Chapter 14 TREATY MAKING

By the time of Confederation, Native people living in the area of old Rupert's Land sensed that dramatic changes were taking place; they were very concerned about their future. They took advantage of treaty negotiations with Canada to air their grievances about the sale of Rupert's Land and to wring concessions from the government that would help them adjust to the new economic order in ways that were compatible with their traditions. They secured treaty rights to schooling and training, as well as some protection against the economic hardships they would face if forced to abandon hunting as a livelihood. In the grassland area, Native leaders sought ways to guarantee that their people would remain a political force in the region.

NEGOTIATING THE NUMBERED TREATIES

The Métis victory at Red River was of little benefit to the western Native groups. Many of them were angry about the recent sale of Rupert's Land, because they had never relinquished their lands to the Hudson's Bay Company. The Plains Cree made their feelings known about this crucial matter during treaty negotiations at Fort Qu'Appelle, Saskatchewan, in 1874. A leader named Otahaoman ("The Gambler") told government representatives: "The Company have no right to this earth, but when they are spoken to they do not desist.… I hear now, it wasthe Queen gave the land [to the company]. The Indians thought it was they who gave it to the Company." PisQua (also spelled Paskwaw or Pasquah), who led a band of Plains Saulteaux, pointed to the manager of the Fort Qu'Appelle post, who was acting as host to the government party, and said, "You told me you had sold our land for so much money, £300,000. We want that money." By interfering with the geological survey and by blocking the construction of telegraph lines on their lands, the Plains Cree made it abundantly clear to the Canadian government that development could not proceed without their being compensated first. Besides seeking fundamental justice, the various nations of old Rupert's Land believed that negotiating treaties with Canada offered them the opportunity to address their economic problems and to share the benefits everyone expected agricultural settlement would bring. In general, their demands indicated that most of them wanted to maintain valued traditions while participating in the new economy. They also wanted to retain some control over their own destinies within the context of the expanding Canadian state. Each group made a number of specific requests as well, according to its particular circumstances.

The woodland nations who concluded treaties during this era faced common problems. Fur prices had begun to plummet in 1871, signalling the beginning of the long depression of the late nineteenth century, and they did not rebound until after 1885. The price collapse ravaged trapping incomes and drove Native trappers deep into debt. Treaty money offered them the prospect of relief—if trappers could obtain enough annuity money to buy their annual outfits, they would not have to turn to the traders for credit. By entering into agreements with the government, trappers also hoped to address the new threat posed by incoming prospectors, miners, and settlers. Many of these newcomers lived in or near the forests and trapped part-time or full-time to weather bad economic periods and to raise money for other activities. They often used techniques that were extremely destructive: for example, they frequently used strychnine-laced bait, which killed many of the Native hunting dogs. Prospectors set forest habitats on fire to make it easier to search for gold and other mineral deposits. The woodland nations pleaded with the government to stop such abuses. The widespread depletion of fur and

game in many areas, but particularly between Lake Superior and the Winnipeg River, forced many Native people to seek federal assistance in developing small-scale farming operations to help them cope with periodic food shortages.

Native economic interests ranged well beyond hunting and trapping. The Ojibwa of Rainy River country, for instance, looked for ways to profit from the new business possibilities in their district. They lived near the Dawson Road, which the Canadian government had started to build in 1858. By the early 1870s, as many as sixteen hundred people used the road annually to travel from Lake Superior to the Red River. The Ojibwa wanted to be paid for the right of passage through their territory, they expected compensation for the wood used in building construction along the Dawson Road and to fuel the steamboats, and they claimed that they owned the settlers' houses because the intruders had not paid for the timber they had used to build them. In addition, they wanted to lease access and resource rights, rather than sell their lands to the Crown. The Ojibwa reacted in a similar way to immigrants' stories about plans for a railway and a telegraph line through their territory. In the case of the railway, they wanted the government to grant them free rides forever as partial payment for the use of their land. In 1873 an Ojibwa negotiator said, "I ask you a question—I see your roads here [Fort Francis] passing through the country, and some of your boats—useful articles that you use for yourself. Bye and bye we shall see things that run swiftly, that go by fire—carriages—and we ask you that us Indians may not have to pay their passage on these things, but can go free."

