censured for it. As it was, he enjoyed the full confidence of the Liberal Minister of the Interior Laird and Prime Minister Mackenzie. Treaty Six did elicit some criticism on the basis of the expanded terms he offered there. In his response, Morris reiterated the basic approach enunciated four years earlier by Campbell, that “We were seeking to acquire their country, to make way for settlement, and thus deprive them of their hunting grounds and means of livelihood.”⁶⁹ The lieutenant-governor was aggravated enough by the

⁶⁸ Morris, Treaties, p. 218.

⁶⁹ Alexander Morris to Minister of the Interior, March 27 1877, The Papers of Alexander Morris, NAC, Reel M-69.

castigation of his efforts in Treaty Six as “onerous” to offer a multi-page rebuttal of the government’s rebuff in a letter to the Minister of the Interior. That the government in this case felt it necessary to issue an official reprimand, issued from the office of the Deputy Superintendent of Indian Affairs, may be an indication of their lack of support for these terms, but an examination of the critique itself finds the source not in the Governor General, whose use of the term “onerous” so irritated Morris, but in the first instance in the reaction of David Mills, the new Minister of the Interior. His evaluation of Morris’s work, the first he had encountered on assuming the cabinet post in the wake of Laird’s assignment to the newly created lieutenant governorship of the Northwest Territory, is the position which may not have accorded the government’s view. Mills’ words were repeated verbatim in the Privy Council Order censuring Morris and the Governor General’s Speech from the Throne in 1877.⁷⁰ The idea to inform Morris of the government’s alleged displeasure belonged to Lawrence Vankoughnet, Superintendent of Indian Affairs and a force in the future stringent and narrow-minded application of Indian policy, and Vankoughnet wrote the reprimand itself. The change in personnel appears to be the significant fact in this shift in governmental attitudes. It was the new Minister of the Interior, not the administration which had already confirmed two of the Numbered Treaties, who thought to break the pattern of official complacency and indifference to treaty terms.

⁷⁰ Memorandum of the Minister of the Interior, January 31, 1877; Copy of a Report of a Committee of the Honorable the Privy Council, 10 February, 1877; Memorandum of the Deputy Superintendent General of Indian Affairs, February 12, 1877, NAC, RG-10, Volume 3636, File 6694-2, Reel C-10111; Speech from the Throne, Debates of the House of Commons, February 8, 1877, p. 3.

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In the 1860s and 1870s, Indian relations on the American Plains were in a state of crisis, characterized by vicious and expensive wars, which demanded immediate redress. The Americans, afflicted with the contradictory impulses both to expand without restraint but also to preserve the Indian race, had to resort to immediate and radical solutions. Their response was to reconstitute and formalize the reserve system which had been in operation in that nation throughout the century, and to inaugurate a wide-ranging program of “civilization” to gain a long-term solution to a persistent national problem. The central components of that program were Christianity, education and agriculture and the Treaties of 1867 and 1868 reflected American zeal at least for the latter two as remedies to the “Indian problem.” The extensive nature of the provisions relating to these two items in the treaties with the Plains peoples indicate not only American commitment to such things, but also the pressing necessity for a solution. In the American West, conflict between the races threatened either the extinction or extermination of one of the contenders. The government and its treaty commissioners perceived that if they did not act soon in offering a comprehensive means to avert the disaster then it was foreordained. There were, in other words, considerable pressures and incentive for the Americans to take drastic action to recreate the Indians in the image of whites, the only acceptable “alternative to extinction” the Americans bothered to devise. In 1867 and 1868 the only means the government had of dealing with the Indian, outside of the restrictive constitutional item allowing Congress the right to regulate commerce, was through treaties. It was a natural evolution, therefore,

especially with challenges to the treaty-making system in its traditional role of extinguishing land title, to expand these documents to incorporate the new elements of American Indian policy - reserves and "civilization".

Canada was under no such pressures. The conflict in the West which goaded the Americans to action was absent north of the forty-ninth parallel. This permitted the Canadian government to assume or delude itself into believing that there was no crisis on the Prairies, although evidence from traders, officials, travellers, and Indian themselves indicated an imminent food crisis. Canada's first tentative ventures in the West operated under the general intentions inherited from British policy concerning the necessity to treat for land and also to introduce a "gradual" program to "civilize" the Indians.

Intentions, however, were not plans. Unlike the United States, Canada failed to recognize, or wilfully ignored, all signs of the crisis brewing in its own backyard. A conviction of national superiority, stemming from differences in circumstance over which the government exercised no control, permitted Canadians to delude themselves. There was no acknowledgment of problems which did not assume the same form as those confronting the Americans. This led, in the first instance, to different attitudes and a different pace in the implementation of policies meant to address the Indian situation in the West. The Americans pressed ahead with their plans. Canada held back. The advantages of doing so, and in the eyes of the administrators there were many, were immediate. Unfortunately they were of only short-term duration.

Chapter Eight - The Buffalo, Hunting Rights and Preservation

Agriculture was not just a means of “civilization”, but also offered a pragmatic solution to the vexing question of how the Indians were to survive after the demise of the buffalo. The buffalo was an important influence at treaty negotiations in the United States and Canada, although the species merited mention only in the American documents. Still, how the nations dealt with the buffalo, especially as this was manifested in concerns for its preservation, and in treaty terms relating to hunting rights and food provisions for the Indians, reflects the commitment to “civilization” in each nation.

The idea of the “vanishing Indian” animated many aspects of Canadian and American Indian relations, but the image of the “vanishing buffalo” was also frequently evoked. There was much more evidence on the imminent demise of the buffalo. As early as 1846, the American Superintendent of Indian Affairs was remarking on the decline of this animal.¹ On the Canadian Prairies, Captain John Palliser recorded impressions of the “scarcity of the buffalo” in 1857, while the Cree, who were severely affected early on, were advocating restrictive hunting measures in 1859.² By the late 1860s, predictions about the anticipated extinction of this Plains staple were common in both countries. Because of the erratic course of this journey to extinction, there is much confusion about when and where the buffalo faded. It is generally conceded, however, that the buffalo had disappeared from the southern American Plains by 1878, the Canadian Prairies by 1879,

¹ Trennert, pp. 138-139.

² Carter, p. 43.

and the northern American Plains by 1883.³ Long before those dates the buffalo had receded from great pockets of territory. It had faded from the north/central prairie region occupied by the Cree by the opening of the 1870s, although it remained in other areas, including Blackfoot territory and the Cypress Hills, until the last years of that decade. The longevity of the species determined in large part the outlook of the Indians involved at the various treaty talks.

The United States Indian peace commissioners went to treaty talks in 1867 and 1868 armed with the conviction of the “vanishing buffalo”. In the course of treaty negotiations, the commissioners repeatedly impressed this fact on their Indian audiences. “Formerly you could find all the game you needed but now the buffalo have entirely disappeared from a large portion of your country,” Commissioner Taylor told the Sioux at Fort Laramie in 1867. “The buffalo is fast disappearing,” Senator Henderson informed the Brule Sioux gathered at Fort Sully. At Medicine Lodge Creek the Senator told the Comanches that “...the buffalo would not last forever. They were disappearing, and the Indians must know it.”⁴ Such references littered the conversation of the government’s commissioners. With such invocations they stressed the immediacy of the problem and offered a solution in the form of agriculture:

³ Billington, p. 669; Carter, p. 69.

⁴ Indian Commissioner N.G. Taylor, Fort Laramie, Nov. 13, 1867; Senator John Henderson, Fort Sully, August 31, 1867; Henderson, Medicine Lodge Creek, October 20 1867, quoted in Proceedings of the Great Peace Commission, pp. 90, 41, and 73, respectively.

The sooner you give up your ideas about living by hunting, the better it will be for you all. The buffalo is fast disappearing. In the course of a few years they will all be gone and you must look forward to that time when you must live by agriculture or die.⁵

At Medicine Lodge Creek, and the various sites where discussions took place for the Fort Laramie Treaty (among them Fort Sully, Fort Laramie, and Fort Rice), the disappearance of the buffalo was a hard sell. On the southern Plains, the Cheyenne and Arapaho found buffalo enough in the vicinity of the treaty grounds that they did not have to avail themselves of the beef supplies the Americans offered.⁶ The peoples assembled to discuss terms, invariably expressing little interest in any of the *accoutrements* of “civilization” outside of rifles offered by the commissioners, were more sanguine about the future of their staple food. In response to the repeated warnings of doom and the promised salvation of reserve life, Spotted Tail of the Brule Sioux replied,

We want a reservation on the White River, and when the buffaloes are gone, we will go upon it... Now we want to live as our fathers have lived, on the buffalo and the deer that we find on our hunting grounds. ... We love to hunt. We do not want to live like the white man. The Indian cannot be a white man.⁷

A Kiowa leader, Satanta, put the Indian response more succinctly: “It is time enough to build us houses when the buffalo are all gone, but do tell the great Father that there is

⁵ Senator Henderson, quoted in Proceedings, August 31 1867, p. 41.

⁶ George Bird Grinnell. The Fighting Cheyennes, (Norman, Reprinted 1971), p. 273.

⁷ Spotted Tail, quoted in Proceedings, p. 93.

plenty of buffalo yet, and when the buffalo are all gone, I will tell him.”⁸ The closest the American Plains Indians came to demanding preservation measures for the buffalo was to insist on the inviolability of their hunting territories. Spotted Tail spoke for many of the Sioux and the Northern Cheyenne and Arapaho when he declared that “...we do object to the Powder River road and the road on the Smoky Hill Route. The country in which we live is cut up by the white men who drive away all the game. That is the cause of our troubles.”⁹

It is fortunate that the Plains Indians were not seeking assistance in methods to preserve the buffalo, for the United States was not interested in offering any. One historian has suggested that some Army officers decried the intensive annihilation of the buffalo because of the impact this would have on Indian lives.¹⁰ But many Americans in a position to care either did not think about it, or actively encouraged the destruction. General Sherman saw the buffalo, as much as the railroad, as a factor in the solution of the “Indian problem.” “I think it would be wise to invite all the sportsmen of England and America there for a Great Buffalo hunt ... and make one grand swap of them all,” he suggested, in May, 1868.¹¹ In this he had the support of another senior military officer, General Phil Sheridan who, a few years later, would applaud the buffalo hunters of the Texas plains for

⁸ Satanta, quoted in Proceedings, p. 74.

⁹ Spotted Tail, quoted in Proceedings, p. 58.

¹⁰ Wooster, p. 208.

¹¹ General W.T. Sherman, quoted in Henry G. Waltmann, “The Interior Department, the War Department and Indian Policy, 1865-1887”, (Unpublished Ph.D. Dissertation, University of Nebraska, 1958), p. 153.

“These men have done more in the last two years, and will do more in the next year, to settle the vexed Indian question...than the entire regular army has done in the last thirty years. They are destroying the Indians’ commissary.”¹² Secretary of the Interior Delano captured this attitude in an official statement in 1874, reporting that “I regard the destruction of such game [buffalo]...as facilitating the policy of the Government, of destroying their hunting habits, coercing them on reservations, and compelling them to begin to adopt the habits of civilization.”¹³ The single measure passed by Congress to address the preservation of the buffalo was pocket-vetoed by President Grant.¹⁴ Americans therefore not only observed the decline of the buffalo, accelerated it by overhunting, encouraged it through the extension of the railroad and the development of a new tanning process, but also applauded it.

Still, Indian obstinance in recognizing what the Americans so confidently predicted forced treaty concessions incompatible with American goals at the treaty talks. At Medicine Lodge Creek it became apparent that the Indians found nothing of value in the extensive “civilization” provisions offered. In response to one of Senator Henderson’s long-winded speeches on the benefits being offered, Buffalo Chief responded, “We don’t want any houses; we prefer living on the prairie instead of houses and civilization.”¹⁵ The

¹² General Philip Sheridan, quoted in Prucha, The Great Father, Vol. 1, p. 561.

¹³ Columbus Delano, Secretary of the Interior, quoted in Prucha, The Great Father, Vol. 1, p. 561.

¹⁴ Francis Haines. The Buffalo, (New York, 1970), p. 205.

¹⁵ Buffalo Chief, quoted in Proceedings, p. 82.

incompatibility of the desires of both parties created a stumbling block at each of the major treaty negotiations.

At length the civilian commissioners relented. The Kiowa and Comanche were acknowledged in the right to continue to hunt in the territory they had been assigned under the Treaty of the Little Arkansas in 1865, and which they were now surrendering.¹⁶ Under the terms of the treaty they signed at Medicine Lodge Creek, the Southern Cheyenne and Arapaho were granted exactly the same rights, although at the treaty talks themselves, Commissioner Henderson had promised them the right to hunt, not on former Comanche/Kiowa lands, but on their own claimed and ceded territory in Kansas.¹⁷ In the case of the Sioux, other circumstances surrounding the Powder River road controversy resulted in a completely unprecedented concession in American Indian treaties. Along with the right to hunt “off reserve” in ceded territory (Article 11), the Sioux were to enjoy the Powder River country as “unceded Indian territory”, from which the United States withdrew without conditions.

As the military commissioners pointed out, by perpetuating roaming ways such concessions effectually defeated the provisions for peace, the establishment of reserves, and the “civilization” measures. The civilians had counter arguments. They were convinced that without such provisions the Indians would likely not have signed the treaties, as there was little else of immediate appeal to them.¹⁸ Of equal importance were

¹⁶ Treaty with the Kiowa and Comanche, Article 11, in Kappler, p.980.

¹⁷ Jones, p. 180-182.

¹⁸ Hagan, U.S.-Comanche Relations, p.32; Jones, pp. 176, 177.

the qualifying parts of the terms. In each case was added the clause “so long as the buffalo may range thereon in such numbers as to justify the chase.” As everyone conceded that the continued existence of the buffalo was a matter of time, it could be argued that this right was distinctly finite. Furthermore the most troublesome of the concessions, those to the Cheyenne and the Arapaho, were granted under the terms of the Treaty of the Little Arkansas of 1865, which specifically provided that the Indian “parties hereto ... will not...encamp by day or night within ten miles of any of the main traveled routes or roads through the country to which they go, or of the military posts, towns, or villages therein....”¹⁹ Given the development of white settlement in this region, it was already difficult, if not yet impossible, for the Cheyennes and Arapaho to hunt there and yet comply with the treaty. Whatever the rationalizations, the military men suspected it would still end in violence. Sherman insisted that the rights given to the southern Indians be extended to the Sioux in the Fort Laramie Treaty, adding, “But I would let them understand, clearly and distinctly, that the moment they pass beyond the prescribed limits they become liable to fall in with parties of our miners and travelers and to involve themselves in trouble.”²⁰ The practical effect of the hunting provision was to annul the concept of reserves, or at least severely to inhibit it, for under the treaty terms of 1867 and 1868 the reserves were not compulsory.

Believing food to be the central issue for the Indians and convinced, as was the

¹⁹ Article 2, Treaty of the Little Arkansas with the Cheyenne and Arapaho, 1865, in Kappler, Indian Treaties, p. 888.

²⁰ General W.T. Sherman quoted in Proceedings of the Great Peace Commission, April 1, 1868 p. 97.

New York Times, that the Indians could hardly resist such generous terms, the commissioners extended an even more generous incentive in the Fort Laramie Treaty with the Sioux by offering daily rations. The Americans were not reluctant to employ food in this way. When violence renewed on the southern Plains in the fall of 1868, despite the great efforts at Medicine Lodge Creek only a year before, it was the military which called for an extension of the daily rations not specifically included in the Medicine Lodge Creek Treaties to all those actually on reserves.²¹ Congress apparently had no objections to such a move, for in debates on the Indian appropriations bill for 1871 an amendment providing for daily rations for all those with whom treaties were made at Medicine Lodge Creek in 1867 was passed without challenge.²²

The hunting provisions served other purposes. They may well have induced the Indians to sign the treaties, but by doing so they also provided the United States with a powerful weapon. The military commissioners had agitated for compulsory reserves and failed to obtain them. When violence erupted again, however, for the usual reasons because the source of conflict had still not been eradicated, the military could take action. In the fall of 1868, amid renewed conflict on the southern Plains, the Great Peace Commission met for a final time and with the military in the ascendancy²³ recommended to

²¹ Prucha, American Indian Policy in Crisis, p. 24.

²² Congressional Globe, 41st Congress, 2nd Session, Senate Proceedings, p. 4046.

²³ Over the course of its seventeen-month existence, personnel on the Great Peace Commission fluctuated due to the more pressing commitments of individual members. General Sherman was, for instance, recalled at one point to testify at President Andrew Johnson's impeachment hearing. At its final meeting in October, 1868, only two of the civilian commissioners - Taylor and Tappan - remained. They were outnumbered and outvoted by the

Congress “That existing treaties shall be maintained and respected, until their violation by the Indians themselves shall justify the Government in abrogating them severally...” and coupled this with a recommendation for a compulsory reserve policy.²⁴ It would take the United States Army more than a decade to enforce this policy, but they could claim the treaties of 1867 and 1868, and the violation of the terms therein, as the legitimate basis for their work. Thus the impediment to “civilization” which the commissioners had conceded proved a useful tool, first in winning Indian assent to the treaties and then in providing a justification for the implementation of a coercive reserve and “civilization” policy.

Developments in Canada unfolded in almost the opposite direction. At treaty talks in the 1870s, the commissioners also employed the spectre of the “vanishing buffalo”, at least in the negotiations in Saskatchewan where it had particular effect because the Cree there were already living with the reality. But the Canadian emphasis was different. Here the decline of the buffalo was used to suggest to the Indians the need to surrender land which would soon be useless to them and to prompt their selection of reserve lands for farming so that they would have somewhere inviolate to retire to when the time came. But it was not in the best interests of the Canadian government to rush the Indians to settlement, for to do so would be to tax the Canadian economy. Instead the government softened the revolutionary suggestion of the relinquishment of the land with the guarantee of continued use of that very land. So long as the Indians continued to hunt, they would

military officers present.

²⁴ Proceedings of the Great Peace Commission, p. 158.

not require either government assistance in agriculture or government subsistence, items that might include a hefty pricetag. This contrasts sharply with the American attitude, which embraced such measures, at least in the short run, in order to establish the reserve system.

What Canada wanted was land title, and in the uncertain circumstances of the 1870s, the Indians were reluctant to surrender their one asset - the land - without meaningful compensation. This discussion was particularly acute in the Treaty Six negotiations at Fort Carlton. The commissioners, notably Alexander Morris, countered these fears by offering two things: a guaranteed right to the use of the land surrendered (subject to certain restrictions, and identical to hunting provisions in each of the previous treaties) and agricultural assistance (at the insistence of the Indians) when they were “actually settled”.

