

The Portage Bands' Treaty No.1 Land Entitlement: An Economic Analysis

by

Ellery Thomas Henry Penner

A thesis  
presented to the University of Manitoba  
in partial fulfillment of the  
requirements for the degree of  
Master of Science  
in  
Agricultural Economics and Farm Management

Winnipeg, Manitoba

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ELLERY THOMAS HENRY PENNER

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## ABSTRACT

This thesis addresses the question of the establishment of a compensation basis for the settlement of outstanding treaty land entitlement between the Government of Canada and Indian Bands. The scope of the study was limited to a determination of compensation based on treaty shortfall lands having agricultural potential. At the present time, entitlement calculations are based solely on the basis of current population. This procedure fails to account for past income losses suffered by Indian Bands as a result of their alienation from treaty lands.

The method established by this study, was applied to the Portage Bands' outstanding treaty entitlement. The method is based on a summation of foregone crop and pasture related rental incomes, between 1881 and 1983, plus market value estimates of land in the treaty shortfall areas. Foregone income is included as a measure of compensation since, the unfulfilled treaty entitlement has deprived the Portage Bands of potential incomes that could otherwise have been realized had the bands been in possession of the disputed lands. The inclusion of current land values in the compensation basis enables the bands to benefit from future returns to the land.

Summing annual rental earnings during each year of the study period captures only part of the foregone incomes due to the shortfall in treaty entitlement. Foregone interest on these monies must be established as well. The study employed long term Canada Savings Bond rates to compound the foregone income streams.

In the interests of comparison, compensation based on the current population principle was also considered a possible settlement alternative. Under this scenario, compensation was determined on the basis of current land values.

Annual foregone incomes were calculated with respect to two systems of landuse. The first system establishes the historical use of private lands (neighboring management), in the treaty shortfall area. The second, documents the historical use of reserve lands already received under the treaty. It is essential that both historic landuse patterns are known, since the income streams are likely to differ.

Treaty shortfall areas were calculated for each of the Portage Bands (Long Plain, Swan Lake and Sandy Bay), on the basis of two separate treaty interpretations specifying the size of an additional twenty-five square mile tract. The size of the treaty shortfall area is critical to the final calculation of compensation, since foregone incomes are determined on a per acre basis. The larger the shortfall, the larger will be the total monetary compensation.

Lands subject to the neighboring management assumptions were more productive than lands developed at the reserve rate. Reserve developments however, were found to be constrained by inferior soil quality in comparison to surrounding townships. In all cases, the estimated values of treaty entitlement compensation were greater when neighboring management was assumed.

Under neighboring management assumptions, Swan Lake achieved the most advanced levels of development, while the Sandy Bay Band had the lowest

percentage of land in a cultivated state. These results were found to be directly related to the location and quality of lands found in the respective shortfalls. Under reserve management, the Long Plain Band was considered to have the greatest amount of land in crop production and the Sandy Bay Band once again had the lowest level of improvements.

Sensitivity analysis revealed that, changes in the interest rate variable were found to have the greatest impact on total compensation while percentage changes in pasture capability had the least effect.

The value of current population based monetary compensation was related to both, estimated unimproved land values and the absolute magnitude of the various band shortfalls. Long Plain compensation was the highest due its high estimated land values. Sandy Bay, despite its large population, had the lowest compensation value, due mainly to low estimated land values.

The thesis did not conclusively establish that foregone income based compensation will necessarily always exceed that of compensation based on the current population principle. Foregone income based compensation was very sensitive to the assumed rate of development and the size of the calculated shortfall. Current population type settlements, on the other hand, are dependent only on current population numbers and current unimproved land values. Advantages to Indian bands for settling on the basis of foregone incomes and current land values definitely exist when large shortfall areas are included and where substantial income losses from these areas may be documented. Should the growth rate of band populations surpass gains in foregone income during subsequent years, future

comparison of the two types of settlement may well reveal definite advantages to settling outstanding treaty entitlement on the basis of current population. Until such a time however, higher estimates of treaty compensation will generally result where measures of foregone income are included.