Like Native groups in British Columbia, the Ojibwa wanted to benefit from mining development. When government negotiators for Treaty 3 told the Ojibwa that their rocky and forested lands were not as valuable as those of their grassland neighbours, a wise chief is recorded to have replied, "The sound of the rustling of the gold is under my feet where I stand; we have a rich country.… [I]t is the Great Spirit who gave us this; where we stand upon is the Indians' property, and belongs to them." The Plains groups had much more pressing concerns than the Rainy River Ojibwa. The buffalo herds were in headlong retreat towards their last refuge—the lush slopes of the Cypress Hills and the Montana territory south of the border. This meant that Métis, Plains nations, and non-Native hunters were all competing for the remaining animals within a contracting supply area. Some Plains groups had already experienced a year or more of deprivation and starvation because of reduced numbers of buffalo. Several leaders believed that their only option was to take up farming. Abraham Wikaskokiseyin (Sweet Grass), an important Cree chief and leader of the Fort Pitt band, was one of them. He and his followers wanted the government to promise to help them learn how to farm.

Other Native leaders believed that it was not too late to save the buffalo Mistahimaskwa (Big Bear), a neighbour and close friend of Wikaskokiseyin, was among them. He blamed Métis and white hunters for ruthlessly pursuing the dwindling buffalo. Non-Native hunters were particularly objectionable: they used repeating rifles to kill countless buffalo for their hides, and they poisoned the carcasses with strychnine to destroy wolves so that they could obtain the skins of these animals too. Mistahimaskwa wanted the Canadian government to move quickly to protect the remaining herds and demanded that it set aside a large territory in the plains exclusively for Aboriginal use. He opposed the idea of having the people settle down in small scattered reserves, knowing that this would weaken their voice. Pitikwahanapiwiyin (Poundmaker), another highly influential Cree leader, held the same opinion. At the commencement of treaty talks in 1874, he replied to the government negotiators' offer to provide reserves: "The governor

mentions how much land is to be given to us. He says 640 acres, one mile square for each family, he will give us. This is our land! It isn't a piece of pemmican to be cut off and given in little pieces back to us. It is ours and we will take what we want." During the lengthy treaty negotiations, the buffalo population continued its rapid decline. Many proud and fiercely independent buffalo hunters found themselves reduced to eating gophers and prairie dogs to survive. This experience drove them to ask for assurances of government aid during times of pestilence and starvation.

Although these desperate economic circumstances made the Plains Nations apprehensive of their future, until the late 1870s they remained a powerful military threat that Canada could not afford to ignore. Alexander Morris, who was the lieutenant-governor of the North-West Territories from 1872 to 1876 and of Manitoba from 1873 to 1878, was well aware of this reality. In 1873 he reported that the Cree and Siksika, who had reached a peace accord in 1871, and their Assiniboine allies could put 5,000 mounted warriors in the field. He warned Ottawa that these nations did not think that Canada could mount a credible force against them. Additionally worrying to Morris were the overtures that Tatanka-Iyotanka (Sitting Bull), legendary chief of the Hunkpapa Lakota of the United States, was making to the Canadian tribes to ally with his people to fight against further American and Canadian expansion into their respective homelands. Morris understood that if these former enemies did forge such an alliance it would be disastrous for Canada. For these reasons, he urged the federal government to proceed expeditiously with treaty-making in the Prairie West.