It is hard to believe that the successive lieutenant governors of the Northwest Territory, Morris and David Laird, were not sincere in their assurances for and commitment to the Indians’ future. Literally every treaty began with an assertion that the Indians might rest assured in “Her Majesty’s bounty and benevolence”. Morris responded to the appeals of Poundmaker at Fort Carlton for assistance with the assurance that “What I have offered does not take away your living, you will have it then as you have now, and what I offer now is put on top of it. This I can tell you, the Queen’s Government will always take a deep interest in your living.”²⁵ Morris’s correspondence over five years as lieutenant-governor of Manitoba and the Northwest Territory indicates a level of concern

²⁵ Morris, Treaties, p. 211.

for the subjects in his charge, never echoed in Ottawa, for making and keeping honourable terms, in addressing Indian grievances, and in conceding to demands he could clearly see arose from legitimate circumstances.²⁶ Laird, too, exhibited the same kind of concern on many occasions where he had personal contact with the Indians involved. His 1874 journey to the West, and interviews with the aggrieved signatories of Treaties One and Two, prompted the final resolution of the “Outside Promises” fiasco.²⁷ In his capacity as lieutenant governor of the Northwest Territory, Laird sponsored the buffalo preservation measure long demanded by the Plains Cree.²⁸ Laird also insisted that the peoples of Treaty Four receive the one thousand dollars a year for three years agricultural assistance granted under Treaty Six, and he fought a vituperative if unsuccessful battle with Minister of the Interior Mills over agricultural supplies and instruction for the Plains people starving on the Saskatchewan in 1878-1879.²⁹ It is more difficult to give Ottawa the benefit of the doubt.

²⁶ See, for example, Alexander Morris to the Secretary of State, June 7, 1873, NAC, Papers of Alexander Morris, Reel M-70; Alexander Morris to Alexander Mackenzie, August 20, 1875, NAC, Papers of Alexander Morris, Reel M-70; Alexander Morris to Minister of the Interior, October 27, 1876, January 19, 1877, February 19, 1877, NAC, Papers of Alexander Morris, NAC, Reel M-69, among many others.

²⁷ David Laird to Alexander Morris, July 7, 1875, NAC, RG-10, Volume 3621, File 4767, Reel C-10108.

²⁸ The legislation established restrictions on when buffalo could be hunted, how many could be taken, and how old the buffalo had to be before it could be killed. The law passed the Northwest Council in 1877, but either because it was not enthusiastically enforced or because it was impossible to make effective, it was repealed the following year. It was also very unpopular with the buffalo-hunting Indians. See remarks by David Laird in Morris, Treaties, pp. 267-268; Dempsey, Red Crow, pp. 108-109.

²⁹ Carter, pp. 68, 69, 70.

In the United States it was agreed that hunting rights were the turning point in winning Indian adhesion to the treaties. In Canada, the critical feature was a different matter. The deadlock of Treaty Three was broken by Morris's unprecedented official concession of agricultural assistance. The grievances levelled by the Treaty One and Two Indians revolved around the "Outside Promises" which dealt with the same issue. But the fullest discussions, or the fullest record of such discussions, were those at Treaty Six in which Morris identified the resolution of the "food question" as the crucial element. Thus while American Indians turned aside government offers of assistance, which they felt were not needed, Canadian Indians demanded such assistance which they were not being offered.

At Fort Carlton, in 1876, Morris flatly turned down any suggestion of daily rations being supplied by Canada, and in doing so invoked the two reasons which inhibited all impulses of generosity on the part of the government: "you are many, and if we were to try to do it, it would take a great deal of money, and some of you would never do anything for yourselves."³⁰ What followed, according to Morris's account, indicates a meeting of minds on the central point. The Indians apparently wanted a promise of assistance in developing agriculture as a new means of subsistence and an assurance of a security net in the feared rocky passage on this route. Both were reasonable expectations of the new relationship being established between the Crown and the Plains peoples.

If Morris believed that the Indians were unduly apprehensive about the fate of the buffalo, he yet recognized the real fear they had for a future without it, and made

³⁰ Morris, Treaties, pp. 210-211.

concessions accordingly. These included a broadening of the agricultural implements supplied (although still limited in comparison to those offered by the United States), a thousand dollar fund for three years for assistance in farming, and the “famine relief” clause.³¹ In the context of the treaty talks themselves, these clauses addressed the Indians’ fears and promised, in Morris’s view at least, nothing more than Canada and the Hudson’s Bay Company had always done in the way of famine relief or what it intended to do by way of agriculture.³² These terms came under fire from Ottawa, specifically from Minister of the Interior David Mills and the Superintendent of Indian Affairs Lawrence Vankoughnet, who characterized such concessions as “onerous”, and worried about predisposing the Indians to “idleness”.³³

In short, the official position of the Canadian government on subsisting the Indians was a concerted unwillingness to do so on a daily basis, or even to record an obligation to do so under the direst circumstances. The Indians were not to be encouraged to a dependence on the government, and food was not to be used as an inducement to take up reserve lands as was the case in the United States, even if, as Lieutenant Governor Laird warned, the government’s options were “to help the Indian to farm and raise stock, to

³¹ The “famine relief” is unique to Treaty Six and promises “That in the event hereafter of the Indians comprised within this treaty being overtaken by any pestilence, or by a general famine, the Queen, on being satisfied and certified thereof by her Indian Agent or Agents, will grant to the Indians assistance of such character and to such extent as her Chief Superintendent of Indian Affairs shall deem necessary and sufficient to relieve the Indians from the calamity that shall have befallen them.” Morris, Treaties, p. 354.

³² Alexander Morris to the Minister of the Interior, March 27, 1877, NAC, RG-10, Volume 3636, File 6694-2, Reel C-10111.

³³ Letter [unsigned but probably from L. Vankoughnet] to Alexander Morris, March 1, 1877, NAC, RG-10, Volume 3636, File 6694-2, Reel C-10111.

feed them, or to fight them.”³⁴

The signal indifference of the Canadian government, in contrast to the earnest interventionary attitude of the Americans, was apparent in the Canadian response to agitation over measures to preserve the buffalo. In the years leading up to the treaty talks there was no shortage of warnings on the precarious state of this beast, and no dearth of plans suggesting an amelioration of the situation.³⁵ The Indians themselves had discussed action as early as 1859, and made concerted appeals of various sorts in the 1870s. All of these reports would have passed Morris's desk, yet he did not seem moved to action until 1876 when, on the North Saskatchewan, he was personally confronted with several pleas for aid. Morris's responsiveness to the Indians grew with his exposure to them, as suggested by the difference in his manner between the negotiations of Treaty Four and Treaty Six. It may be that he did not take the reports seriously until he came face to face with the problem. At the Fort Carlton and Fort Pitt negotiations he promised to press Ottawa on the question and did so in subsequent official reports and correspondence.³⁶ But by late 1876 he had jurisdiction over Manitoba only, and would soon no longer be lieutenant-governor at all. It was Lieutenant-Governor Laird of the Northwest Territory who took up the battle. In Parliament, in one of the very few extended discussions of any

³⁴ David Laird, quoted in Carter, p. 70.

³⁵ See, for example, the preservation plans suggested by A.R.C. Selwyn, Selwyn to E.A. Meredith, April 21, 1874, NAC, David Laird Papers; Charles Bell to Alexander Morris, April 16, 1874, NAC, RG-10, Volume 3609, File 3229, Reel C-10106; Department of the Interior Memorandum, April 15, 1876, containing suggestions from Colonel French, N.W.M.P., Father Andre, and a Select Committee of the North West Council, NAC, RG-10, Volume 3641, File 7530, Reel C-10112.

³⁶ Morris, Treaties, pp. 188, 193, 194, 228, and 241.

sort about Indians, J.C. Schultz led the struggle for legislation to preserve the buffalo by restricting the hunt, and he found support among the other members from Manitoba as well. Minister of the Interior Mills put them all off, acknowledging the problem, but claiming "...it had better be left to be dealt with by the Government of the North-West rather than by Parliament here...."³⁷ Under Laird's stewardship, the North West Council did pass a preservation bill in 1877, just in time to reassure the Blackfoot at the Treaty Seven negotiations that year.³⁸ The Blackfoot, unlike the rest of Canadian Indians, sounded much more like the American Indians in treaty negotiations, demanding the clearing of their territory of intruders rather than the means of an alternate existence. But the buffalo preservation measure was unpopular, never enforced, and repealed the following year.

Canada's lethargic approach to reserve and "civilization" policy found reflection in its official attitude toward subsisting the Indians. Enthusiasm was expressed only for hunting, the single means by which the Indians could continue to fend for themselves and at no cost to the government, while support for agriculture was either grudgingly approved or belatedly given, or denied altogether. This attitude persisted in the face of reports from a number of sources, including two lieutenant-governors whose own eyes were opened to the reality on the Plains by personal observation there, but resulted only in unsatisfactory guarantees and half-hearted or limited commitments to the Indians' vital

³⁷ David Mills, Debates of the House of Commons, 3rd Parliament, 3rd Session, p. 993.

³⁸ Morris, Treaties, p. 267.

concerns. Throughout the treaty process Canada remained consistent in its interpretation of the treaty-making function as it had been practised in British North America. The exclusive focus was the extinguishment of land title, admitting revision only under pressure and as pecuniary considerations allowed. The United States had diverged significantly from the original treaty-making purpose, inspired both by the need to fit an available instrument to new functions and a sincere missionary zeal which combined genuine humanitarianism with a single-minded self-interest.

In the end the two nations came away with signed treaties, although concessions were made in both instances which pleased neither, and the expected measures of persuasion in both countries proved less effective than anticipated. The treaties had achieved the goals set out in their instructions, although the Numbered Treaties, in their limited aspirations of securing land title, proved the more enduring. The Medicine Lodge Creek and Fort Laramie Treaties had a more uneven record. They had created the required reserves and established the framework for a comprehensive policy of “civilization” on the Plains meant to bring an end to the “Indian problem” once and for all. But even before Red Cloud signed the Fort Laramie Treaty in November 1868, the southern peoples were again in conflict with the United States, and the voluntary nature of the reserve and “civilization” policy was under fire. The perceived effectiveness of the treaties in gaining their ends was a factor in the ratification struggles which followed.

Chapter Nine - Ratification, Indian Status and Treaty-Making

Ratification of the great Plains Indian peace treaties was a deceptively simple process in the United States and almost a matter of form for the Numbered Treaties in Canada. The actions of the Senate and the Governor General in Council - the entities responsible for ratification in each country - gave little hint of potential dissent, although it did take the Senate almost a year to act on each of the treaties concluded by the Great Peace Commission.

Constitutionally, and as reiterated in the July 20 Act itself, this was all that was necessary to make the work of the Great Peace Commission law. But to carry out the provisions of these treaties a vast increase in expenditures was required and the treasury was the stronghold of the House of Representatives, which took the opportunity in debates on the Indian appropriations bills between 1868 and 1871 to change the course of American Indian relations and to bring an end to the treaty-making system. The deceptive calm of ratification by the Senate in executive session erupted into a raucous debate in the first instance over the magnitude of the pricetag. This was almost subsumed as the conflict spread to other issues, among them the role of the House in Indian policy-making, the joint congressional mandate to control the disposition of public lands, and, the true root of the furor, the status of the Indians in the United States.

Canada saw nothing like this. Here, with the exception of some grumbling over the “onerous” terms of Treaty Six, the Numbered Treaties were accepted with almost congratulatory self-satisfaction by the government. Little attention was paid, by the

ratifiers, to anything more than the fact that the treaties had secured their purpose - the extinguishment of Indian land title - and had done so reasonably economically, and very peacefully.

The final stage of treaty-making thus drew to a close, as had each previous part - with bitter and furious consideration in the United States and continued thoughtless neglect in Canada. Problems the two nations believed they were solving when they put the treaties behind them in the 1870s would return to haunt them decades later precisely because of the decisions made in the last days of these treaty-making sessions.

Indian treaty-making had long been a contentious issue by the time debate on the Indian appropriations bill for 1870 came up in Congress. Because the Senate had failed to ratify the 1867 Medicine Lodge Creek Treaties, concluded in October of that year, until July 1868, the appropriations required under them were not included in that year's budget and so no annuities were paid. This may have been one of the causes for the eruption of violence on the southern Plains at the end of 1868.¹ The ratification of the Fort Laramie Treaties in February, 1869, did make it possible to include them in the financial arrangements for the upcoming year, and so the work of the Great Peace Commission came together in the Indian appropriations bill for the year ending in June, 1870.

Technically, and under the Constitution, the treaties of 1867 and 1868 had been ratified by Senate approval and that should have ended the debate. But the House of

¹ Letter from E.W. Wynkoop, U.S. Indian Agent, to Charles E. Mix, Acting Commissioner of Indian Affairs, October 7, 1868, Annual Report of the Commissioner of Indian Affairs for the year 1868, p. 81.

Representatives believed it had good reason to challenge these documents, and the appropriations bill, for which the House was responsible, provided an opportunity. The pricetag of the treaties was the catalyst, although not the cause or even the main issue, which sparked renewed conflict over the question of Indian treaties. Wrangling over money continued, but this was not the most troublesome of the issues which surfaced in this debate. These revolved around the more sensitive matters of perceived transgressions on the constitutional responsibilities vested in each house - joint control of the disposition of public lands, House control of the public purse, and the Senate treaty ratification function. Although not directly related to any of these questions, the dilemma of Indian status proved the key to the conflict.

Each house of Congress was jealous of its prerogatives, but because of the nature of the treaties in American law, House responsibilities were vulnerable to undermining by the treaty-making process. In 1867, Secretary of State Seward had closed a seven million dollar deal to purchase Alaska, but because it had been accomplished by treaty with Russia, the House had no choice but to surrender the required funds, although "Seward's folly" was a controversial and doubtful achievement at the time. In 1870, there were rumblings of absorbing San Domingo into the Union in the same way and for a substantial price which aggravated House sensibilities once more.² These matters involved treaties with unquestionably sovereign nations and the House eventually backed off from the constitutional conflicts that opposition might have incurred. But the ramifications of

² Mr. Sargent, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, July 14, 1870, p. 5609.

objecting to Indian treaties were less complicated, and a challenge to them more likely to succeed, especially in the post-Civil War climate toward Indians. The Treaties of 1867 and 1868 provided the House considerable ammunition in this battle.

Although the Act of July 20 had acknowledged the Senate's constitutional authority as the proper body for ratification of the work of the Great Peace Commission, the Act also called for congressional approval of the reserve lands chosen. This provision was never honoured and the House seized on this omission as evidence of encroachment on its powers, for not only did failure to do so violate the Act itself, but also the Constitution which, in Article 4, Section 3, put regulation of United States territory under the authority of Congress, rather than just the Senate alone.³ Representatives thus could and did protest the incursion. The size of reserves assigned was one sore point, with members objecting to handing over to the Indians lands amounting in some cases to the size of existing states. Particularly exasperating was Article 16 of the Sioux Treaty, which established a zone encompassing "a third or a half of the Territory of Wyoming" in the Bighorn Mountains as "unceded Indian territory", in addition to reserve lands which constituted literally half of South Dakota.⁴ To those who could not grasp or specifically objected to the deliberately "gradualist" program for "civilization" set out in the treaties,

³ The Constitution, in Shapiro, p. 16.

⁴ Mr. Beck, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, July 2, 1870, p. 5127; Robert M. Utley. The Lance and the Shield: The Life and Times of Sitting Bull, (New York, 1993), p. 82.

such grants of land were absurd.⁵

The question of large or small reserves was a contentious one. But the principle at issue was the blatant disregard for House authority. A simultaneous dispute in Congress involved a treaty with the Osage Indians of Kansas whereby lands surrendered by the Osage were handed over directly to railroad interests, violating the long-term practice of Indian lands entering first into the public domain where they could be distributed to ordinary Americans pursuing the American dream rather than to corporate interests.⁶ This clause in the Sioux Treaty, leaving what had been Indian territory in Indian hands, hardly seems comparable to the questionable machinations of the Osage Treaty, but the House pushed the parallel to highlight the perceived encroachment on its rights. This point, along with the extraordinary level of expenditures, gave the Representatives to believe that the Senate would ratify almost anything identified as a treaty, leaving the more responsible House with no room to object and yet saddled with paying the bill.

Indian treaties were already under fire as documents of questionable legitimacy, and now were burdened with charges of running afoul of congressional authority, as well as exceeding all reasonable financial limits. The Senate's alleged irresponsibility in treaty matters, combined with these other criticisms, led to a renewed challenge by the House of the Indian treaty system in what was really an attempt to safeguard the rights of the House of Representatives.

⁵ Mr. Sargent, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, February 25, 1870, p. 1575.

⁶ Mr. Lawrence, Congressional Globe, 40th Congress, 2nd Session, House of Representatives, March 23, 1868, p. 2065; Resolution by Mr. Julian, June 27, 1868, p. 3552.

Under the Constitution, financial bills originated in the House and thus control of the treasury resided there. But treaties were recognized, by tradition and Supreme Court decisions, to be the supreme law of the land and so the House was, theoretically, and had been, in practice, bound to accept Senate amendments to Indian appropriations bills, however much it might have disagreed with them. The widespread dissatisfaction with the 1867 and 1868 treaties, however, led the House to make a stand and the basis of that stand rested on criticism of the accepted status of the Indians. The House, although disgruntled over the deals for Alaska and San Domingo, focused its battle over treaties on Indian treaties alone.

Contemporary perceptions of Indian status cloud this issue. The Marshall decisions of the 1830s had defined Indian status in a unique way as “domestic dependent nations”. This differentiated them from nations like England and Russia in that only the United States could legitimately engage in official relations with them. As far as foreign nations were concerned, the Indians were an exclusively American responsibility, hence the “domestic” and “dependent” aspects. From the narrower national perspective of United States-Indian relations, however, the difference between official dealings with Indian nations on the one hand, and England on the other, were not significant. Indians nations were collectively held responsible for the actions of individual nationals, and treaties, a tool employed only in international relations, were the accepted means of establishing a relationship. As one House member pointed out,

Treating them as foreign nations gives them the right as such to make war. If an Indian agent breaks a treaty, according to the principles of international law they have a right to make war on us to obtain their

remedy.⁷

If the perception had prevailed that Indians constituted independent nations, as England and Russia clearly did, then the treaty-making function might have gone unquestioned. But few, in Congress or out, were convinced by 1869 that they did. If that was the case, then the House saw no reason why it should continue to be excluded from a role in guiding relations with what were, essentially, just another part of the American population. All the old arguments about treaties were resurrected - including charges of corruption and inefficiency - but increasingly the critical issue resolved itself into a reconsideration of the status of Indians themselves.

The House refused to back down before Senate vitriol on its right to make and ratify treaties. As a result, the Indian appropriations bill for 1870 bounced back and forth between House and Senate, and their Indian affairs committees, with the Senate repeatedly adding the terms for the 1867-1868 treaties and the House diligently taking them out. Facing the end of the congressional session for 1870 without having passed the critical bill, the houses concluded an uneasy compromise. The House, illustrating that it objected to the form rather than the cost of the obligations incurred under these treaties, voted a two million dollar general appropriation for the Plains Indians and put it in the hands of the President to spend as he saw fit, even if he chose to use it to the ends specified under the objectionable treaties. In doing so, the House specifically stated that such a move was not

⁷ Mr. Kasson, Congressional Globe, 39th Congress, 2nd Session, House of Representatives, January 31, 1866, p. 894.

to be construed in any way as House ratification or acceptance of the 1867-1868 treaties.⁸ Defenses of the Senate's legitimate treaty-making power went hand in hand in this decision with general unease at handing a single individual such an enormous amount of money to be used at his discretion, even if he was the President. In his objection, Congressman Garfield declared, "We might as well appropriate \$300,000,000 and put it into the hands of the President and authorize him to run the Government with it as he pleases."⁹ The Senate, anxious to ensure that the programs established under the treaties would in fact receive funding and perhaps thereby ameliorate or remove cause for conflict on the Plains, accepted the compromise, however uncomfortably, and the issue was put to rest for another year.