At the time, Canada was primarily interested in obtaining lands in the southwestern portion of former Rupert's Land (the present-day area of northwestern Ontario and the Prairie Provinces) for railway construction and agricultural colonization. This was the area covered by Treaties 1 to 4, 6, and 7. Establishing a steamboat system on Lake Winnipeg and the Saskatchewan River and the prospects of a commercial fishery on Lake Winnipeg led the government to negotiate Treaty 5. The Klondike gold rush at the end of the century and the interest it generated in the prime fur country northwest of Edmonton, one of the jumping-off points for the gold fields in the late nineteenth century, provided a catalyst for Treaty 8. The threats of Aboriginal people living in the Peace River area to wage war against the intruding miners, prospectors, and settlers unless the government signed a treaty with them provided an added incentive for the government to come to the treaty table. Treaty 9 (and the additions to it) and a major amendment to Treaty 5 resulted from several different development pressures in the early twentieth century. The most important of these were expanded mineral exploration and mining, the growth of the pulp-andpaper industry, the development of hydroelectric-power-generating systems, and the building of a second transcontinental railway with branch lines to James Bay and western Hudson Bay. A major discovery in 1920 of petroleum at Norman Wells on the Mackenzie River in the Northwest Territories (the area east of what became the Yukon Territory in 1898) was instrumental in the negotiation of Treaty 11.

In all these cases, it is important to note that Native people asked for treaties well before the government was willing to sign them. Considerable numbers of Native people who lived beyond treaty boundaries moved into surrendered territories during poor economic times to share treaty benefits with their neighbours and relatives. This happened in northern Manitoba, for instance, during the late nineteenth century, when many Cree living outside the original Treaty 5 area moved into that district. This migration did not end until the first decade of the twentieth century,

when additions to Treaty 5 brought the rest of northern Manitoba within the framework of the agreement. Morris was commissioner, the key government negotiator, for Treaties 3, 4, 5, and 6 while he served as lieutenant-governor of the North-West Territories. Looking back on his negotiating experience in 1880, he wrote, “The Indians are fully aware that their old mode of life is passing away. They are not unconscious of their destiny; on the contrary, they are harassed with fears as to the future of their children and the hard present of their own lives.” In other words, he understood what later generations of Canadians would forget—that the Native people were not wedded to their past, nor were they blind to the future.

The Canadian government, however, was not willing to negotiate with Native people on a wide range of issues; the politicians simply wanted to obtain land as cheaply as possible. They gave Morris and other treaty negotiators little room to manoeuvre. For example, they flatly rejected the Ojibwa idea of paying royalties to Indians for rights of access or for resources, preferring agreements modelled closely after the Robinson treaties of 1850—albeit with richer compensation packages. The so-called numbered treaties provided the following: annual allowances for hunting and fishing supplies; triennial clothing allowances ranging from $500 to $2,000 a year, depending on the treaty; annuities ranging from $4 to $5 for adults and children and from $15 to $25 for headmen and chiefs; and lump-sum payments of varying amounts to the chiefs and their followers when they signed a treaty. The government promised to provide schools on the reserves when the Indians requested them. The Indians had the right to pick the locations of their reserves, but the amount of allotted land varied from 160 acres to one square mile for each family of five, depending on the treaty. In response to Native concerns about the impact that alcohol trading was having on their societies, government negotiators included provisions in the treaties that banned the introduction, sale, or drinking of alcohol on the reserves.

Compared with what the HBC eventually received for its residual stake in Rupert’s Land—approximately $96 million between 1891 and 1930—the Native people received niggardly compensation for the territory they surrendered. So, given their aspirations, why did they agree to these treaties? There are two likely explanations. The agreements did address many of their most pressing concerns, and officials often gave Native people the impression that they were “getting something for nothing.” During Treaty 3 negotiations, government spokesmen repeatedly promised that “when you have made your treaty you will still be free to hunt over much of the land included in the treaty. Much of it is rocky and unfit for cultivation. Till these lands are needed for use you will be free to hunt over them, and make all the use of them you have made in the past.” All the numbered treaties contain a similar clause. Later, Morris also promised during Treaty 6 negotiations, “I see them [the Indians of Treaties 1 to 5] receiving money from the Queen’s Commissioners to purchase clothing for their children; at the same time I see them retaining their old mode of living with the Queen’s gift in addition.” This duplicitous and very successful negotiating strategy came under attack by none other than Dr Schultz, who served as a member of Parliament from 1871 to 1882. Although he was not sympathetic to Native causes, he probably feared trouble from Plains Indians when he pointed out to the House of Commons in 1877 that the government was persuading the Indians to “part with their birth right for a mere trifle. The reserve question not being fixed, the Indian is under the impression that the country is still practically his for hunting purposes. This answers very well till the necessities of colonization force him on to the reserve.” The Plains Cree and other

nations would soon learn the bitter truth of Schultz's observation as their affairs were taken over by a succession of narrow-minded and mean-spirited government officials.

From the point of view of Canada's politicians, the country's relationship with the Plains nations got off to a terrible start. After 1876, the rapid rise of annuity and relief costs alarmed them. Echoing the earlier confusion about the number of Métis, officials admitted to Parliament that when they embarked on the treaty-making path, they had not known that there were so many Native people living in the treaty areas of the North-West Territories, and even as late as 1882 the government was still unsure of the numbers. It often took government agents several years after concluding a treaty to count all the Indians who lived within its boundaries. Enumerators usually missed a substantial number of people in their first censuses and many nations did not immediately sign the treaty encompassing their territory. Once a band did join, its members had the right to claim arrears annuities. Making substantial financial commitments to Native people based on incomplete information and during the depths of a depression understandably created great anxiety among Ottawa politicians. The simultaneous collapse of the buffalo-hunting economies on the prairies contributed to their sense of alarm. By the time Palliser and Hind led their expeditions to the West, the region's people already knew that the herds were declining, and some Plains Cree had already begun to experiment with farming. However, neither the Native people nor anyone in Ottawa had expected the buffalo population to fall as rapidly as it did.

The foresight that the Plains Nations had shown in wringing the concession from the government to help them in times of famine soon came to haunt politicians. When relief expenses shot upwards in the late 1870s and passed the $550,000-ayear mark in 1882, recriminations flew back and forth across the House about the wisdom of having made this commitment. Dr Schultz stood up in the Commons and charged that "[t]he necessity for this expenditure commenced with the sanction, by the late Administration, of one of the vicious conditions of Treaty # 6 … the result of the clause agreeing that the government should furnish food in times of scarcity—was followed by a vote for that purpose at the very next session of Parliament, and we have found the constant occurrence of a similar necessity at every session since." Shortly thereafter, Sir John A. Macdonald replied with the brutal frankness of the pragmatist that he was: "Of course the system is tentative and it is expensive, especially in feeding destitute Indians, but it is cheaper to feed them than to fight them, and humanity will not allow us to let them starve … the country will not allow us to let them starve for the sake of economy." Regrettably, Edgar Dewdney, who served as Indian commissioner for Manitoba and the North-West Territories from 1879 to 1888, had no qualms about being ruthless. He used the threat of starvation to bend Native people to his will. When he took office, the commissioner faced two immediate problems. Many Plains Cree resented the government's slow pace in implementing treaties 1, 2, 4, and 6. Those who had signed the treaties were unhappy because federal officials had delivered so few of the promised livestock and little of the farming equipment; they had not surveyed most of the reserves; and they had taken no steps to preserve the few remaining buffalo. Some of the most influential Plains Indian leaders refused to join Treaty 4 or 5 unless they could obtain improvements in the terms.

Mistahimaskwa, who led the largest group, was probably the most important, and certainly is the best known, of the Cree hold-outs. He refused to bind his people to the will of the Canadian government for a few gifts. "We want none of the Queen's presents: when we set a fox trap we

knock him on the head; we want no bait." Morris considered Mistahimaskwa and his followers troublemakers for expressing their concerns. Mistahimaskwa and other Plains Cree leaders proved to be extremely tough opponents. He and two close allies, Minahikosis (Little Pine) and Piapot, relentlessly pursued the idea of creating an Indian territory for all the Plains Nations. Collectively, these three commanded the loyalty of about 50 per cent of the Indians living in the Treaty 4 and Treaty 6 areas. They set their sights on establishing the proposed reserve in the Cypress Hills, located in the southwestern portion of Treaty 4. This area still teemed with wildlife and it was close to the few remaining buffalo herds, which now mostly roamed on their last refuge in Montana. However, skirmishes between the Plains Cree and American Native groups in 1879 made it clear to the Cree that they would no longer be able to hunt in the United States. Consequently, Minahikosis and Piapot decided to join Treaty 4, and in 1879 they applied for adjacent reserves in the Cypress Hills near Fort Walsh.