The subsequent Congress, however, refused to let the matter go unresolved, and the Indian appropriations bill for 1871 brought the matter to a head. Once more the House offered the temporary solution of voting a blanket appropriation to the President, but the Senate refused to concede. Both houses acknowledged the potential for damaging and perhaps lethal consequences for Indian and white alike on the Plains in the event that another year should pass without adequate appropriations, but neither would back down. American Indian relations and the treaty-system which for almost a century had served as its backbone were at a crisis point brought on by the Treaties of Medicine Lodge Creek and Fort Laramie.

⁸ Report of the Committee of Conference, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, July 15, 1870, p. 5656.

⁹ Mr. Garfield, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, July 15, 1870, p. 5638.

* * * *

No crisis prevailed in Canada. The only evidence of dissension over the treaties in this nation was the disgruntled response to the costly terms of Treaty Six. Otherwise ratification of the Numbered Treaties elicited little more than a simple report and formal endorsement by the Privy Council. A report of the Privy Council on Treaty Four specified the terms undertaken and concluded with the remarks:

Mr. Mackenzie states that the Treaties [Four and supplementary] appear to him to be satisfactory and he, therefore, recommends that they be approved by Your Excellency in Council.

He further submits that the satisfactory conclusion of the Treaties is mainly due to the patience, firmness, tact and ability displayed by the Commissioners in the conduct of the negotiations.

The Committee concur in the foregoing Report and recommend and advise that the Treaties be approved and accepted and enrolled in the usual manner.¹⁰

The Governor General simply signed and the treaties were official.

Even in the case of Treaty Six the dissatisfaction, such as it was, was almost negligible for practical purposes. This displeasure originated with David Mills, the recently appointed Minister of the Interior in 1876, whose critique of this document was repeated verbatim both by lower and higher authorities. Mills reported that “The stipulations with respect relating to agricultural implements are somewhat more onerous, too, than in previous treaties.” His response to the “famine relief” clause, which he described as a “wholly new provision”, was somewhat more heated:

¹⁰ Copy of a Report of a Committee of the Honorable the Privy Council, November 4, 1874, NAC, RG-10, Volume 3611, File 3690, Reel C-10106.

This stipulation the undersigned regards as extremely objectionable, tending, as it will, to predispose the Indians to idleness, since they will regard the provision as guaranteeing them protection against want, and they will not be induced to make proper exertions to supply themselves with food and clothing, thereby largely to increasing the expenditure imposed upon the country in the management of the Indian Affairs.¹¹

Despite this, Mills could not bring himself to recommend rejecting the treaty:

Although the undersigned considers the terms of the Treaty to be very onerous, some of the provisions being extremely objectionable and such as ought not to have been made with any race of savages, he nevertheless thinks it proper to recommend the same for the ratification of Your Excellency, as the mischief which might result from refusing to ratify it might produce discontent and dissatisfaction, which in the end might prove more detrimental to the country, than the ratification of the objectionable provisions referred to.¹²

Mills' devotion to economy warred between "feeding or fighting" and, though reluctant to do either, came down at least in theory on the side of the former. This attitude contrasts somewhat with the American situation wherein members of Congress, both House and Senate, were, by 1871, willing to risk the wrath of the Plains Indians rather than retreat from a principled stand.

Mills' opinions, repeated almost word for word in both the Report of the Privy Council to the Governor General and in the Throne Speech of 1877 to Parliament, raised no concerns in the government and the Governor General signed the treaty into law without further objection. The notable indifference of the Canadian government to the treaties, despite the magnitude of their central focus - the land - is as striking as the furor

¹¹ Memorandum by David Mills, Minister of the Interior, January 31, 1877, NAC, RG-10, Volume 3636, File 6694-2, Reel C-10111. Emphasis in the original.

¹² Memorandum, January 31, 1877, NAC, RG-10, Volume 3636, File 6694-2.

raised in the United States over the treaties the House refused to accept, for the consequences were at least as significant in Canada. To resolve its conflict over the 1867-1868 Treaties, Congress wrought what it thought was a significant and definitive change in the relationship of the United States to its indigenous inhabitants. Canada blithely ratified the Numbered Treaties without a thought as to how they might have affected Indian relations. The misconceptions inherent in the attitudes which led to these decisions would set the stage for a new phase in Indian treaty relations in both countries, although they would lie dormant in both places for several decades first.

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In the United States treaty-making had affirmed and maintained an almost century-old practice of nation-to-nation relationships in Indian affairs. The constitutional interpretation of Indians as equivalents to foreign nations, and the Marshall decisions of the 1830s designating Indians “domestic dependent nations” with whom treaties were a viable means of interaction, had established Indian status as nations in American law and practice. Despite the considerable criticism of the validity of this status before 1867, the treaties of that year and the next confirmed it once again by perpetuating this nation-to-nation relationship.

The 1867 and 1868 treaties were, in essence, peace treaties. Under these agreements the Indians did not become citizens of the United States, nor even did they become subject to its jurisdiction. The terms establishing reserves obviously moved

Indians from lands they claimed and restricted their movement to others, but reserve lands remained outside the bounds of American law. The Indians were bound therein only to cooperate with American legal authorities in dealing with Indian violators outside the reserves and were encouraged to seek redress for their own grievances at Washington. There is no denying the emphasis on the “civilization” program in the treaties, but these clauses were perceived as inducements to the Indian, however much they also served American purposes, and were neither compulsory nor imposed, at least initially.

The only duties the treaties required of the Indians were those relating to war and peace and other behaviours, all of which fell into the realm of national obligations. The first article of each treaty declared an end to war and pledged both the United States and the relevant Indians to peace. A subsequent article listed a series of “other stipulations” which reinforced the view that the American treaty commissioners were dealing with those they considered nations. Other elements supported this. In Article 1 it was made clear that the people as a whole would be held responsible for the acts of individuals, with American victims to be compensated from the annuities of all. This stands in marked contrast to the consistent Canadian policy (until 1885) of dealing with individual violators on an individual basis.

Treaties of Medicine Lodge Creek and Fort Laramie - Summary of Terms	Numbered Treaties Summary of Terms
<p>Article 1. War. - to cease Peace. - both parties pledged to - individual violators, Indians or white, to be dealt with by U.S. law - Indian complaints to be forwarded through agents to Commissioner of Indian affairs - Indian violators to be handed over or else victims to be compensated from treaty annuities</p>	<p>Official preamble - identifying the participants and establishing the treaty as one between the Queen and specific Indian peoples</p> <p>Purpose - statement of Queen's wishes and assurances</p>
<p>Article 11. Other stipulations on Indians - won't object to railroad through Smoky Hills / railroads being built on the Plains - will allow peaceful building of railroad that doesn't cross their reservations - won't molest wagon trains, people, or cattle belonging to the U.S. - won't carry off white women - won't kill or scalp white men or hurt them - will withdraw all opposition to railroad being built along the Platte Road - won't obstruct any U.S. facilities (ie. mail, roads, etc.) - if such things interfere with Indian lands they will be compensated for damage by a commission of three, including a "chief or headman of the tribes" - will withdraw all opposition to U.S. military posts being built in western territories</p>	<p>Pledges - to observe treaty - to be loyal subjects - to obey the laws - to keep the peace - not to molest people or property in the ceded tracts - not to bother travellers - to assist in justice</p>

Article 11 also stood in contrast to similar terms in the Numbered Treaties, where promises not to molest travellers or to interfere with government works were identified as "pledges" and suggested a different kind of relationship.

In return for maintaining peace, the United States promised a variety of things. Among them were guaranteed reserve lands and an alternate way of life, neither of which appealed to the Indians and so failed to persuade them to sign. There was also the more overt inducement - bribes, as General Pope would have it - in the form of annuities.

Treaties of Medicine Lodge Creek Summary of Terms	Treaty of Fort Laramie with the Sioux Summary of Terms
<p>Article 10. Annuities</p> <ul style="list-style-type: none"> - to be delivered at agency house on reserve - on 15th October "for thirty years" - to include: <ul style="list-style-type: none"> For males 14+: 1 good suit of woollen clothing For all women 12+: 1 skirt or cloth, hose & other material For all children: clothes <p>Other necessities</p> <ul style="list-style-type: none"> - \$25,000 each year for 30 years to be spent by Secretary of the Interior, at C.I.A.'s recommendation, on necessities (unspecified) for Indians - Congress can change way money is spent, but cannot change amount or withdraw appropriation for 30 years 	<p>Article 10. Annuities</p> <ul style="list-style-type: none"> - to be delivered at agency house on reserve - on 15th October "for thirty years" - to include: <ul style="list-style-type: none"> For males 14+: 1 good suit of woollen clothing For all women 12+: 1 skirt or cloth, hose & other material For all children: clothes <p>Other provisions</p> <ul style="list-style-type: none"> - \$10.00 per person to be appropriated for 30 years while such persons roam and hunt - \$20.00 per person per year for 30 years if engaged in farming - money to be used by Secretary of Interior to purchase articles deemed to be of necessity for Indians - if, during the 30 years, it is found money can be better spent on Indians in some other way, Congress may change the appropriation to other purposes, but cannot change or withdraw the appropriation itself for 30 years - an Army officer to inspect goods & supervise delivery <p>Food provisions</p> <ul style="list-style-type: none"> - to every Indian 4 years of age, who has settled permanently on reserve & adhered to treaty, to be provided with 1 pound of meat & 1 pound of flour per day for 4 years, if they cannot furnish their own subsistence at an earlier date <p>Cows and Oxen</p> <ul style="list-style-type: none"> - US will give each family/lodge who have settled to farm, "1 good American cow and 1 good well-broken pair of American oxen" within 60 days of their having settled
<p>Article 11. Right to hunt</p> <ul style="list-style-type: none"> - retain right to hunt on any lands south of Arkansas River "so long as the buffalo may range thereon in such numbers as to justify the chase" 	<p>Article 11. Right to hunt</p> <ul style="list-style-type: none"> - retain right to hunt on any lands north of North Platte River and on the Republican fork of the Smoky Hill River, "so long as the buffalo may range thereon in such numbers as to justify the chase"

	<p>Article 16. Unceded territory - "The United States hereby agreed and stipulates that the country north of the North Platte River and east of the summits of the Big Horn Mountains shall be held and considered to be unceded Indian territory, and also stipulates and agreed that no white person or persons shall be permitted to settle upon or occupy any portion of the same." - Indian permission needed to pass through this land - within 90 days of peace being concluded with the Sioux Nation, the military posts in this territory and the road leading to them and to Montana, shall be abandoned.</p>
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These were offered for a limited term - the term of the treaty - and to all individuals, with no differentiation on the basis of the status of that individual, i.e. as a chief.

Although it was the hunting provisions (Article 11), and the Powder River road concession (Article 16 in the Sioux Treaty), which likely won Indian cooperation, these were not American ideas and were not part of the original *quid pro quo* of peace for benefits. The surrender of American claims on the Powder River, and the designation of the area as "unceded Indian territory" in particular, resembled a concession which might be made in treaties with foreign nations. It is also true that the treaties did involve a land cession, but this was more a legal formality buried in the text because of its insignificance in these documents.

The structure of the documents, the primacy of place given to the subjects of war and peace, and the clear exchange of peace and good behaviour on the part of the Indians for various benefits, planned and unplanned by the United States, attests to the characterization of the relationship involved therein as nation-to-nation.

Had the treaties actually achieved their purpose in winning the peace on the Plains

the treaty system itself might not have fallen. But this is a moot question for the Indians no more wanted to change their ways than the Americans wanted to restrain their advance. As dissenting congressmen made clear, it was not necessarily the program in the treaties, or even the cost, which elicited opposition, but the treaties themselves, because they perpetuated an outdated, unrealistic, and, some even said, unfair relationship between the United States and Indian peoples.

It was the general consensus on the latter point which put an end to the treaty-making system in 1871, although it did so under the auspices of a battle over constitutional prerogatives in Congress. At the final meeting of the Great Peace Commission in October, 1868, the now military-dominated board recommended

...that henceforth, the Government shall cease to recognize the Indian tribes as domestic dependent nations, except so far as it may be absolutely required to so recognize them by existing treaties....

That, hereafter no treaties shall be made with any Indian tribe but that their rights of person and properties and duties of the Government toward them shall be defined by statute law.¹³

Indian reformers and humanitarians had at last found an issue on which they could agree with the Army. Long-time Indian advocate Bishop Whipple of Minnesota, who had taken the Indians' part after the Massacre of 1862 - a heroically unpopular stand - added his voice to the growing chorus for a change in Indian relations. He noted a fundamental hypocrisy in the process:

We recognize them as nations, we pledge them our faith, we enter solemn treaties and these treaties are ratified, as with all foreign powers, by the highest authority in the nation.

¹³ Resolutions of the Great Peace Commission, October 8, 1868, Proceedings of the Great Peace Commission, p. 158.

But such an approach was, he declared, “a shameless lie”, and the treaties “more often conceived in fraud and made solely to put money in some white man’s pocket.”¹⁴ More scathing still was the attack by Felix Brunot, chair of the Board of Indian Commissioners, an independent organization established by Congress to oversee Indian affairs:

The United States first creates the fiction that a few thousand savages stand in the position of equality in capacity, power, and right of negotiation with a civilized nation. They next proceed to impress upon the savages, with all the form of treaty and the solemnity of parchment, signatures and seal, the preposterous idea that they were the owners in fee of the fabulous tracts of country over which their nomadic habits have led them or their ancestors to roam. The title being thus settled, they purchase and promise payment for a portion of the territory, and further bind themselves in the most solemn manner to protect and defend the Indians in the possession of some immense remainder defined by boundary in the treaty, thus becoming, as it were, *participis criminis* with the savage in resisting the ‘encroachments’ of civilisation and the progressive movement of the age. Having entered into this last-named impractical obligation, the fact of its non-performance becomes the occasion of disgraceful and expensive war to subdue their victims to the point of submission to another treaty. And so the tragedy of war and the farce of treaty have been enacted again and again, each time with increasing shame to the nation.¹⁵

These views were supported by the current Commissioner of Indian Affairs, Ely S. Parker, himself a Seneca Indian, though a completely assimilated one, and by many voices in Congress.¹⁶

A further spur to a reconsideration of Indian status came in a constitutional form in 1868. The Fourteenth Amendment declared that “All persons born or naturalized in the

¹⁴ Bishop H.B. Whipple, quoted in Proceedings of the Great Peace Commission, pp 149-150.

¹⁵ Felix Brunot, quoted in Prucha, American Indian Policy, pp. 65-66.

¹⁶ Prucha, American Indian Policy, p. 66.

United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”¹⁷ For many in Congress, the legal possibility of concluding further treaties with Indians seemed now irrelevant. In recognition at least of the dilemma, President Grant withdrew from Senate consideration Indian treaties that had been concluded in the latter half of 1868.¹⁸

A stumbling block remained. There were those members of Congress, especially in the Senate, who resisted a change in Indian status, putting the pressure to do so down to a mean “might is right” sentiment - that is, when they were strong it was politic to make treaties with them, but now that they were weak, the United States could do as it liked.¹⁹ But many cogent arguments were offered to justify acceptance of a change in status. Remarking on how Indian status had been transformed over the past century, one member pointed out that Texas had once been an entity with which the United States had seen fit to make treaties, but no one objected to the impossibility of doing so after 1845.²⁰ What proved the greatest sticking point, however, was what to do about the treaties that had been negotiated and duly ratified before the current crisis.

The logical thing to do in 1871 would have been to abolish the treaties altogether.

¹⁷ The Constitution, in Shapiro, (ed.), pp. 24-25.

¹⁸ Mr. Lawrence, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, February 25, 1870, p. 1579.

¹⁹ See remarks by Mr. Maynard, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, March 3, 1870, p. 1671; and Mr. Pomeroy, 41st Congress, 3rd Session, Senate Proceedings, February 10, 1871, p. 1112.

²⁰ Mr. Paine, Congressional Globe, 41st Congress, 2nd Session, House of Representatives, July 15, 1870, pp. 5642-5643.

Few could countenance this, however. Even the military faction of the Great Peace Commission had been obliged to temper its recommendations on Indian status with a recognition of “existing” treaties. The constitutional argument against Indian treaties suffered a setback with the Senate Judiciary Committee’s examination of the Fourteenth Amendment. The committee reviewed both the jurisdiction and intent of the amendment which had been created to address the citizenship of Blacks, and found that it did not apply to Indians. This decision was validated by the Supreme Court several years later.²¹

Once again national honour was a factor. To change the rules was one matter. To discard the past was something few could face, particularly in the Senate which its members considered the guardian of Indian best interests. Only when the House and the Senate could reach a satisfactory compromise on this aspect could the appropriations bill impasse which had wrought the crisis in the treaty system be resolved. At length it was. Attached to the appropriations bill for 1871 was a resolution which effectively ended the treaty-making system in the United States but failed, as had the Treaties of 1867 and 1868 themselves, to eliminate the contradictions of American Indian relations:

Provided, That hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty. *Provided further*, That nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any such nation or tribe.²²

²¹ Report of the Senate Committee on the Judiciary, Senate Report, 268 (41-3), 1443, p. 9
Laurence F. Schmeckebier. The Office of Indian Affairs: Its History, Activities, and Organization.
(Baltimore, 1927), p. 65.

²² Amendment to Bill 2615, Congressional Globe, 41st Congress, 3rd Session, Senate Proceedings, March 1, 1871, p. 1821.

This removed the obstruction to the Indian appropriations bill for 1871 which subsequently passed. It also cleared the way for the United States to legislate for the Indians as the legislatures in British North America had been doing for decades. The Indians had become “wards of the state” in official terms. Though this development emerged from a battle over the Plains Indians and the treaties made with them in 1867 and 1868, it applied henceforth to all American Indians.

The immediate problem had been surmounted to the satisfaction of all but the most ardent reformers, who continued to lament the tribal relationship that existing treaties perpetuated. But the compromise did not solve what Francis P. Prucha has called the “anomaly” of Indian treaties. Indians had lost their distinctive status as “domestic dependent nations”, and became subject to government authority under legislation like American citizens. But congressional reluctance to abolish existing Indian treaties, or to ignore their terms, coupled with official confirmation that Indians yet remained outside American citizenship, meant that they were still not like other Americans. This failure to clarify the status of Indians in American society by coming down on one side or the other of the treaty system would return to haunt the United States in the next century when courts would find new purpose for Indian treaties.