If Mistahimaskwa had joined his two allies and the federal government had granted their requests for contiguous reserves, they would have created the unified Indian territory they sought. In the spring of 1880, the goal seemed attainable when Canadian officialsindicated that they were willing to grant Minahikosis and Piapot the reserves they wanted, but shortly thereafter Dewdney overruled his officials. Fearing that a large Native settlement could be a threat to government authority in the region, he decided to prevent the Plains leaders from establishing one. This was in clear violation of treaty provisions that gave them the right to select their reserve sites. In the autumn of 1879, the commissioner tried to force treaty hold-outs to sign up by telling them that only those who had signed treaties could expect food relief. He hired Indian agents and farm instructorsto serve asspies and rewarded Indians who were compliant. To drive the Cree from the Cypress Hills, he ordered the closing of Fort Walsh and the withdrawal of all government services in the area so that the local groups would have no one to turn to if they needed help. The Cree decided to head north in 1882, mostly because any further access to the Montana herds had been blocked by the Americans, and they faced the prospect of severe food shortages in the Cypress Hills without access to government assistance. In the end, Mistahimaskwa yielded to the wishes of his people and signed Treaty 4. Although they had faced numerous setbacks, the Cree remained resolute in their pursuit of a unified territory. They now attempted to obtain adjoining reserves farther north in the vicinity of Indian Head and Battleford, Saskatchewan. Dewdney responded by threatening to cut off the rations of any Indian who attended councils to plan such actions. He also said he would arrest chiefs (on trumped-up charges, if necessary) who took part and have them incarcerated. Mistahimaskwa, Piapot, and others persisted in spite of this terror tactic, and they might have succeeded had the North-West Rebellion of 1885 not overtaken them.

THE NORTH-WEST REBELLION OF 1885

Trouble had been brewing in the North and South Saskatchewan River valleys ever since the Red River crisis of 1870. Métis and mixed-bloods had established some large settlements—the most notable being Batoche, St Laurent, and Prince Albert. French and English Canadians had also moved into the territory, and landdevelopment companies had begun staking out substantial blocks of land. There were two reasons for the high interest in this region: it lay in the heart of the fertile belt, and until 1881, the transcontinental railway was supposed to traverse it. (In 1881, the Canadian Pacific Railway chose a shorter, more southerly, route.) Well before

the 1880s, the Métis and other settlers in the Saskatchewan River valley had been trying to obtain title to the lands they had developed to protect them from encroachment by newcomers or speculators. Local Métis petitioned Ottawa for recognition of their claims as early as 1873. Over the next few years, they sent numerous other written appeals, but all they received in reply were terse acknowledgements and a promise of future consideration. The English-speaking mixed-bloods were treated in a similar fashion. It was not until 1879 that the federal government added a clause to the 1872 Dominion Lands Act that gave the governor general the authority "to satisfy any claims existing in connection with the extinguishment of the Indian title, preferred by mixed-bloods resident in the NorthWest Territories outside the limits of Manitoba … by granting land to such persons, to such extent and on such terms and conditions, as may be deemed expedient." Yet the government did nothing further about the issue. Recognition of the validity of their claims was of little value to the Métis without an accompanying offer of land grants. The slow pace of the land survey, disgruntlement over other provisions of the Dominion Lands Act, and the lack of a representative territorial government all added to the feelings of unease among longtime residents.

The Canadian government did not address these problems in time to ward off the North-West Rebellion of 1885. The estimated $5 to $20 million that it cost to subdue the Métis, and the handful of Indians and mixed-bloods who joined them, far exceeded the few hundred thousand dollars it would have cost the government to settle Métis land claims. The great question is this: Why didn't the government act decisively and prevent this terrible incident from taking place? Regardless of how this misadventure is explained, the fact remainsthat the Métis and the Plains Cree were the ones who paid dearly for it. A number of factors worked against them. In May 1884 the English- and French-speaking communities sent a delegation to Montana territory to beg Louis Riel to come and assist them. Although Rielwaswell established in his newhome, he had not forgotten his Métisroots. He had always been a deeply religious man, but nowhe thought of himself as a prophet destined to establish a new religion in the northwest. This belief set him on a collision course with the Catholic clergy, many of whom had supported him earlier at Red River. Their opposition hurt the cause. On the eve of the outbreak, the mixed-bloods and othersettlers also broke ranks with the Métis when the government yielded to some of their demands. Finally, the West was not asisolated asit had been in 1870. Ottawa had built the roads,steamship facilities, and railways needed to promote immigration, establish a viable agricultural economy, and protect their investments. In particular, although gaps remained in the CPR line, it was sufficiently complete to enable the federal government to dispatch heavily armed troops shortly after the fighting began. On March 18 and 19, 1885, the Métis formed a provisional government and an armed force at Batoche, to the northeast of what is now Saskatoon. Riel was elected president and Gabriel Dumont was chosen as military commander. The new government issued a Revolutionary Bill of Rights, in which the Métis claimed ownership of their farms. Fighting began on March 26 at Duck Lake, when a party of NorthWest Mounted Police (NWMP) and volunteers, who were on their way to Batoche, clashed with Métis defenders. The rebels were triumphant. Dumont, a legendary buffalo hunter, proved to be an excellent guerrilla fighter and leader. Guerrilla fighting offered the Métis their best chance, given the economic climate and other problems the Canadian government faced. As it turned out, the Canadians did not have to fight this type of war. In May Riel insisted that Dumont switch tactics and have his forces dig in at Batoche. However, Dumont did not have the men, the heavy

weapons, or the stockpiles of ammunition he needed to fight a protracted defence there. On May 12, 1885, his mixed force of three hundred Métis, Cree, and Lakota suffered a crushing defeat at the hands of the much larger Canadian force, which was armed with artillery and a new, frightful weapon—the Gatling gun.

Riel surrendered shortly after the Battle of Batoche. The government promptly tried, convicted, and hanged him for treason. The Métis were deeply offended. Their descendants have waged a campaign for a posthumous pardon for him, which has thus far been unsuccessful. The Rebellion played into Dewdney's hands by giving him the long-awaited opportunity to use force to end the struggle of Plains Cree for more autonomy. Until the outbreak of hostilities at Duck Lake, the Cree had steadfastly refused all Métis entreaties to join them. The experience of their American cousins south of the border, particularly those of Sitting Bull's people who had defeated General Custer at the Little Big Horn River in 1876, made it clear that armed conflict, even if temporarily successful, ultimately led to disaster for Native people. The Cree troubles began when the people living on several reserves in the vicinity of Battleford learned of the engagement at Duck Lake and concluded that it would make the local Department of Indian Affairs agent more receptive to their pleas for extra rations. They decided to travel to the town and demand clothing, sugar, tobacco, powder, and shot. Pitikwahanapiwiyin accompanied them, apparently with the intention of being one of their spokesmen. However, as the large party approached Battleford, the agent and all the townsfolk fled in terror, fearing an attack was imminent. They took refuge in the NWMP barracks. Following this unexpected turn of events, the destitute Cree helped themselves to the abandoned larders of the town and plundered some of the stores before retreating to Pitikwahanapiwiyin's reserve.

Elsewhere, dissident groups on various reserves, including Mistahimaskwa's, took advantage of the hostilities to seek retribution against settlers and government agents for past offences. These were the very kinds of incidents that Dewdney could use to justify destroying the Cree political leadership. Although he quietly informed officials in Ottawa that he believed the Cree acts of violence at Battleford and Duck Lake were simply actions of desperate people driven more by hunger than anything else, Dewdney publicly claimed that the Cree had joined forces with the Métis. He issued an official proclamation warning the Cree that those who left their reserves would be considered rebels. Those who had taken up arms were forced to surrender, and Dewdney used the courts to have Mistahimaskwa and Pitikwahanapiwiyin tried and convicted on trumped-up treason-felony charges. When the two chiefs emerged from Stony Mountain Prison, after serving only part of their three-year terms, they were broken men. Using these tactics, Dewdney succeeded in placing the Cree under the yoke of the federal government just in time for the great "wheat boom" of the 1890s, when three million European immigrants responded to the Canadian government's promises of free land.