* * * * *

The 1867-1868 treaties in the United States were premised on a concept of Indian relations which that nation no longer found useful and which lay at the root of the conflict

which erupted over the ratification of those treaties. In Canada, the Numbered Treaties established a new and direct relationship between the Indians of the Prairie West and the Dominion. But Canada did not seem to realize, either in the 1870s or for almost a century thereafter, that this had happened or, even more, that there was a relationship at all.

Canada and the United States embraced the practice of treaty-making from their British roots without stopping to examine the nature of treaties themselves. They were a “traditional” and useful tool in the circumstances in which the nations found themselves. Perhaps the British were to blame, for the *Proclamation* of 1763, the kernel of the system, was itself a document of expediency that has come to mean far more in practice than the British policy-makers had originally meant by it. The Americans had absorbed the nation-to-nation aspect which, while expedient in the early days of the republic, gave them greater degrees of grief as the decades passed. Canada, on the other hand, like the British before them, embraced a much narrower definition of treaties. In British North America, after 1812, treaties were used exclusively as a tool to effect the extinguishment of Indian land title, and though the term “treaties” was used, there was no indication that in British understanding, at least, this made Indians the equivalent of France or Russia. The fact that the British government, and subsequently, the colonial and Canadian legislatures saw no contradiction between making treaties *and* legislating for the Indians illustrates this ambivalence.

The indifference which Canada displayed toward the opinions of the indigenous inhabitants in the takeover of Rupert’s Land and toward the repeated admonitions on the state of the buffalo, arose also in a manifest disregard for the format in which the massive

land transfers and the very minor benefits conferred for them were transacted. Although one Minister of the Interior, more than one treaty commissioner, and every treaty affirmed it, it appeared to have escaped the notice of the Canadian government that by such means they were establishing a formal relationship with the Indians with obligations and benefits to each party.

The acknowledgment of a relationship was made explicit in the preamble of each of the Numbered Treaties wherein each document was identified, as in Treaty Three, as “Articles of a Treaty made and concluded...between Her Most Gracious Majesty the Queen of Great Britain and Ireland, by her Commissioners...of the one part; and the Saulteaux tribe of the Ojibbeway Indians...of the other part.”²³ The role of the Crown was a vital one. In his dealings with the Indians, on any matter, Morris knew it to be of critical importance to maintain the connection to the Crown.²⁴ The Queen, or Great Mother as she was designated by her officials, was invoked at every turn as the partner with whom the Indians were dealing. The treaty terms were advanced as the wishes of the “Great Queen Mother” or the intentions of “Her Majesty.”

An understanding of the nature of that relationship emerges from an examination of a variety of sources including remarks by different government officers, as well as from the treaty deliberations themselves. From these it can be discerned that at least some elements in the government recognized that the relationship being established was one which

²³ Morris, Treaties, p. 320.

²⁴ Morris to Sir John A. Macdonald, March 3, 1873, “Letters of Alexander Morris to Sir John A. Macdonald”, Papers of Sir John A. Macdonald, NAC, Reel C-1673.

entailed an exchange of services and an acknowledgment of mutual obligations. It was also one of permanent duration.

By treaty the Indians in the Canadian West had entered into a special relationship with the Crown and yet shortly thereafter found themselves wards of the state and under the dominion of the *Indian Act*, which effectively blotted out any practical impact of the relationship established by treaty. That this relationship was to be an enduring one was emphasized often in the negotiations where the words “forever” and “as long as the sun shall shine” were frequently employed by the commissioners.²⁵ Morris made it more explicit when he told the Indians of Treaty Three “I think you are forgetting one thing, that what I offer is to be while the water flows and the sun rises. You know that in the United States they only pay the Indian for twenty years....”²⁶ The comparison does not really clarify the difference between the two nations. Like the promises of “forever” where reserve holdings were concerned, it was not necessarily a contradiction for the commissioners to invoke “forever” when they understood that “civilization” and assimilation would eventually eradicate the Indians as distinct entities.

Government officials may have laboured under the delusion of the eventual assimilation of the Indians, but this does not absolve them of the consequences of their actions any more than the original intent of the 1763 *Proclamation* mars its subsequent application as an affirmation of the recognition of the status of Indian peoples as nations. Canadian officials freely invoked the format and language of a more serious relationship

²⁵ Morris, *Treaties*, pp. 28, 29, 93, 202, 208.

²⁶ Morris, *Treaties*, p. 61.

than they perhaps were committed to if that relationship was to become a permanent fixture. Their terminology was as definitive as their formal instruments. Morris wrote of treaty-making efforts in the West as "...securing the alliance of the Indian tribes" and held out as the fruition of healthy treaty relationships the prospect of "...seeing the Indians, faithful allies of the Crown...."²⁷ When Americans spoke of Indians of the future, they employed the term "citizen". Morris, who could be expected to know the meaning of terms like "citizen" and "subject", chose the word "allies".

The nature of the relationship as one with mutual and long-term obligations was implied in the treaties themselves by a list of additional duties required of the Indian signatories. These obligations contrast in intent with the list of similar requirements made in the American treaties. Canadian Indians were enjoined to adhere to these obligations "as good and loyal subjects of the Queen".²⁸ These things were demanded by the Americans, on the other hand, not on the basis of the relationship established, but "in consideration of the advantages and benefits conferred by this treaty."²⁹ The American obligations addressed specific problems arising from the immediate difficulties with the Indians. Canadian treaties included similar terms, but involved, too, various responsibilities regarding law, loyalty and justice, which bespoke a more solemn relationship.

It may well be that Canadian officials, like the British before them, envisaged the

²⁷ Morris, Treaties, pp. 9 and 295.

²⁸ See Morris, Treaties, p. 355, for example.

²⁹ Article 11 in the Treaties with the Kiowa and Comanche, Cheyenne and Arapaho, and Sioux, in Kappler, Indian Treaties, pp. 980, 988, and 1001.

treaties as "...the formalization and elaboration of the relationship which already existed between the crown as landowners and the Indians as occupants."³⁰ But the Indians appear in many cases to have understood more, a conclusion particularly apparent in the context of the negotiations for Treaty Six, where it is clear that both sides appreciated the intangible nature of the bond formed - most evident in the resolution of the pressing "food question".³¹ That the Indians could somehow have absorbed "... the belief that they were establishing a special relationship with the Canadian government consisting of two equal parties who stood to benefit mutually from the agreement," is not surprising.³² Officials of the Canadian government said as much themselves, in words of their own choosing in their own language. What is surprising is the disinclination, deliberately or thoughtlessly, to recognize what they themselves had wrought. This failure to provide a frank statement of their true intentions and beliefs, clouded instead in a veil of language which implied and sometimes overtly stated something distinctly different, would, like the American treaty "anomaly", return to plague the Canadian government in the next century, when courts took the government to task for what was said, rather than assumed, in the treaties and their negotiations in the 1870s.

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³⁰ Leighton, p. 42.

³¹ Stonechild and Waiser, p. 26.

³² Stonechild and Waiser, p. 28.

Both nations have, in recent years, belatedly come to recognize that documents of treaty status are not to be brushed aside so lightly. Under the Indian Claims Commission in the United States, a body created to adjudicate Indian grievances of treaty violations, the treaties of 1867 and 1868 have proven effective weapons in Indian hands. In one example, the American absorption of the Black Hills of South Dakota by “arrangement” in 1876 was shown to be in violation of Article 12 of the Treaty of Fort Laramie with the Sioux, which prohibited further land cessions without the approval of three-fourths of all adult male Indians, and was therefore an illegal seizure. The Sioux were awarded \$106 million in compensation, an unsatisfactory judgment which they initially refused, desiring instead the return of the land.³³

Canada, unlike the United States, had done its best to avoid specific commitments in the treaties. This did serve government interests in sidestepping the pitfalls the Americans faced with specific provisions, but it has not eliminated controversy. Canada’s treaties established a relationship, embedded in these documents, and understood by those who negotiated them. The government and the commissioners were not perhaps insincere, but simply unable to conceive, in their fixed ideas about the imminent disappearance, one way or another, of the Indians, of that relationship having any long-term consequences. Controversy has mounted in the twentieth century over the spirit and intent of the Numbered Treaties, challenging the narrowly or vaguely defined terms regarding agricultural assistance (job creation), schools (education), and a medicine chest (health

³³ Edward Lazarus. Black Hills - White Justice: The Sioux Nation versus the United States, 1775 to the Present, (New York, 1991), pp. 401, and 403.

care). Particularly important to such interpretations are the exchanges recorded between the lieutenant governor and the Cree during the Treaty Six negotiations which support a broader interpretation of the relationship than was conveyed in the stingy terms. If the commissioner spoke out of turn and made commitments the government did not wish to undertake, then the opportunity to reject that action came at the point of ratification. But Canada's lethargic and indifferent approach to Indian relations prevailed there, too, binding the nation, in its own words, "forever."

Both Canada and the United States would have been more astute to have paid attention to the pronouncements of United States Supreme Court Justice John Marshall, whose 1830s decisions continue to cast a shadow over Indian relations in the two countries. It was a contemporary argument that the Indians could hardly be expected to understand what they were signing, and humanitarians and critics of the treaty system alike lamented this failing.³⁴ This view continues to have adherents today, among some Indian groups and among historians seeking explanations.³⁵

But the governments which in the twentieth century have been confronted by the obligations they undertook in nineteenth-century treaties have not got that excuse. "The words 'treaty' and 'nation' are words of our own languages," John Marshall wrote in

³⁴ Father Constantine Scollen, quoted in Dempsey, Crowfoot, p. 106; Mr. Sherman, Congressional Globe, 39th Congress, 1st Session, Senate Proceedings, April 18, 1866, p. 2013; Mr. Henderson, 39th Congress, 2nd Session, Senate Proceedings, February 23, 1867, p. 1798.

³⁵ Canadian sources offering this viewpoint include Helen Buckley From Wooden Ploughs to Welfare: Why Indian Policy Failed in the Prairie Provinces (Montreal, 1992), p. 33; John Jennings, "The Northwest Mounted Police and Canadian-Indian Policy", p. 94. An American author who supports this view is William Hagan in "The Reservation...", p. 159 and U.S.-Comanche Relations, p. 37.

1833,

selected in our diplomatic and legislative proceedings, by ourselves, having each a definite and well understood meaning. We have applied them to Indians, as we have applied them to the other nations of the earth. They are all applied in the same sense.³⁶

³⁶ John Marshall, quoted in Thomas Berger, A Long and Terrible Shadow, (Vancouver, 1991), p. 80.

Chapter 10 - Conclusion

Historians may have largely neglected a comparative approach to Canadian and American Indian policy, but contemporaries were keenly aware of the other's existence and commented frequently on the differences between the two nations. Canadian smugness in the realm of Indian policy, based firmly on a widespread disdain for the way Americans managed their affairs, was present from Confederation. In discussions on the absorption of Rupert's Land, Mr. McDougall said

...the system pursued in the United States had led to border wars of greater or lesser magnitude. But the system which Canada had hitherto pursued had been very successful, and under that which was proposed for the Government of the territory, there need be no fear of disturbances.¹

This sentiment, reinforced by a decade of American Indian wars during which the Canadian West remained serene, was reiterated in the House of Commons in 1877. Mr. Smith observed that "The Americans, of course, had many such wars, but the action of the Canadian Government towards the Indians had been very different to that of the United States under similar circumstances."² The manifest smugness of the Canadians was further exemplified in the annual report of Minister of the Interior Mills later that same year:

The conclusion of this treaty with these warlike and intractable tribes, at a time when the Indian tribes immediately across the border were engaged in open hostilities with the United States troops, is

¹ Mr. McDougall, Debates of the House of Commons, December 6, 1867, 1st Parliament, 1st Session, 1867, p. 203.

² Mr. Smith, Debates of the House of Commons, March 26, 1877, 3rd Parliament, 4th Session, 1877, p. 995.

certainly a conclusive proof of the just policy of the Government of Canada toward the aboriginal population.³

Several conclusions, or self-delusions, are apparent in these remarks. It is difficult to overlook the note of haughty superiority affected toward the situation in the United States, most acute in 1877 with the American military debacle at the hands of the Sioux at the Little Bighorn still clear in the minds of contemporaries. What is particularly striking is the willingness of Canadian officials to attribute the difference between the two nations to policy, to a deliberate system applied by the Canadian government. The only indication of modesty lies in the implication that this approach had imperial, or at least pre-Confederation, antecedents. More remarkable even than the assertion of a positive policy is the absence of acknowledgement of other factors. Nowhere is there any suggestion that external events, and perhaps even the Indians themselves, may have had some influence on the different national experiences.

The Americans were not so generous in their assessment of Canadian success. In a country where national honour and international opinion carried significant weight, particularly where Indian relations were concerned, this animosity may have arisen in part because of the frequent invocation by many Americans of the alleged superiority of the Canadian "system". "Why is it," Representative Pruyn demanded of his colleagues, "that we have failed so utterly in doing our duty to these Indian tribes? Why is it that the English Government, the Canadian Government has always succeeded in maintaining an

³ Annual Report of the Department of the Interior for the year ending June 30th 1877. Sessional Papers, (no. 10), p. xvii.

unbroken peace with them?”⁴ It was a common lament in Congress, especially among detractors of the treaty system. Mr. Butler, a persistent critic, painted a stark picture of the contrast between the two nations:

There runs through this continent an invisible line separating the British dominions from the United States. That almost trackless wilderness is full of Indians, as many on one side of the line as the other. Yet, sir, on one side of that line, as in the British dominions, there has not been an Indian war for sixty years, while on the other side, within the limits of the United States, we have had upon our hands perpetual Indian wars.⁵

Despair at the inadequacies of the American system concerned not only humanitarian issues, but also pecuniary ones. As Senator Stewart informed his colleagues, “It would bankrupt this New Dominion, or Old Dominion, or whatever it is called, to make the appropriations that we are lavishing every year upon the Indians.”⁶

Canadian politicians would have been gratified by this celebration of their frugality, but not all Americans were so impressed. In response to repeated criticism extolling the superiority of the Canadian approach to that of the United States, an exasperated Senator Harlan declared,

We often hear it said that the policy of the United States toward the Indian tribes is wrong, because we have Indian wars while the people of Great Britain in the Canadas live in peace with their Indians. Sir, the Indian policy in the United States is the English policy, established here before our Government was formed, and only

⁴ Mr. Pruyn, Congressional Globe, 40th Congress, 3rd Session, House of Representatives, February 4, 1869, p. 882.

⁵ Mr. Butler, Congressional Globe, 40th Congress, 3rd Session, House of Representatives, January, 28, 1869, p. 688.

⁶ Mr. Stewart, Congressional Globe, 41st Congress, 3rd Session, Senate Proceedings, February 23, 1871, p. 1575.

modified as circumstances and the changed condition of the Indian tribes required it.⁷

Reasons for the success of Canadian policy were given far more consideration in the United States than in the Dominion itself, and taxed politicians, bureaucrats, military men and the press alike to explain the anomaly.⁸ The most astute analysis was offered in an examination of American Indian policy in 1879 by General Nelson A. Miles, soon to be the highest ranking soldier in the United States Army and a man who made his reputation in the Indian wars in the post-Civil War era. He posed the perennial question as to why peace reigned in the Dominion and not on the American Plains and offered this response:

Their system is permanent, decided, and just. The tide of immigration in Canada has not been as great as along our frontier; they allow the Indians to live as Indians, and do not attempt to force upon the natives the customs which to them are distasteful.⁹

Miles had put his finger on the two critical elements which self-congratulatory Canadian policy-makers chose to overlook or misrepresent: circumstances and policy.

The pressures of emigration forced the Americans to treaty-making in 1867 and 1868 in order to address problems of security, humanity, and, as always, economy. Confronted with the prospect of expensive Plains-wide Indian wars, brought on by the collision of land-hungry settlers with the resisting indigenous inhabitants, the American

⁷ Mr. Harlan, Congressional Globe, 41st Congress, 1st Session, Senate Proceedings, April 1, 1869, p. 421.

⁸ See, for example, newspaper clippings from the New York World on Canadian management of the Indians, NAC, RG-10, Volume 3610, File 3442, Reel C-10106; Carl Schurz, "Present Aspects of the Indian Problem", The North American Review (Winter 1873; Reprinted from July 1881), p. 47.

⁹ Miles, "The Indian Problem", p. 42.

government was impelled to act. The tide of settlement not only necessitated the treaty process but also influenced the direction that process took. The reserve and “civilization” policies arose as a direct result of the population crisis, for it was widely acknowledged that unless the Indians were “civilized”, they would face certain extinction, perhaps by extermination.

The absence of such pressures in Canada simplified matters significantly. There was no violent conflict between peoples precipitated by uncontrolled emigration to prompt negotiations for security purposes. Because the Indians were not threatened with extinction from the same source, neither was there any humanitarian impulse to “solve” the “Indian problem”

Canada could afford not only the expense of a leisurely pace in expansion, but also the option of not having a policy at all. A commitment to deal justly with the Indians, understood to involve treaties, initially took no tangible form. When Canada came to make treaties in the 1870s, external forces precipitated action in every case. Negotiations for Treaty Three arose from the exigencies of the Red River Rebellion. Five of the Numbered Treaties resulted from Indian pressures. The Blackfoot Treaty was prompted by an American Indian war and the attempt by the Sioux to create an alliance with the Blackfoot. In every instance, Canada reacted to circumstances rather than initiating policy. This indifferent and sluggish approach to Indian policy characterized treaty terms and implementation as well. Canadian authorities envisaged treaties as narrowly defined documents with the single purpose of extinguishing Indian land title. Attempts to broaden the meaning were resisted, so far as it was practical to do so.

In form the changes, in particular the ones dealing with agriculture, resembled those in American treaties. But in the American context, such items were offered at the initiative of the government and were framed in an explicit program of “civilization”. The Americans were not interested, in the first instance, in providing the Indians with an alternate means of subsistence. The threat to American Indians, and indeed to Americans, came from the conflict of the races not the extinction of the buffalo. Treaty commissioners used the very real decline of the buffalo to persuade the Indians of the benefits of a “white man’s existence”, but their major concern was to inaugurate a program to transform the Indian and thus “save” the race. Agriculture was only one element in this struggle. In Canada, it was the Indians who demanded these terms, and there were no difficult overtones of racial absorption. What the Americans saw as instruments of “civilization”, Canadian officials viewed as unnecessary expenses.

Canadians also embraced the form of a projected agricultural existence for the Indians by calculating reserves on the basis of individual farm size. But there was no substance to this effort. Reserves were calculated, but only reluctantly surveyed. Agricultural implements were even more grudgingly forthcoming. Evidence also exists to suggest, in contradiction to assertions of a deliberately gradualist program on the part of the Canadian government, that there was in fact no policy at all behind these limited and half-hearted commitments to the Indian “civilization” program implied in the treaties.

This absence goes a long way to explaining a second critical aspect in the difference between the American and Canadian frontiers. Emigration, or lack of it, established a general context for Indian relations in the two countries. But Indian policy,

as expressed in the 1867-1868 and Numbered Treaties, was at least as significant a factor in the contrasting levels of violence which governed the Plains and Prairie West in each nation.

The United States Treaties at Medicine Lodge Creek and Fort Laramie were explicitly “reformist documents”. The bulk of each dealt with measures “most likely to insure the civilization of the Indians”, as directed in the July 20th Act. The treaties - in specific provisions for education, agriculture, reserves, and even citizenship - were directed to the transformation of the Indians, not only from nomadic hunters to “Jeffersonian yeoman farmers”, but from Indian to white. These documents contained an explicit program to re-make one race in the image of another. The impact of this plan on the Plains Indians was recognized by at least one senator, who objected to the proposed creation of the Great Peace Commission on this basis:

It will be saying to them in very plain terms:... We...will compel you to resort to agriculture to raise your bread and thus feed yourselves. We will compel you to become educated. We will compel you to become voters. We intend to coerce you to give up your old habits, your old customs, to abandon all your old traditions, your old ideas, as old as the continent. We intend to compel you to abandon all this and to become citizens of the United States, educated men, and Christians. ... Will not the mere announcement that such is our policy make them still more unfriendly, more irreconcilable to us?¹⁰

These prophetic words were not heeded. Instead, treaty commissioners were at pains to explain the very transformation they had in mind to the Indians they met in 1867 and 1868. They did this so effectively at Medicine Lodge Creek that their promises of houses,

¹⁰ Mr. Howard, Congressional Globe, 40th Congress, 1st Session, Senate Proceedings, July 18, 1867, p. 711.

hospitals, and farms were emphatically rejected by the buffalo hunting Plains peoples. Indeed, only the promise of continued hunting rights won Indian favour to the treaties.

The Indian peoples of the American Plains faced circumstances every bit as compelling as those which drove the Americans. When the American “civilization” and reserve policies became coercive, as they shortly did, these peoples recognized that they were in a fight for their lives - confronted by the threat of extinction by assimilation. The strong military culture of the Plains buffalo hunters mitigated against a passive or resigned response to such a policy, and warfare continued across the American Plains for a decade after the great peace treaties were signed.

The American misfortunes were sparked in the first instance by uncontrolled emigration, but to a large extent the violence of the 1870s was the result of an active interventionist policy aimed at the “salvation” of the Indians by an elaborate reserve and “civilization” policy the object of which was assimilation. Unfortunately for the often humanitarian, if decidedly ethnocentric sponsors of that policy, the Plains Indians not only objected to a cultural death, but had the means and the willingness to resist it violently, if only for a time.

* * * * *

The situation in Canada was drastically different, no thanks to the smug Canadian officials who took credit for it. The absence of emigration meant that the pressures which aggravated the American situation did not exist. The reactive nature of the Canadian

government also permitted an almost complete lack of policy on treaty-making, but even more particularly on the future of the Indians within the Dominion.

General Miles had suggested that Canada's success lay in part with the fact that Canadians "...allow the Indians to live as Indians." To some extent, at least in 1879, this was true. The "civilization" components of the Numbered Treaties were minimal compared to those in the American treaties, and both schools and agricultural tools were promised only for when the Indians "settled down", something which was understood, by the government at least, not to be an immediate concern. This fact is important for two reasons.

Miles' use of the word "allow" implied that the continued existence of Indian cultures on the Prairies after the treaties were signed was a deliberate decision by the Canadian government. In reality it was yet another manifestation of Canadian indifference. Transformation and an interventionist policy required interest, attention, and financial support. Canada was willing to offer none of these, hence the reluctance of the government to survey reserves or distribute agricultural equipment, even when administrators on the spot and the Indians themselves demanded fulfilment of these treaty provisions. A Canadian policy can only be celebrated and applauded if indifference and lethargy are to be recognized as virtues. In the short term, this hands-off approach did achieve something the Americans proved chronically unable to manage - a peaceful Indian frontier. But Canadian restraint was not due to wisdom.

The lack of a coercive policy of "civilization" meant that Canadian Indians, unlike their American counterparts, did not necessarily read into the adoption of agriculture an

attack on their culture. Here agriculture was seen as a potential solution to an Indian problem by the Indians themselves, rather than as an assault on their existence from outside. Thus the second element which impelled American Indians to violence was also absent in Canada. This was a significant factor for future Canadian Indian policy and the Canadian attitude of superiority in this area.

What aspects of “civilization” that were contained in the Numbered Treaties were there at Indian insistence, not Canadian. Because they originated with the Indians, these *accoutrements* of “civilization” carried none of the ominous overtones of cultural obliteration which the same terms conveyed in the American context. Canadian Indians also faced a fight for their lives in the 1870s, but their enemy was starvation, not assimilation, and agriculture was seen, by them, as a means of salvation.

Canadian indifference thus worked in favour of the government in mitigating violence, at least in the short term. But the limited virtues of a “policy” of indifference and neglect, manifested in a lack of concern over the demise of the buffalo and in a reluctance to provide promised agricultural assistance, returned to haunt the Dominion in 1885. That conflict, in which the much-taxed Indians played only a minimal part, gave Canada an excuse to abandon its pattern of indifference for a concerted policy of coercion, much more in keeping with the efforts of the Americans. A subtle difference remained, however. In the 1870s, the United States warred with the Indians on the Plains in an effort to enforce the Treaties of 1867 and 1868. In Canada, prompted by a growing Indian movement in the years prior to 1885 to revise the treaties to address Indian needs more adequately, the post-1885 repression involved a violation not only of the spirit in which

the Numbered Treaties were negotiated, but also of explicit terms.

* * * * *

The 1877 Speech from the Throne had characterized Canadian policy as “humane, just, and Christian”, in implicit contrast with that approach taken south of the forty-ninth parallel. An examination of treaty-making in a comparative framework suggests, however, that this is a more apt description of American policy, although it would be necessary to add “ethnocentric” to that list as well. A more appropriate description of Canadian efforts in regard to the Indians in the 1870s would be “cheap, indifferent, and reactive”, reflecting the government’s greatest concern, its general attitude, and the major motivating factor impelling negotiations in that decade.

The Treaties of Medicine Lodge Creek and Fort Laramie and the Numbered Treaties were meant to address particular problems of Indian relations in both countries. In this the American treaties were probably less effective, for despite the provisions for peace and a permanent solution to the Indian question, the wars continued for more than a decade and the Indians violently resisted the humanitarian solutions of reserves and “civilization”. Canada at least gained title to the land it sought, although the Numbered Treaties did not close the Indian question in this nation either. In the 1867-1868 and 1870s negotiations the two governments thought they were concluding a chapter on Indian relations. But the means which they chose - treaties - in both cases ensured a rebirth for the very peoples they had sought to absorb, this time in courts of law and firmly based on the legal instruments nineteenth-century governments had sought to employ to their own advantage.

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The information in these treaty tables consists of summaries of treaty terms. Quotation marks indicate the use of exact wording.

A Comparison of American and Canadian Treaty Terms

United States

Canada

Unless otherwise noted, terms of treaties in each country are identical in all of the treaties.

Terms have been summarized. Quotation marks indicate exact wording.

<p>Treaties of Medicine Lodge Creek, 1867 with the Kiowa and Comanche, and Southern Cheyenne and Arapaho and the Treaty of Fort Laramie, 1868 with the Sioux</p> <p>(The Treaty of Fort Laramie with the Northern Cheyenne and Arapaho, 1868, is an abbreviated document, sharing only the terms marked with an asterisk *).</p>	<p>Numbered Treaties with the Indians of the Plains</p> <p>Treaty No. 1, 1871 Treaty No. 2, 1871 Treaty No. 3, 1873 Treaty No. 4, 1874 Treaty No. 5, 1875 Treaty No. 6, 1876 Treaty No. 7, 1877</p>
<p>Official Preamble*</p> <p>- identifying participants, naming the members of the Great Peace Commission and specific Indian peoples</p>	<p>Official Preamble</p> <p>- identifying participants and establishing treaty as one between the Queen and specific Indian peoples</p>
<p>No equivalent</p>	<p>Formal statement of Purpose</p> <p>- concerning desire for land and assurances of the Queen's benevolence</p>
<p>Acknowledgment of authority of chiefs to negotiate*</p> <p>- validation of their legitimacy</p>	<p>Acknowledgment of authority of chiefs to negotiate</p> <p>- identification of chiefs and headmen and validation of their legitimacy</p>
<p>War to cease*</p> <p>Peace to be maintained*</p>	<p>Peace</p> <p>- pledge to maintain peace</p>
<p>No equivalent</p>	<p>Reciprocal obligations assured</p>
<p>Detailed description of lands <i>to be reserved</i></p>	<p>Detailed description of lands <i>to be ceded</i></p>
<p>Additional lands</p> <p>- to be acquired if reserve lands prove insufficient in terms of amount of arable land</p>	<p>No equivalent</p>
<p>Buildings</p> <p>- several to be provided for by Government on reserves</p>	<p>Buildings</p> <p>- Government may appropriate reserve land for public works or buildings but must compensate Indians with land or money</p>
<p>Agents</p> <p>- to live on reserves</p> <p>- to deal with complaints by and about Indians</p>	<p>No equivalent</p>

<p>Lands for farming</p> <ul style="list-style-type: none"> - (to be taken from reserve lands) - not more than 320 acres per head of family - up to 80 acres for any individual (including women) over 18 - specific acreages to be registered in Land Book and removed from common holdings 	<p>Lands for farming</p> <ul style="list-style-type: none"> - (measure by which reserve lands are determined) - 160 acres (Treaties 1, 2, 5) per family of 5, adjusted for smaller or larger families - 640 acres (Treaties 3, 4, 6, 7) per family of 5, adjusted for smaller or larger families
<p>Reserve lands</p> <ul style="list-style-type: none"> - large territories to be held in common 	<p>Reserve lands</p> <ul style="list-style-type: none"> - determined by number of Indians involved in the Treaty and the amount of land (160 or 640 acres) assigned to each family
<p>Reserve lands</p> <ul style="list-style-type: none"> - specifically designated in detail 	<p>Reserve lands</p> <ul style="list-style-type: none"> - to be laid out later (Treaties 3, 4, 6) - designated in general terms (Treaties 1, 2, 5, 7) but not immediately surveyed
<p>Education*</p> <ul style="list-style-type: none"> - necessary "in order to assure the civilization of the tribes" - children (6-16) to be compelled to attend school - agent responsible for inducing children to attend - an English education to be provided - teachers, schools, and teachers' houses to be provided - teachers to be hired by U.S. Government - 1 teacher for every 30 children - these provisions to last "not less than 20 years" 	<p>Education</p> <ul style="list-style-type: none"> - schools to be provided on each reserve when Indians desire it (Treaties 1, 2, 3, 5, 6) - schools to be provided on each reserve when Indians "settled and prepared" (Treaty 4) - teachers' salaries to be paid, when deemed advisable and Indians settled (Treaty 7)
<p>Agricultural Assistance*</p> <ul style="list-style-type: none"> - to be provided one a head of a family or an individual Indian has chosen to select lands for farming - seeds and implements (unspecified) of up to \$100 in value for the first year of agricultural activity - seeds and implements (unspecified) of up to \$25 in value for the subsequent 3 years of agricultural activity - farming instruction by a farmer employed by the U.S. Government - 1 cow and 1 pair of oxen to each family/lodge who have settled (Treaties of Fort Laramie) 	<p>Agricultural Assistance</p> <ul style="list-style-type: none"> - itemized list of farm implements, varying among the Treaties, to be distributed to families, or to numbers of families (i.e. 1 plough per 10 families), or to chiefs for use by their bands - "enough" wheat, barley, potatoes, oats to plant land actually broken up (Treaties 3, 4, 6, 7) - all aid given "once for all" - 1 bull, 1 cow, 1 boar, 1 sow, and "a male and female of each kind of animal raised by farmers" (Outside Promises of Treaties 1 and 2) - 1 yoke of oxen, 1 bull, 4 cows per band (Treaties 3 and 4) - 4 oxen, 1 bull, 6 cows, 1 boar, 2 sows per band (Treaty 6) - 2 cows per family of 5; 3 cows per family of 6-9; 4 cows per family of 10+ (Treaty 7)

<p>Personnel Provided</p> <ul style="list-style-type: none"> - 1 blacksmith (equipped) for every 100 persons cultivating - 1 carpenter - 1 engineer - 1 miller - 1 physician - 1 farmer 	<p>Equivalents</p> <ul style="list-style-type: none"> - 1 chest ordinary carpenter's tools per chief for use of band (Treaties 3, 4, 6, 7) - 1 handmill (when amount of grain produced warrants it (Treaty 6)) - 1 medicine chest to be kept at house of Indian agent (Treaty 6)
<p>Compensation for withdrawn Personnel</p> <ul style="list-style-type: none"> - any of the above personnel may be withdrawn after 10 years, but U.S. must compensate with \$10,000 to augment "educational and moral improvement" of Indians 	<p>Agricultural Assistance - Financial</p> <ul style="list-style-type: none"> - \$1000 per year for 3 years to parties of both Fort Fort Carlton and Fort Pitt (Treaty 6)
<p>Annuities*</p> <ul style="list-style-type: none"> - to be delivered at agency house on reserve - designated day: October 15 or September 1 - to continue for 30 years - for males 14+ : 1 good suit of woollen clothing/year - for women 12+ : skirt or cloth; hose; & other material/per year - for children : clothes / per year - \$10.00 per person while still roaming and hunting - \$20.00 per person once settled and farming - both to be spent on goods, at discretion of Secretary the Interior, for "other necessities" (Treaties of Fort Laramie) - \$25,000 per year for 30 years for necessities, at discretion of Secretary of the Interior (Treaties of Medicine Lodge Creek) - an Army officer to inspect all goods and to supervise delivery 	<p>Annuities</p> <ul style="list-style-type: none"> - to be delivered at mutually agreed upon location - date to be agreed upon - every year (unlimited) - \$5.00 per man/woman/child - \$25.00 per chief - \$15.00 per headman/councillor - in goods (at cost in Montreal) or in cash (Treaties 1 and 2) - in cash (Treaties 3, 4, 5, 6, 7) - 1 good suit of clothing per chief and headmen every 3 years - \$1500 / year for ammunition & twine (Treaty 3) - \$750 / year for powder, shot, ball & twine (Treaty 4) - \$500 / year for ammunition & twine (Treaty 5) - \$1500 / year for ammunition & twine, or other things at Government's discretion (Treaty 6) - \$2000 / year for ammunition, or other things at Government's discretion & with Indians' consent (Treaty 7)
<p>Food*</p> <ul style="list-style-type: none"> - 1 pound of meat & 1 pound of flour daily per Indian over 4 years of age, for four years, to those settled on reserve (Treaties of Fort Laramie) 	<p>Famine Relief Clause</p> <ul style="list-style-type: none"> - assistance in the event of a general famine or pestilence, certified as such by resident Indian Agents (Treaty 6)

<p>Presents for Signing Treaties - distributed, but not designated in treaties</p>	<p>Presents for Signing Treaties - \$3.00 per person (Treaties 1 & 2) - \$12.00 per person (Treaties 3, 4, 6, 7) - medals (for chiefs) (Treaties 3, 4, 6, 7) - flags (for chiefs) (Treaties 3, 4, 6, 7) - 1 Winchester rifle (per chief) (Treaty 7) - 1 horse, wagon, harness (per chief) (Treaty 6)</p>
<p>Extinguishment of Land Rights* - relinquish all rights to occupy permanently the territory outside the reserve</p>	<p>Extinguishment of Land Rights - cede rights, privileges, titles to lands specified forever - cede rights to any other lands in the Dominion to which claims may be made (Treaties 5, 6, 7)</p>
<p>Right to Hunt - retain right to hunt on designated tracts of lands surrendered "so long as the buffalo may range thereon in such numbers as to justify the chase"</p>	<p>Rights to hunt, fish and trap - retain right to hunt and fish on ceded lands, in accordance with any regulations the Government may make, and so long as such activity does not interfere with other uses the Government has made of the land, i.e. settling, mining, lumbering (Treaties 3, 4, 5, 6, 7) - Treaty 4 includes provision for trapping rights</p>
<p>Census* - to be taken annually in order to assist agent in delivering proper amount of annuities</p>	<p>Census - to be taken as soon as possible to assist in designation of reserves</p>
<p>Other Requirements of Indians - will not object to railroads passing through specific areas (i.e. Smoking Hill, North Platte) - will allow peaceful construction of railroads that don't cross their reserves - won't molest wagon trains, people or cattle belonging to the U.S. - won't carry off white women or children - won't kill, scalp, or otherwise hurt white men - won't obstruct U.S. facilities (i.e. mail) - will withdraw opposition to U.S. military forts being built in western Territories</p> <p>- if construction of railroads or U.S. facilities interferes with Indian lands, they will be compensated for damage assessed by a commission of 3 including a chief or headman</p>	<p>Other Requirements of Indians - will observe treaty - will be loyal subjects - will obey laws - will maintain peace with other Indians and with other subjects - will not molest people or property in the ceded tracts of territory - will not bother travellers through the ceded tracts - will assist in bringing to justice any Indian who violates either the law or treaty</p>
<p>Cession of Lands - can be ceded only if 3/4s of all adult males agree - such a cession cannot infringe on rights of Indian who has chosen individual tract of land, without his/her consent</p>	<p>Cession of Lands - Government may sell, lease, or dispose of reserve lands for Indians' benefit with their consent (Treaties 3, 4, 5, 6)</p>

Personnel to be hired by the Government - farmer, blacksmith, miller, physician, teachers, carpenter, engineer	No equivalent
Personnel Hiring - all things being equal, preference to be given to Indians (Medicine Lodge Creek Treaties)	No equivalent
Reward for Crops* - \$500 per year to 10 best agricultural producers	No equivalent
Unceded Territory - territory north of the North Platte River and east of the Bighorn Mountains (i.e. the Powder River country) to be considered "unceded Indian territory", white settlement there to be prohibited; - Indian permission required to enter - U.S. military posts and travel route through it to be abandoned within 90 days of peace being made (Treaty of Fort Laramie with the Sioux)	Additional Reserved Territory - belt of land on south side of Bow and South Saskatchewan Rivers restricted for 10 years to Indian use only (Treaty 7)
Effect of this Treaty - to abrogate all previous treaties with the same peoples (Fort Laramie Treaties)	No equivalent
No equivalent	Liquor - to be prohibited on reserves
No equivalent	Explanation - statement that treaty has been read and explained to Indian participants and witnessed, including identity of interpreters involved

Numbered Treaties - Comparative Table of Terms

Terms have been summarized. Quotation marks indicate exact wording.

Treaty No. 1	Treaty No. 2	Treaty No. 3	Treaty No. 4	Treaty No. 5	Treaty No. 6	Treaty No. 7
Identify participants: Commissioners and Indians (generally).	Identify participants: Commissioners and Indians (generally)	Identify participants: Commissioners and Indians (generally)	Identify participants: Commissioners and Indians (generally)	Identify participants: Commissioners and Indians (generally)	Identify participants: Commissioners and Indians (generally)	Identify participants: Commissioners and Indians (generally)
Purpose: Queen's wishes and assurances.	Purpose: Queen's wishes and assurances.	Purpose: Queen's wishes and assurances.	Purpose: Queen's wishes and assurances.	Purpose: Queen's wishes and assurances.	Purpose: Queen's wishes and assurances.	Purpose: Queen's wishes and assurances.
Authority of chiefs and headmen to negotiate certified.	Authority of chiefs and headmen to negotiate certified					Authority of chiefs and headmen certified
Naming of chiefs and headmen.	Naming of chiefs and headmen	Naming of chiefs and headmen	Naming of chiefs and headmen	Naming of chiefs and headmen	Naming of chiefs and headmen	Naming of chiefs and headmen
Statement of extinguishment or cession of rights, privileges, and titles to lands forever.	Statement of extinguishment or cession of rights, privileges, and titles to lands forever.	Statement of extinguishment or cession of rights, privileges, and titles to lands forever.	Statement of extinguishment or cession of rights, privileges, and titles to lands forever.	Statement of extinguishment or cession of rights, privileges, and titles to lands forever.	Statement of extinguishment or cession of rights, privileges, and titles to lands forever.	Statement of extinguishment or cession of rights, privileges, and titles to lands forever.
		Expression of peace.				
Detailed description of lands to be ceded.	Detailed description of lands to be ceded.	Detailed description of lands to be ceded.	Detailed description of lands to be ceded.	Detailed description of lands to be ceded.	Detailed description of lands to be ceded.	Detailed description of lands to be ceded.

Treaty No. 1	Treaty No. 2	Treaty No. 3	Treaty No. 4	Treaty No. 5	Treaty No. 6	Treaty No. 7
	Agree to same terms as those in Treaty 1		Relinquishment of rights to any other lands in Dominion outside of these, which are claimed.	Relinquishment of rights to any other lands in Dominion outside of these, which are claimed.	Relinquishment of rights to any other lands in Dominion outside of these, which are claimed.	Relinquishment of rights to any other lands in Dominion outside of these, which are claimed.
		Land ceded, in square miles: 55,000		Land ceded, in square miles: 100,000	Land ceded in square miles: 120,000	
Commitment to establish reserves	Commitment to establish reserves	Commitment to establish reserves	Commitment to establish reserves	Commitment to establish reserves, acknowledging lands already cultivated	Commitment to establish reserves	Commitment to establish reserves
Designation of area where reserves to be established for specific bands.	Designation of area where reserves to be established for specific bands.	Selection, by officers of the Government, "after conference with the Indians" - next summer or as soon as practicable	Selection, by officers of the Government, "after conference with each band"	Designation of area where reserves to be established for specific bands.	Selection by person appointed by Chief Superintendent of Indian Affairs "after consulting with the Indians"	Designation of area where reserves to be established for specific bands.
160 acres per family of 5, pro-rated for larger or smaller families	160 acres per family of 5, pro-rated for larger or smaller families	1 square mile (640 acres) per family of 5, pro-rated for larger or smaller families	1 square mile (640 acres) per family of 5, pro-rated for larger or smaller families	160 acres per family of 5, pro-rated for larger or smaller families	1 square mile (640 acres) per family of 5, pro-rated for larger or smaller families	1 square mile (640 acres) per family of 5, pro-rated for larger or smaller families
One 25-square mile band around Portage reserve.		Reserves identified as "farming land"		Reserves identified as "farming land"	Reserves identified as "farming land"	

Treaty No. 1	Treaty No. 2	Treaty No. 3	Treaty No. 4	Treaty No. 5	Treaty No. 6	Treaty No. 7
<p>Presents: \$3.00 per man, woman and child</p> <p>Adjusted by Memo on "Outside Promises"*</p> <p>- 1 set of clothing per chief and councillors (2 per chief)</p> <p>- 1 buggy per chief except Yellow Quill, and per headman</p>	<p>Presents: \$3.00 per man, woman and child</p> <p>Adjusted by Memo on "Outside Promises"*</p> <p>- 1 set of clothing per chief and councillors (2 per chief)</p> <p>- 1 buggy per chief except Yellow Quill, and per headman</p>	<p>Presents: \$12.00 per man, woman and child</p> <p>- 1 flag & 1 medal per chief on signing treaty</p>	<p>Presents: \$12.00 per man, woman and child</p> <p>\$25.00 per chief 1 Queen's silver medal per chief 1 flag per chief \$15.00 per headman (up to 4 per band) 1 coat per chief & headman</p> <p>Powder, shot, blankets, calicoes, etc. to those assembled.</p>	<p>Presents: \$12.00 per man, woman and child</p> <p>Per chief: 1 suitable medal 1 suitable flag 1 Winchester rifle (as soon as is convenient) per chief, minor chief, and Story chief</p>	<p>Presents: \$12.00 per man, woman and child</p> <p>Per chief: 1 suitable flag 1 medal 1 horse 1 waggon 1 harness</p> <p>Fort Carlton chiefs to receive 2 carts with iron bushings & tires instead of waggons</p>	<p>Presents: \$12.00 per man, woman and child</p> <p>Per chief: 1 suitable medal 1 suitable flag 1 Winchester rifle (as soon as is convenient) per chief, minor chief, and Story chief</p>
<p>Schools - on each reserve - when Indians desire it</p> <p>Liquor - prohibited on reserves</p> <p>Census - as soon as possible</p>	<p>Schools - on each reserve - when Indians desire it</p> <p>Liquor - prohibited reserves</p> <p>Census - as soon as possible</p>	<p>Schools - on each reserve - when Indians desire it</p> <p>Liquor - prohibited on reserves</p> <p>Census - as soon as possible</p>	<p>Schools - on each reserve - as soon as Indians settled & prepared for a teacher</p> <p>Liquor - prohibited on reserves</p> <p>Census - as soon as possible</p>	<p>Schools - on each reserve - when Indians desire it</p> <p>Liquor - prohibited on reserves</p> <p>Census - as soon as possible</p>	<p>Schools - on each reserve - when Indians desire it</p> <p>Liquor - prohibited on reserves</p> <p>Census - as soon as possible</p>	<p>Teachers - salaries to be paid - when Indians are settled & desire teachers</p>

Treaty No. 1	Treaty No. 2	Treaty No. 3	Treaty No. 4	Treaty No. 5	Treaty No. 6	Treaty No. 7
<p>Annuities</p> <ul style="list-style-type: none"> - \$15.00 per family of 5 (pro-rated) - in goods, at cost in Montreal, or in cash <p>Adjusted by Memo on "Outside Promises"</p> <ul style="list-style-type: none"> - \$5.00 per man, woman and child 	<p>Annuities</p> <ul style="list-style-type: none"> - \$15.00 per family of 5 (pro-rated) - in goods, at cost in Montreal, or in cash <p>Adjusted by Memo on "Outside Promises"</p> <ul style="list-style-type: none"> - \$5.00 per man, woman and child 	<p>Annuities</p> <ul style="list-style-type: none"> - \$5.00 per man, woman and child - in cash, to be paid to each individual - \$25.00 per chief per year - \$15.00 per headman per year - 1 suit of clothing per chief and headman every 3 years 	<p>Annuities</p> <ul style="list-style-type: none"> - \$5.00 per man, woman and child - \$25.00 per chief per year - \$15.00 per headman (no more than 4 per band) per year - 1 suit of clothing per chief and headman (no more than 4) every 3 years - payment to heads of families 	<p>Annuities</p> <ul style="list-style-type: none"> - \$5.00 per man, woman and child - \$25.00 per chief per year - \$15.00 per headman (no more than 4) per year - 1 suitable suit of clothing per chief and headman every 3 years 	<p>Annuities</p> <ul style="list-style-type: none"> - \$5.00 per man, woman and child - \$25.00 per chief per year - \$15.00 per headman (no more than 4) per year - 1 suitable suit of clothing per chief and headman every 3 years 	<p>Annuities</p> <ul style="list-style-type: none"> - \$5.00 per man, woman and child - \$25.00 per chief - \$15.00 per headman - 1 suitable suit of clothing per chief and headman every 3 years <p>Extra provisions:</p> <ul style="list-style-type: none"> \$2000 per year for ammunition, or other things, at Government's discretion, with consent of Indians
		<p>Extra provisions:</p> <ul style="list-style-type: none"> \$1500 per year for ammunition and twine 	<p>Extra provisions:</p> <ul style="list-style-type: none"> \$750 per year for powder, shot, ball, & twine 	<p>Extra provisions:</p> <ul style="list-style-type: none"> \$500 per year for ammunition & twine 	<p>Extra provisions:</p> <ul style="list-style-type: none"> \$1500 per year for ammunition & twine, or other things, at Government's discretion 	
			<p>Indians may not sell or alienate reserve lands</p>			

Treaty No. 1	Treaty No. 2	Treaty No. 3	Treaty No. 4	Treaty No. 5	Treaty No. 6	Treaty No. 7
<p>Agricultural Aid</p> <p>Provided in Memo on "Outside Promises"</p> <ul style="list-style-type: none"> - 1 plough - 1 harrow - for each settler cultivating the ground - 1 bull per reserve - 1 boar per reserve - 1 cow per chief - 1 sow per chief - "a male and female of each animal raised by farmers" 	<p>Agricultural Aid</p> <p>Provided in Memo on "Outside Promises"</p> <ul style="list-style-type: none"> - 1 plough - 1 harrow - for each settler cultivating the ground - 1 bull per reserve - 1 boar per reserve - 1 cow per chief - 1 sow per chief - "a male and female of each animal raised by farmers" 	<p>Agricultural Aid</p> <ul style="list-style-type: none"> 2 hoes 1 spade 1 scythe - to every family "actually cultivating" 1 plough / 10 families 5 harrows per 20 families 1 axe 1 crosscut saw 1 handsaw 1 pit saw the necessary files 1 grindstone 1 auger - for each band 1 chest ordinary carpenter's tools per chief for use of band "enough" wheat, barley, potatoes & oats per band to plant land "actually broken up" 1 yoke of oxen 1 bull 4 cows - per band All aid "once and for all" 	<p>Agricultural Aid</p> <ul style="list-style-type: none"> 2 hoes 1 spade 1 scythe 1 axe - to every family "actually cultivating" 1 plough / 10 families 2 harrows per 10 families 1 crosscut saw 5 handsaws 1 pitsaw the necessary files 1 grindstone 5 augers - per chief for band's use 1 chest ordinary carpenter's tools per chief for use of band "enough" seed, oats, wheat, barley, potatoes to plant land "actually broken up" 	<p>Agricultural Aid</p> <ul style="list-style-type: none"> 2 hoes 1 spade - to every family "actually cultivating" 1 plough / 10 families 	<p>Agricultural Aid</p> <ul style="list-style-type: none"> 4 hoes 2 spades 2 scythes 1 whicstone 2 hayforks 2 reaping hooks - to every family now or later cultivating 1 plough / 3 families 1 harrow / 3 families 2 axes 1 crosscut saw 1 handsaw 1 pit saw the necessary files 1 grindstone 1 auger - per band 1 chest ordinary carpenter's tools per chief, for use of band "enough" wheat, barley, potatoes, oats to plant land "actually broken up" 	<p>Agricultural Aid</p> <ul style="list-style-type: none"> 10 axes 5 handsaws 5 augers 1 grindstone the necessary files 1 whetstone - for each chief, minor chief, & Stony chief, for their bands 2 cows per family of 5 or less 3 cows per family of 6 to 9 4 cows per family of 10 or more

Treaty No. 1	Treaty No. 2	Treaty No. 3	Treaty No. 4	Treaty No. 5	Treaty No. 6	Treaty No. 7
			<p>Agricultural Aid 1 yoke of oxen 1 bull 4 cows - per chief for band All aid "once and for all"</p>		<p>Agricultural Aid 4 oxen 1 bull 6 cows 1 boar 2 sows - per band 1 handmill when amount of grain warrants it All aid "once and for all"</p>	<p>Agricultural Aid For those who want to cultivate 1 less cow than above BUT ALSO 2 hoes 1 spade 1 scythe 2 hay forks - per family 1 plough / 3 families 1 harrow / 3 families "enough" potatoes, barley, oats, wheat (if suitable) for land "actually broken up" 1 bull per chief All aid "once and for all"</p>
					<p>Extra agricultural aid: \$1000 per year for 3 years for both the Fort Carlton & Fort Pitt signatory bands</p>	
					<p>Medicine chest to be kept at house of Indian agent</p>	

Treaty No. 1	Treaty No. 2	Treaty No. 3	Treaty No. 4	Treaty No. 5	Treaty No. 6	Treaty No. 7
					Famine relief clause	Portion of land reserved for 10 years
Pledges: - to observe treaty - to keep the peace - not to molest white subjects	Pledges: - to observe treaty - to keep peace - not to molest white subjects - not to bother travellers - to assist in justice	Pledges: - to observe treaty - to be loyal subjects - to obey laws - to maintain peace with Indians & other subjects - not to molest those on ceded tracts - not to bother travellers - to assist in justice	Pledges: - to observe treaty - to be loyal subjects - to obey laws - to keep peace - not to molest people or property on ceded tracts - not to bother travellers - to assist in justice	Pledges: - to observe treaty - to be loyal subjects - to obey laws - to keep peace - not to molest people or property on ceded tracts - not to bother travellers - to assist in justice	Pledges: - to observe treaty - to be loyal subjects - to obey laws - to keep peace - not to molest people or property on ceded tracts - not to bother travellers - to assist in justice	Pledges: - to observe treaty - to be loyal subjects - to obey laws - to keep peace - not to molest people or property on ceded tracts - not to bother travellers - to assist in justice
		Government may sell, lease, or dispose of reserve lands, having obtained Indians' consent	Government may sell, lease, or dispose of reserve lands, for Indians' benefit, with their consent	Government may sell, lease, or dispose of reserve lands, for Indians' benefit, with their consent	Government may sell, lease, or dispose of reserve lands, for Indians' benefit, with their consent	
		Government may appropriate reserve lands for public works & buildings, but must compensate	Government may appropriate reserve lands for public works & buildings, but must compensate with land or money	Government may appropriate reserve lands for public works & buildings, but must compensate	Government may appropriate reserve lands for public works & buildings, but must compensate	

Treaty No. 1	Treaty No. 2	Treaty No. 3	Treaty No. 4	Treaty No. 5	Treaty No. 6	Treaty No. 7
		Hunting and fishing - permitted on ceded lands - Gov't regulated - subject to other uses by Gov't	Hunting and fishing and trapping - permitted on ceded lands - Gov't regulated - subject to other uses by Gov't	Hunting and fishing - permitted on ceded lands - Gov't regulated - subject to other uses by Gov't	Hunting and fishing - permitted on ceded lands - Gov't regulated - subject to other uses by Gov't	Hunting - permitted on ceded lands - Gov't regulated - subject to other uses by Gov't
Statement that treaty has been read & explained - witnessed - signatures of main participants	Statement that treaty has been read & explained - witnessed - signatures of main participants	Statement that treaty has been read & explained - witnessed - signatures of main participants	Statement that treaty has been read & explained - witnessed - signatures of main participants	Statement that treaty has been read & explained - witnessed - signatures of main participants	Statement that treaty has been read & explained - witnessed - signatures of main participants	Statement that treaty has been read & explained - witnessed - signatures of main participants

* Source for the Memorandum on "Outside Promises" - Record Group 10, Volume 3571, File 124 pt. 2, National Archives of Canada, Reel C-10101. "Memorandum of things outside of the Treaty which were promised at the Treaty at the Stone Fort, signed the 3rd August 1871, as validated by an Order in Council dated April 30, 1875, and applied to Treaty No. 1 and 2.

The source for the treaty terms summarized in this table is Alexander Morris. The Treaties of Canada with the Indians of Manitoba and the North-West Territories including the Negotiations on which they were based. Toronto: Belfords, Clarke & Co., Publishers, 1880. Reprinted by Fifth House Publishers: Saskatoon, 1991.

United States Treaty Terms - Medicine Lodge Creek, 1867 and Fort Laramie, 1868

Terms have been summarized. Quotation marks indicate exact wording.

<p style="text-align: center;">Treaty with the Kiowa and Comanche Medicine Lodge Creek, Oct. 21 1867</p> <p style="text-align: center;">Treaty with the Southern Cheyenne and Arapaho**</p> <p style="text-align: center;">Medicine Lodge Creek, Oct. 28, 1867</p>	<p style="text-align: center;">Treaty with the Sioux</p> <p style="text-align: center;">Brule, Oglala, Miniconjou, Yanktonai, Hunkpapa Blackfeet, Two Kettle, Sans Arc, Santee</p> <p style="text-align: center;">Fort Laramie, April 29, 1868</p>	<p style="text-align: center;">Treaty with the Northern Cheyenne and Arapaho</p> <p style="text-align: center;">Fort Laramie, May 19, 1868</p>
<p>Article 1. War – to cease.</p>	<p>Article 1. War - to cease</p>	<p>Article 1. War - to cease</p>
<p>Article 1. Peace</p> <ul style="list-style-type: none"> - both parties pledged to - individual violators, Indian or white, to be dealt with by U.S. law - Indian complaints to be forwarded through agents to Commissioner of Indian affairs (CIA) - Indian violators to be handed over or else victims to be compensated from Indian annuities 	<p>Article 1. Peace</p> <ul style="list-style-type: none"> - both parties pledged to keep peace - individual violators, Indian or white, to be dealt with by US law - Indian complaints to be forwarded through agents to Commissioner of Indian Affairs (CIA) - Indian violators to be handed over or else victims to be compensated from Indian annuities 	<p>Article 1. Peace</p> <ul style="list-style-type: none"> - both parties pledged to - individual violators, Indian or white, to be dealt with by US law - Indian complaints to be forwarded through agents to Commissioner of Indian Affairs (CIA) - Indian violators to be handed over or else victims to be compensated from Indian annuities
<p>Article 2. Reservation boundaries</p> <ul style="list-style-type: none"> - laid out in detail, by rivers, longitude & latitude - inviolate except to those on Government business - “for the absolute and undisturbed use” of these Indians, unless they agree to accept other tribes or individual Indians among them 	<p>Article 2. Reservation boundaries</p> <ul style="list-style-type: none"> - laid out in detail, by rivers, longitude & latitude - inviolate except to those on Government business - “for the absolute and undisturbed use” of these Indians, unless they agree to accept other tribes or individual Indians among them 	<p>Article 2. Reservation boundaries</p> <ul style="list-style-type: none"> - agree to accept for their permanent home a piece of the reservation assigned either to the Southern Cheyenne & Arapaho by the Medicine Lodge Treaty or part of the reservation assigned to the Sioux in the Fort Laramie Treaty, 1868 - choice as to which reservation they want, is up to them

<p>Article 3. Additional land</p> <ul style="list-style-type: none"> - to be purchased by U.S. if reserve land does not contain enough arable land to allow 160 acres of tillable soil to all authorized Indians 	<p>Article 3. Additional land</p> <ul style="list-style-type: none"> - to be purchased by US if reserve land does not contain enough arable land to allow 160 acres of tillable soil to all authorized Indians 	
<p>Article 4. Buildings on reservation</p> <ul style="list-style-type: none"> - US, at own expense, will provide general buildings (ie. storeroom agency, physician's, + 5 others), with amount to be spent specified in treaty - schoolhouse or mission building "so soon as a sufficient number of children can be induced by the agent to attend school" 	<p>Article 4. Buildings on reservation</p> <ul style="list-style-type: none"> - US, at own expense, will provide general buildings (ie. storeroom agency, physician's, + 5 others), with amount to be spent specified in treaty - schoolhouse or mission building "so soon as a sufficient number of children can be induced by the agent to attend school" 	
<p>Article 5. Agent's residence and duties</p> <ul style="list-style-type: none"> - agent to live on reserve - to look into complaints about & by Indians 	<p>Article 5. Agent's residence and duties</p> <ul style="list-style-type: none"> - agent to live on reserve - to look into complaints about & by Indians 	

<p>Article 6. Lands for farming</p> <ul style="list-style-type: none"> - heads of family can select a piece of reservation land to start farming, not exceeding 320 acres - on doing so, this piece of land will cease to be held in common - to be held by person as long as it is cultivated - any person (including women) over 18 can choose land not exceeding 80 acres - these transactions to be recorded in Land Book - status of land not fee simple, but may be made so at President's discretion - US can make laws on the alienation of this type of property & other matters relating to it 	<p>Article 6. Lands for farming</p> <ul style="list-style-type: none"> - heads of family can select a piece reservation land to start farming, not exceeding 320 acres - on doing so, this piece of land will cease to be held in common - to be held by person as long as it is cultivated - any person (including women) over 18 can choose land not exceeding 80 acres - these transactions to be recorded in Land Book - status of land not fee simple, but may be made so at President's discretion - US can make laws on the alienation of this type of property & other matters relating to it - any male Indian over 18 who shall occupy a piece of land <i>outside</i> the reservation, and which shall not be mineral lands or any other reserved for use by US, who has made improvements of more than \$200 value and occupied this land for 3 years continuously, shall be entitled to receive a US patent for 160 acres, including his improved land - after providing written application, & proof of 2 disinterested witnesses, the Indian can get this land registered at the General Land Office and hold it as long as he continues to live there <p>Citizenship</p> <ul style="list-style-type: none"> - any Indian receiving a patent under the above rules may become a citizen of the US and be entitled to all rights of citizenship and shall "at the same time, retain all his rights to benefits accruing to Indians under this treaty" 	<p>Article 3. Lands for farming</p> <ul style="list-style-type: none"> - heads of family can select a piece of reservation land to start farming, not exceeding 320 acres - on doing so, this piece of land will cease to be held in common - to be held by person as long as it is cultivated - any person (including women) over 18 can choose land not exceeding 80 acres - these transactions to be recorded in Land Book - status of land not fee simple, but may be made so at President's discretion - US can make laws on the alienation of this type of property & other matters relating to it
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<p>Article 7. Civilization / Education</p> <ul style="list-style-type: none"> - "in order to assure the civilization of the tribes...the necessity of education is admitted" - children (6 - 16) to be compelled to attend school - for every 30 children, US will supply house for teacher, and teacher "competent to teach elementary branches of an English education" - this article to continue "for not less than 20 years" 	<p>Article 7. Civilization / Education</p> <ul style="list-style-type: none"> - "in order to assure the civilization of the tribes...the necessity of education is admitted" - children (6 - 16) to be compelled to attend school - for every 30 children, US will supply house for teacher, and teacher "competent to teach elementary branches of an English education" - this article to continue "for not less than 20 years" 	<p>Article 7. Civilization / Education</p> <ul style="list-style-type: none"> - "in order to assure the civilization of the tribes...the necessity of education is admitted" - children (6 - 16) to be compelled to attend school - for every 30 children, US will supply house for teacher, and teacher "competent to teach elementary branches of an English education" - this article to continue "for not less than 20 years"
<p>Article 8. Agriculture</p> <ul style="list-style-type: none"> - once an Indian selects lands for farming, he/she is entitled to <ul style="list-style-type: none"> — seeds & implements [unspecified], up to \$100 worth for 1st year, up to \$25.00 worth for subsequent 3 years - farming instruction by farmer provided by US - for every 100 persons cultivating, a blacksmith will be provided, as well as iron, steel & other material 	<p>Article 8. Agriculture</p> <ul style="list-style-type: none"> - once an Indian selects lands for farming, he/she is entitled to <ul style="list-style-type: none"> — seeds & implements [unspecified], up to \$100 worth for 1st year, up to \$25.00 worth for subsequent 3 years - farming instruction by farmer provided by US - for every 100 persons cultivating, a blacksmith will be provided, as well as iron, steel, & other material 	<p>Article 8. Agriculture</p> <ul style="list-style-type: none"> - once an Indian selects lands for farming, he/she is entitled <ul style="list-style-type: none"> —to seeds & implements [not specified], up to \$100 worth for 1st year, up to \$25.00 worth for subsequent 3 years - farming instructing by farmer provided by US - for every 100 persons cultivating, a blacksmith will be provided, as well as iron, steel, & other material
<p>Article 9. Withdrawing personnel</p> <ul style="list-style-type: none"> - after 10 years, US may withdraw physician, farmer, blacksmith, carpenter, engineer & miller provided in treaty, but shall compensate for this with \$10,000 per annum to be devoted to education of these Indians - expenditure of such money will be decided by Commissioner of I.A., to be directed toward that which will "best promote the educational & moral improvement" of these Indians 	<p>Article 9. Withdrawing personnel</p> <ul style="list-style-type: none"> - after 10 years, US may withdraw physician, farmer, blacksmith, carpenter, engineer & miller provided in treaty, but shall compensate for this with \$10,000 per annum to be devoted to education of these Indians - expenditure of such money will be decided by CIA, to be directed toward that which will "best promote the educational and moral improvement of said tribes" 	
<p>Article 10. Annuities</p> <ul style="list-style-type: none"> - to be delivered at agency house on reserve - on 15th October "for thirty years" - to include: <ul style="list-style-type: none"> For all males 14+ : 1 good suit of woollen clothing For all women 12+ : 1 skirt or cloth; hose & other material For all children: clothes 	<p>Article 10. Annuities</p> <ul style="list-style-type: none"> - to be delivered at agency house on reserve - on 15th October "for thirty years" - to include: <ul style="list-style-type: none"> For all males 14+: 1 good suit of woollen clothing For all women 12+: skirt or cloth; hose; & other material For all children: clothes 	<p>Article 6. Annuities</p> <ul style="list-style-type: none"> - to be delivered at agency house on reserve - on 15th October "for thirty years" - to include: <ul style="list-style-type: none"> For all males 14+: 1 good suit of woollen clothing For all women 12+: skirt or cloth; hose; & other material For all children: clothes

<p>Article 10. Census</p> <ul style="list-style-type: none"> - to be taken annually 	<p>Article 10. Other necessities</p> <ul style="list-style-type: none"> - \$25,000 each year for 30 years to be spent by Secretary of Interior, at C.I.A.'s recommendation, on necessities [unspecified] for Indians - if, during the 30 years, it is found money can be better spent on Indians in some other way, Congress may change the appropriation to other purpose, but can not change or withdraw appropriation for 30 years - an Army officer to inspect goods & supervise delivery 	<p>Article 10. Census</p> <ul style="list-style-type: none"> - to be taken annually <p>Article 10. Other necessities</p> <ul style="list-style-type: none"> - \$10.00 per person to be appropriated for 30 years while such persons roam and hunt - \$20.00 per person per year for 30 years if engaged in farming - money to be used by Secretary of Interior to purchase articles deemed to be of necessity for Indians - if, during the 30 years, it is found money can be better spent on Indians in some other way, Congress may change the appropriation to other purpose, but cannot change or withdraw the appropriation for 30 years - an Army officer to inspect goods & supervise delivery <p>Food Provisions</p> <ul style="list-style-type: none"> - to every Indian over 4 years of age, who has settled permanently on reserve & adhered to treaty, to be provided with 1 pound of meat & 1 pound of flour per day for 4 years, if they cannot furnish their own subsistence at earlier date <p>Cows and Oxen</p> <ul style="list-style-type: none"> - US will give each family/lodge who have settled to farm, "1 good American cow and 1 good well-broken pair of American oxen" within 60 days of their having settled 	<p>Article 11. Relinquishing lands</p> <ul style="list-style-type: none"> - Indians party to this agreement will "relinquish all rights to occupy permanently the territory outside their reservation"
<p>Article 6. Census</p> <ul style="list-style-type: none"> - to be taken annually 	<p>Article 6. Other necessities</p> <ul style="list-style-type: none"> - \$10.00 per person to be appropriated for 30 years while such persons "roam and hunt" - \$20 per person per year for 30 years if engaged in farming - money to be used by Secretary of Interior to purchase articles deemed to be of necessity for Indians - if, during the 30 years, it is found money can be better spent on Indians in some other way, Congress may change the appropriation to other purpose, but cannot change or withdraw the appropriation for 30 years - an Army officer to inspect goods & supervise deliver <p>Food Provisions</p> <ul style="list-style-type: none"> - to every Indian over 4 years of age, who has settled permanently on reserve & adhered to treaty, to be provided with 1 pound of meat & 1 pound of flour per day for 4 years, if they cannot furnish their own subsistence at an earlier date <p>Cows and Oxen</p> <ul style="list-style-type: none"> - US will give each family/lodge who have settled to farm, "1 good American cow, and 1 good well-broken pair of American oxen" within 60 days of their having settled 	<p>Article 11. Relinquishing lands</p> <ul style="list-style-type: none"> - Indians party to this agreement will "relinquish all right to occupy permanent the territory outside their reservation" 	<p>Article 2. Relinquishing lands</p> <ul style="list-style-type: none"> - "And the Northern Cheyenne and Arapahoe Indians do hereby relinquish, release, and surrender to the United States, all right, claim, and interest in and to all territory outside the two reservations above mentioned."

<p>Article 11. Right to hunt</p> <ul style="list-style-type: none"> - retain right to hunt on any lands south of Arkansas River "so long as the buffalo may range thereon in such numbers as to justify the chase" - no white settlers to be allowed, for three years, on any part of old reservations as defined in Treaty of Little Arkansas, 1865 	<p>Article 11. Right to hunt</p> <ul style="list-style-type: none"> - retain right to hunt on any lands north of North Platte River and on the Republican fork of the Smoky Hill River, "so long as buffalo may range thereon in such numbers as to justify the chase" 	<p>Article 2. Right to hunt</p> <ul style="list-style-type: none"> - retain right "to roam and hunt white game shall be found in sufficient quantities to justify the chase"
<p>Article 11. Other stipulations on Indians</p> <ul style="list-style-type: none"> - won't object to railroad through the Smoky Hills - will allow peaceful building of railroad that doesn't cross their reservations - won't molest wagon trains, people, or cattle belonging to U.S. - won't carry off white women and children - won't kill or scalp white men or hurt them - will withdraw all objections to railroad being built along Platte Road - won't obstruct any US facilities (ie. mail, roads, etc.) - if such things interfere with Indian lands they will be compensated for damage by a commission of 3, including a "chief of headman of the tribes" - will withdraw opposition to US military posts being built in western Territories 	<p>Article 11. Other stipulations on Indians</p> <ul style="list-style-type: none"> - will withdraw objections to railroads being build on plains - will permit peaceful construction where it doesn't cross their reservations - won't attack wagon trains, travellers, etc. - won't capture women & children - won't kill, scalp or otherwise hurt white men - with withdraw all opposition to railroad on Platte, but will get compensation for damages of any Government works which touch their lands, to be assessed by a commissioner of 3, including one chief or headman - will withdraw opposition to military post being built south of North Platte River 	
<p>Article 12. Validity of cessions</p> <ul style="list-style-type: none"> - reserve land cannot be ceded validly "unless executed and signed by at least 3/4s of all the adult male Indians occupying the same" - won't be valid if it deprives any Indian who has selected his tract of land, unless he consents 	<p>Article 12. Validity of cessions</p> <ul style="list-style-type: none"> - reserve land cannot be ceded validly "unless executed and signed by at least 3/4s of all the adult male Indians occupying the same" - won't be valid if it deprives any Indian who has selected his tract of land, unless he consents 	<p>Article 8. Validity of cessions</p> <ul style="list-style-type: none"> - reserve land cannot be ceded validly "unless executed and signed by at least 3/4s of all adult male Indians occupying the same"
<p>Article 13. Personnel - Hiring</p> <ul style="list-style-type: none"> - in hiring farmer, blacksmith, miller, etc. the agent "qualifications being equal, shall give preference to Indians" 		

<p>Article 14. Personnel to be provided</p> <p>- US will hire physician, teachers, carpenter, miller, engineer, farmer, and blacksmiths and provide money to pay them</p>	<p>Article 13. Personnel to be provided</p> <p>- US will hire physician, teachers, carpenter, miller, engineer, farmer, blacksmiths & provide money to pay them</p>	<p>Article 7. Personnel to be provided</p> <p>- US will hire physician, teachers, carpenter, miller, engineer, farmer, blacksmiths & provide money to pay them</p>
<p>Article 15. House for Toshewa</p> <p>- specific appropriation for a particular Indian's house (as he expressed wish to settle immediately)</p>		
<p>Article 15. Reward for crops</p> <p>- \$500 to be awarded annually to 10 best agricultural producers</p>	<p>Article 14. Reward for crops</p> <p>- \$500 to be awarded annually to 10 best agricultural producers</p>	<p>Article 9. Reward for crops</p> <p>- \$500 to be awarded annual to 10 best agricultural producers</p>
<p>Article 16. Permanent homes</p> <p>- once buildings are constructed, Indians will make reserves their permanent homes & have no other</p> <p>- "but they shall have the right to hunt on the lands south of the Arkansas River ... subject to the modifications named in this treaty"</p>	<p>Article 15. Permanent homes</p> <p>- once buildings are constructed, Indians will make reserves their permanent homes & have no other</p> <p>- "but they shall have the right, subject to the conditions and modifications of this treaty, to hunt, as stipulated in Article 11 hereof"</p>	<p>Article 2.</p> <p>- once they have moved to reserves, that will be their permanent home & they will have no other</p>
<p>** Treaty with the Southern Cheyenne and Arapaho, signed October 28 1867 at Medicine Lodge Creek, is identical to this Treaty, with the exception of the provision, in Article 15, for Toshewa's house. **</p>	<p>Article 16. Unceded territory</p> <p>- "The United States hereby agreed and stipulates that the country north of the North Platte River and east of the summits of the Big Horn Mountains shall be held and considered to be unceded Indian territory, and also stipulates and agrees that no white person or persons shall be permitted to settle upon or occupy any portion of the same"</p> <p>- Indian permission needed to pass through this land</p> <p>- within 90 days of peace being concluded with the Sioux Nation, the military posts in this territory and the road leading to them and to Montana, shall be abandoned</p>	
	<p>Article 17. Effect of this treaty on other treaties</p> <p>- eliminates all agreements, annuities, provisions, etc. made in previous treaties with these people</p>	

**** Treaty with the Southern Cheyenne and Arapaho, signed October 28 1867 at Medicine Lodge Creek, is identical to the Treaty with the Comanche, Kiowa, and Kiowa-Apache, with the exception of the provision, in Article 15, for Toshewa's house. ****

The source of the treaty terms summarized in this table is Indian Treaties, 1778-1883, edited by Charles Kappler. Washington: Government Printing Office, 1904. Reprinted, 1972.

Bibliography

Primary Sources

Canadian Museum of Civilization

The Native American Reference Collection: Documents Collected by the Office of Indian Affairs, Part I, 1840-1900. University Publications of America.

National Archives of Canada

Department of Indian Affairs. RG 10.
Central Registry Files, Black (Western) Series.

Department of the Interior. RG 10
North West Territories Branch, Correspondence, 1873-1883.

Laird Papers. MG 27 I D10

Macdonald Papers. MG 26(A).

Mackenzie Papers. MG 26(B).

Morris Papers.
General Correspondence, 1857-1896, including material from Morris's administration as Lieutenant-Governor of Manitoba and the North West Territories, 1872-1877.
Microfilmed from originals at the Provincial Archives of Manitoba.

Privy Council Office. RG 2
Privy Council Minutes

Printed Sources

Canada. Debates of the House of Commons.

Canada. Sessional Papers.

Erasmus, Peter. Buffalo Days and Nights. As told to Henry Thomson. Glenbow-Alberta Institute: Calgary, 1976.

- Hawthorn, H.B. (Ed.) Survey of the Contemporary Indians of Canada: A Report on Economic Political and Education Needs and Policies. 2 vols. Department of Indian Affairs:Ottawa, 1966-1967.
- Hunt, F.L. "Notes on the Qu' Appelle Treaty", The Canadian Monthly and National Review Volume 9, Number 3 (1876).
- Jefferson, Robert. Fifty Years on the Saskatchewan. Canadian North West Historical Society Publications: Battleford, 1929.
- Kappler, Charles. (Ed.) Indian Treaties, 1778-1883. Washington: Government Printing Office, 1904. Reprinted 1972.
- Laird, David. Our Indian Treaties. The Historical and Scientific Society of Manitoba. Transaction No. 66, February 23, 1905. The Manitoba Free Press Company: Winnipeg, 1905.
- Miles, General Nelson A. "The Indian Problem", The North American Review, Winter, 1973. (Reprinted from March 12, 1879), pp. 304-314.
- Morris, Alexander. The Treaties of Canada with the Indians of Manitoba and the North-West Territories including the Negotiations on which they were based. Toronto: Belfords, Clarke & Co., Publishers, 1880. Reprinted by Fifth House Publishers: Saskatoon, 1991.
- Proceedings of the Great Peace Commission, 1867-1868. With an introduction by Vine Deloria Jr. and Raymond DeMaillie. The Institute for the Development of Indian Law:Washington, 1975.
- Prucha, Francis Paul. (Ed.) Documents of United States Indian Policy. 2nd edition. University of Nebraska Press: Lincoln, 1990.
- Report of the Royal Commission on Aboriginal Peoples. 5 vols. Minister of Supply and Services: Ottawa, 1996.
- Rundle, Robert Terrill. The Rundle Journal. Edited by Hugh Dempsey. Alberta Records Publication Board: Calgary, 1977.
- Schurz, Carl. "Present Aspects of the Indian Problem", The North American Review, Winter, 1973. (Reprinted from July, 1881).

Sherman, William T. Memoirs of William T. Sherman. Bloomington, 1957.

----. The Sherman Letters: Correspondence between General and Senator Sherman from 1837 to 1891. Edited by Rachel Sherman Thorndike. Sampson Low, Marston, and Company: London, 1894.

United States. Annual Report of the Commissioner of Indian Affairs.

United States. Annual Report of the Secretary of the Interior.

United States. Annual Report of the Secretary of War.

United States. Congressional Globe.

United States. House Executive Document 88 (39-2) 1293.

House Executive Document 97 (40-2) 1337.

House Executive Document 65 (41-3) 1454.

United States. House Miscellaneous Document 37 (39-2) 1302.

House Miscellaneous Document 41 (39-2) 1302.

House Miscellaneous Document 35 (41-2)

United States. Senate Executive Document 13 (40-1) 1308.

Senate Executive Document 40 (40-3) 1360.

Senate Executive Document 57 (41-2) 1406.

United States. Senate Miscellaneous Document 1 (40-2) 1319.

United States. Senate Report 138 (38-2) 1211.

Senate Report 156 (39-2) 1279.

Senate Report 268 (41-3) 1443.

Unpublished Dissertations and Theses

Jennings, John. "The North West Mounted Police and Indian Policy, 1873-1896"
Ph.D. dissertation, University of Toronto, 1979.

Leighton, J.D. "The Development of Federal Indian Policy in Canada, 1840-1890".
Ph.D. dissertation, University of Western Ontario, 1975.

McKay, Raoul. "Fighting for Survival: The Swampy Cree of Treaty No. 5 in an Era of Transition, 1875-1930", Ph.D. dissertation, University of Toronto, 1991.

Owram, Doug. "White Savagery: Some Canadian Reaction to American Indian Policy, 1867-1885", M.A. Thesis, Queen's University, 1971.

Parrish, Cora Hoffman. "The Indian Peace Commission of 1867 and the Western Indians", M.A. Thesis, University of Oklahoma, 1958.

Ronaghan, A. "The Archibald Administration in Manitoba, 1870-1872". Ph.D. dissertation, University of Manitoba, 1978.

Sowby, J.K. "Macdonald the Administrator: Department of the Interior and Indian Affairs". M.A. thesis, Queen's University, 1980.

Taylor, John L. "The Development of an Indian Policy for the Canadian North-West, 1869-1870". Ph.D. dissertation, Queen's University, 1975.

Waltmann, Henry G. "The Interior Department, War Department and Indian Policy, 1865-1887", Ph.D. dissertation, University of Nebraska, 1962.

Newspapers

The New York Times

Secondary Sources

Ahearn, Robert G. William Tecumseh Sherman and the Settlement of the West. University of Oklahoma Press: Norman, 1956.

Bailey, John W. Pacifying the Plains: General Alfred Terry and the Decline of the Sioux, 1866-1890. Greenwood Press: Westport, CT, 1979.

Bargar, B.D. Lord Dartmouth and the American Revolution. University of South Carolina Press: Columbia, 1965.

Beal, Bob and Rod Macleod. Prairie Fire: The 1885 North-West Rebellion. McClelland and Stewart Publishers: Toronto, 1994.

Beatty, W.W. "The Goal of Indian Assimilation", Canadian Journal of Economics and Political Science Volume XII (1946): 395-404.

- Berger, Thomas R. A Long and Terrible Shadow: White Values, Native Rights in the Americas. Douglas & McIntyre: Vancouver, 1991.
- Berkhofer, Robert Jr. The White Man's Indian Vintage Books: New York, 1978.
- Billington, Ray Allen. Westward Expansion: A History of the American Frontier. 2nd edition. The Macmillan Company: New York, 1960.
- Black, Norman Fergus. History of the Saskatchewan and the Old Northwest. 2nd ed. Northwest Historical Company: Regina, 1913.
- Bolt, Christine. American Indian Policy and American Reform: Case Studies of the Campaign to Assimilate the American Indians. Allen & Unwin: London, 1987.
- Buckley, Helen. From Wooden Ploughs to Welfare: Why Indian Policy Failed in the Prairie Provinces. McGill-Queen's University Press: Montreal, 1992.
- Carter, Sarah. Lost Harvests: Prairie Indian Reserve Farmers and Government Policy. McGill-Queen's University Press: Montreal, 1990.
- Chalmers, John W. Laird of the West. Detselig Enterprises Ltd.: Calgary, 1981.
- Chaput, Donald. "Generals, Indian Agents, Politicians: The Doolittle Survey of 1865", Western Historical Quarterly, Volume III (July, 1975), pp. 269-282.
- Christie, Ian R. and Benjamin W. Labaree. Empire or Independence, 1760-1776: A British-American Dialogue on the Coming of the American Revolution. Phaidon Press Ltd.: Oxford, 1976.
- Danziger, Edmund Jefferson, Jr. Indians and Bureaucrats: Administering the Reservation Policy during the Civil War. University of Illinois Press: Urbana, 1974.
- Dempsey, Hugh. Big Bear: The End of Freedom. Greystone Books: Toronto, 1984.
- Crowfoot: Chief of the Blackfeet. University of Oklahoma Press: Norman, 1972.
- "One Hundred Years of Treaty Seven", in One Century Later: Western Canadian Reserve Indians since Treaty Seven, edited by Ian A.L. Getty and Donald B. Smith. University of British Columbia Press: Vancouver, 1978.
- Red Crow: Warrior Chief. Fifth House Publishers: Saskatoon, 1995.

Dickason, Olive Patricia. Canada's First Nations: A History of Founding Peoples from Earliest Times. McClelland and Stewart Publishers: Toronto, 1994.

Dyck, Noel. "An Opportunity Lost: The Initiative of the Reserve Agricultural Programme in the Prairie West", in 1885 and After: Native Society in Transition, edited by F. Laurie Barron and James B. Waldram. Canadian Plains Research Centre: Regina, 1986.

Ellis, Richard N. General Pope and U.S. Indian Policy. University of New Mexico Press: Albuquerque, 1970.

----- "The Humanitarian Generals", The Western Historical Quarterly. 3 (April 1972).

----- (editor) The Western American Indian: Case Studies in Tribal History. University of Nebraska Press: Lincoln, 1972.

Friesen, Gerald. The Canadian Prairies: A History. University of Toronto Press: Toronto, 1987.

Friesen, Jean. "Magnificent Gifts: The Treaties of Canada with the Indians of the Northwest, 1869-1876", in Transactions of the Royal Society of Canada, 1986.

Fritz, Henry. The Movement for Indian Assimilation, 1860-1890. Philadelphia, 1963.

Goodwill, Jean and Norman Sluman. John Tootoosis. Pemmican Publications Inc.: Winnipeg, 1992.

Greene, Jack P. Colonies to Nation, 1763-1789: A Documentary History of the American Revolution W.W. Norton & Company: New York, 1975.

Grinnell, George Bird. The Fighting Cheyennes. Charles Scribner's Sons, 1915. Reprinted by the University of Oklahoma Press: Norman, 1971.

Hagan, William. American Indians. The University of Chicago Press: Chicago, 1971.

----- "Private Property: The Indian's Door to Civilization", Ethnohistory, Volume III (Spring, 1956), pp. 127-127.

----- "The Reservation Policy: Too Little and Too Late", in Indian-White Relations: A Persistent Paradox, edited by Jane Smith and Robert M. Kvasnicka. Harvard University Press: Cambridge, 1972.

- United States-Comanche Relations: The Reservation Years. Yale University Press, 1976. Reprinted by the University of Oklahoma Press: Norman, 1990.
- Haines, Francis. The Buffalo. Thomas Y. Crowell Company: New York, 1970.
- Hall, David J. "A Serene Atmosphere'? Treaty 1 Revisited", in The Native Imprint: The Contribution of First Peoples to Canada's Character, Volume 2: From 1815 edited by Olive P. Dickason. Athabasca University, 1996.
- Hedren, Paul L. Fort Laramie in 1876: Chronicle of a Frontier Post at War. University of Nebraska Press: Lincoln, 1988.
- Heimert, Alan and Andrew Delbanco (Eds.) The Puritans in America: A Narrative Anthology Harvard University Press: Cambridge, 1985.
- Hill, Douglas. The Opening of the Canadian West: Where Strong Men Gathered. The John Day Company: New York, 1967.
- Hyde, George E. Red Cloud's Folk: A History of the Oglala Sioux Indians. University of Oklahoma Press: Norman, 1937. Reprinted 1976.
- Jennings, John. "The Plains Indians and the Law", in Men in Scarlet, edited by Hugh A. Dempsey. Historical Society of Alberta/McClelland and Stewart West: Calgary, 1974.
- Jones, Douglas. The Treaty of Medicine Lodge: The Story of the Great Treaty Council as Told by Eyewitnesses. University of Oklahoma Press: Norman, 1966.
- Kelsey, Harry. "The Doolittle Report of 1867: Its Preparation and Shortcomings", Arizona and the West, Volume XVII (Summer, 1975), pp. 107-120.
- Lazarus, Edward. Black Hills-White Justice: The Sioux Nation versus the United States, 1775 to the Present. Harper Collins Publishers: New York, 1991.
- MacInnis, T.R.L. "History of Indian Administration in Canada", Canadian Journal of Economics and Political Science Volume XII, 3 (1946): 387-394.
- Macleod, R.C. The NWMP and Law Enforcement, 1873-1905. University of Toronto Press: Toronto, 1976.
- Mardock, Robert W. "The Plains Frontier and the Indian Peace Policy, 1865-1880", Nebraska History 49 (Summer 1968): 187-201.

- . The Reformers and the American Indian. University of Missouri Press: Columbia, 1971.
- Mattingly, Arthur P. "The Great Plains Peace Commission of 1867", Journal of the West Volume XV (July, 1976), pp. 23-37.
- Mattison, Ray H. "Indian Reservation System on the Upper Missouri, 1865-1890", Nebraska History 36 (September 1955): 141-172.
- Miller, J.R. Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada. Revised edition. University of Toronto Press: Toronto, 1989.
- Olson, James C. Red Cloud and the Sioux Problem. University of Nebraska Press: Lincoln, 1965.
- Patterson, E. Palmer. The Canadian Indian: A History Since 1500. Collier-Macmillan Canada Ltd.: Don Mills, 1972.
- . "The Colonial Parallel: A View of Indian History", Ethnohistory, Volume XVIII (1971):1-17.
- Plummer, Mark. Frontier Governor: Samuel J. Crawford of Kansas. The University Press of Kansas: Wichita, 1971.
- Price, Richard.(ed.) The Spirit of the Alberta Indian Treaties. Pica Pica Press: Edmonton, 1987.
- Priest, Loring Benson. Uncle Sam's Stepchildren: The Reformation of United States Indian Policy, 1865-1887. Oregon Books: New York, 1942. Reprinted 1972.
- Prucha, Francis Paul. American Indian Policy in Crisis: Christian Reformers and the Indian, 1865-1900. University of Oklahoma Press: Norman, 1976.
- . American Indian Treaties: The History of a Political Anomaly. University of California Press: Berkeley, 1994.
- . The Great Father: The United States Government and the American Indians. 2 volumes. University of Nebraska Press: Lincoln, 1984.
- . Indian Policy in the United States: Historical Essays. University of Nebraska Press: Lincoln, 1981.

- . The Indians in American Society: From the Revolutionary War to the Present. University of California Press: Berkeley, 1985.
- Roe, F.G. "The Extermination of the Buffalo in Western Canada", Canadian Historical Review, Volume XV (1934): 1-23.
- Samek, Hana. The Blackfoot Confederacy 1880-1920: A Comparative Study of Canadian and U.S. Indian Policy. University of New Mexico Press: Albuquerque, 1987.
- Schmeckebier, Laurence F. The Office of Indian Affairs: Its History, Activities and Organization. The Johns Hopkins Press: Baltimore, 1927.
- Shapiro, Martin. (Ed.) The Constitution of the United States and Related Documents. Harlan Davidson Inc.: Arlington Heights, IL, 1973.
- Sharp, Paul F. Whoop-Up Country: The Canadian-American West, 1865-1885. University of Minnesota Press: Minneapolis, 1955.
- Sosin, Jack M. The Revolutionary Frontier, 1763-1683. Holt, Rinehart and Winston: Toronto, 1967.
- Stanley, George F.G. The Birth of Western Canada: A History of the Riel Rebellions. Longmans, Green and Co. Ltd., 1936. Reprinted by University of Toronto Press: Toronto, 1992.
- Stanley, Henry M. "A British Journalist Reports the Medicine Lodge Councils of 1867", Kansas Historical Quarterly 33(Autumn 1967): 253-254.
- Stonechild, Blair and Bill Waiser. Loyal till Death: Indians and the North-West Rebellion. Fifth House Ltd.: Calgary, 1997.
- Surtees, R.J. "The Development of an Indian Reserve Policy in Canada", Ontario History 61 (1969): 87-98.
- Taylor, John L. "Canada's North-West Indian Policy in the 1870s: Traditional Premises and Necessary Innovations", in Approaches to Native History in Canada, edited by D.A. Muise. Museum of Man: Ottawa, 1977.
- Thomas, Lewis Herbert. The Struggle for Responsible Government in the North-West Territories, 1870-97. 2nd edition. University of Toronto Press: Toronto, 1978.
- Thrapp, Dan L. Encyclopedia of Frontier Biography. 3 vols. University of Nebraska Press: Lincoln, 1988.

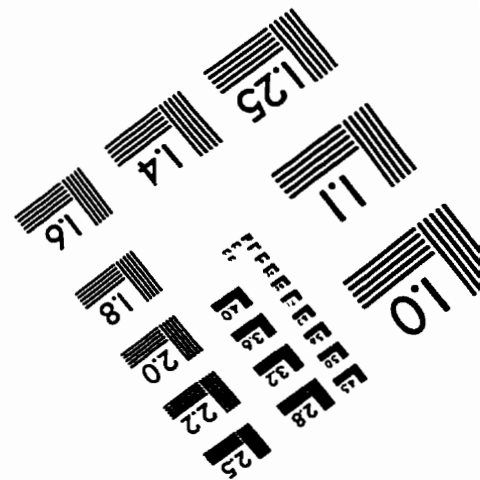
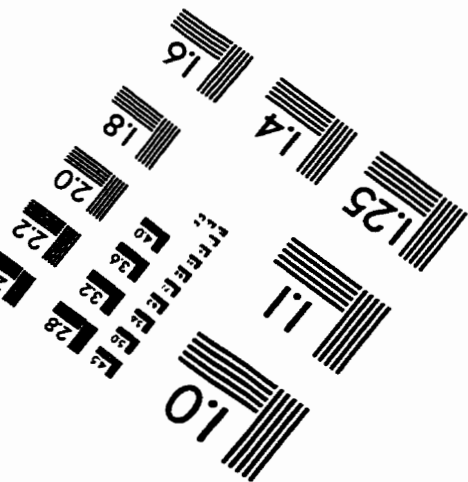
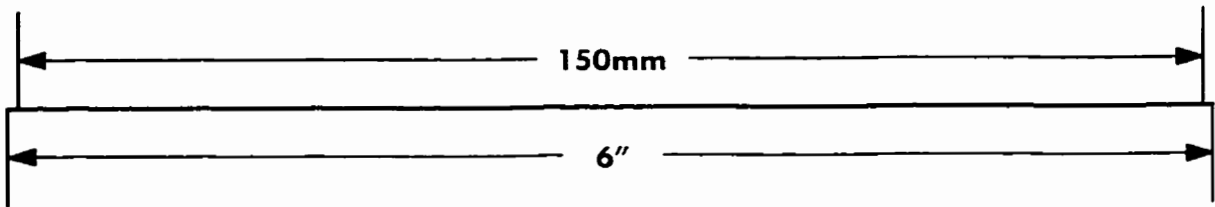
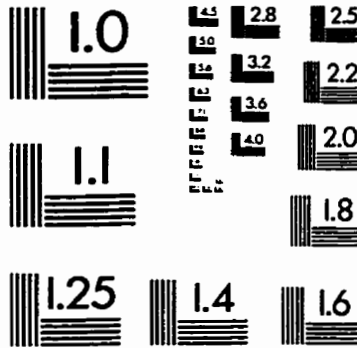
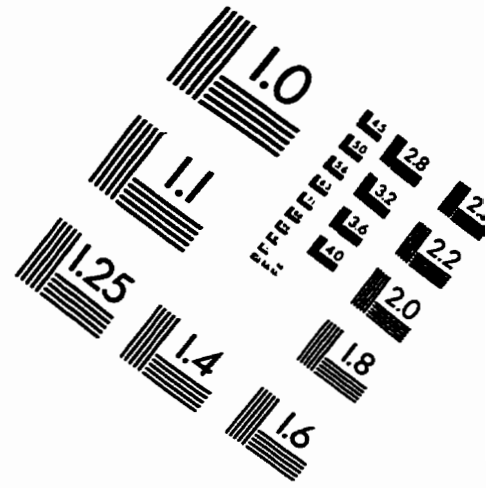
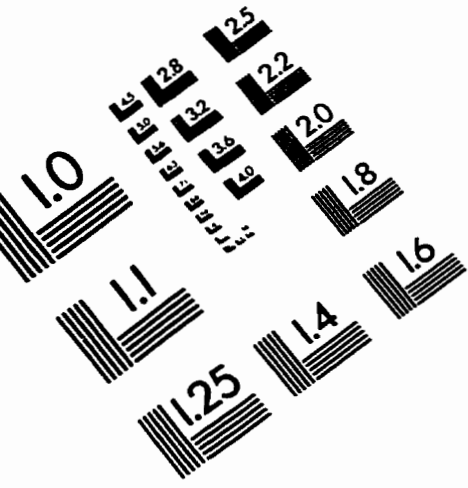
- Tobias, John L. "Canada's Subjugation of the Plains Cree, 1879-1885", in The Native Imprint: The Contribution of First Peoples to Canada's Character. Volume 2: From 1815, edited by Olive P. Dickason. Athabasca University, 1996.
- "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy", in Sweet Promises: A Reader on Indian-White Relations in Canada, edited by J.R. Miller. University of Toronto Press: Toronto, 1991.
- Trennert, Robert A. Jr. Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System. Temple University Press: Philadelphia, 1975.
- Trexler, H.A. "The Buffalo Range of the Northwest", Mississippi Valley Historical Review Volume VII (March 1921).
- Tucker, Robert W. and David C. Hendrickson. The Fall of the First British Empire: Origins of the War of American Independence. Johns Hopkins University Press: Baltimore, 1982.
- Upton, L.F.S. "The Origins of Canadian Indian Policy", Journal of Canadian Studies, Volume VIII (1973): 51-61.
- Utley, Robert M. Frontier Regulars: The United States Army and the Indian, 1866-1891. University of Nebraska Press: Lincoln, 1973.
- The Indian Frontier of the American West, 1846-1890. University of New Mexico Press: Albuquerque, 1984.
- The Lance and the Shield: The Life and Times of Sitting Bull. Henry Holt and Company Inc.: New York, 1993.
- The Last Days of the Sioux Nation. Yale University Press: New Haven, 1963.
- Waite, Peter B. Canada 1874-1896: Arduous Destiny. The Canadian Centenary Series. McClelland and Stewart Limited: Toronto, 1971.
- Ward, John William. Andrew Jackson: Symbol for an Age. Oxford University Press: New York, 1971.
- Washburn, Wilcomb. "Indian Removal Policy: Administrative, Historical and Moral Criteria for Judging its Success or Failure", Ethnohistory, Volume XII (Summer, 1965), pp. 274-278.

----- Red Man's Land - White Man's Law: A Study of the Past and Present Status of the American Indian. Scribner's: New York, 1971.

White-Harvey, Robert. "Reservation Geography and the Restoration of Native Self-Government", *Dalhousie Law Journal*. Volume 17, Number 2 (Fall, 1994), pp. 587-611.

Wooster, Robert. The Military and United States Indian Policy, 1865-1903. Yale University Press: New Haven, 1988.

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