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FOR MY PARENTS

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## Chapter I

### THE PORTAGE BANDS' HISTORICAL TREATY ENTITLEMENT

#### 1.1 INTRODUCTION

On August 3, 1871, the signing of Treaty No.1 was formally concluded between representatives of the Dominion Government of Canada and those Chiefs representing the Chippewa and Swampy Cree Tribes of southern Manitoba. In return for the voluntary surrender of their ancestral lands, these Indians were promised reserves of land for their sole and exclusive use. Treaty No.1 was the first in a series of treaties entered into between the Dominion of Canada and the Indians of Canada's Northwest. The fundamental purpose of these treaties was to extinguish Indian title to the land. From the point of view of the federal government, this process was a necessary condition to facilitate the settlement of new immigrants in the Canadian West.

Within a short period of time, many of the treaty promises were under dispute. The Portage Bands in particular, experienced considerable misunderstanding with respect to the extent and location of their reserve. The dissention led eventually to a revision of Treaty No.1 in 1876. After a period of more than one hundred years however, the controversy over reserves has not been eliminated. The Portage Bands claim that their full land entitlement, set out under the terms of Treaty No.1, has yet to be received.

A historical overview is essential to gain a better understanding of this problem. This chapter describes from a historical perspective, the events leading up to and following the signing of Treaty No.1 in 1871. The nature of the current Portage Bands' claim and the state of the treaty land entitlement process in Manitoba and Canada will be discussed. A potential means of calculating an appropriate compensation settlement is then demonstrated, based on a determination of the historical income losses suffered by the Portage Bands on lands not included in the Treaty No.1 settlement.

## 1.2 EVENTS PRIOR TO 1871

The Indians of the Portage Band were Saulteaux;"near kinsmen of the Chippewas."<sup>1</sup> The Saulteaux evidently, were not the original dwellers of the lands in southern Manitoba. As far back as 1780, it appears that southwestern Manitoba was inhabited by the Cree and Assiniboine Tribes.<sup>2</sup> The mobile lifestyle adopted by the Plains Indians was necessitated by the ongoing search for herds of buffalo which roamed the prairies. Close proximity to the wandering herds was important for the survival of the prairie Indian since the buffalo provided the basic life essentials (ie. food, clothing, shelter and trade).<sup>3</sup>

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<sup>1</sup> The Manitoban, July 29, 1871.

<sup>2</sup> Robert B. Hill, History of Manitoba: Early Settlement, Development and Resources (Toronto: William Briggs, 1890), pp.11-12.

<sup>3</sup> W.L. Morton, Manitoba: A History (2nd ed.; Toronto: University of Toronto Press, 1979), pp.40,41.



Around 1781, a small-pox epidemic ravaged the Assiniboines, who were living in the area of the forks of the Red and Assiniboine Rivers. The Assiniboines subsequently abandoned this territory and it passed into the hands of the Saulteaux, who had moved up from their lands further south along the Red River. It is with these Indians, that Lord Selkirk negotiated for the surrender of land for his Red River Colony.<sup>4</sup>

The Selkirk colony at Red River was first established in 1811, the result of a land grant from the Hudson's Bay Company to the Earl of Selkirk. Aside from Lord Selkirk's philanthropic reasons for establishing the colony for prospective British settlers, the Hudson's Bay Company also had fundamental reasons for doing so. The existence of an agricultural colony on Company territory was viewed as an opportunity to secure a lower cost source to provide food supplies to the various Company outposts.<sup>5</sup>

The treaty between Lord Selkirk and the Chiefs of the Saulteaux and Cree Nations was signed on July 18, 1817. In return for the annual gifts outlined in the treaty, the Chiefs confirmed to the British Crown, a tract of land, specified as:

adjacent to Red River and Ossiniboyne River, beginning at the mouth of the Red River and extending along same as far as Great Forks at the mouth of Red Lake River, and along Ossiniboyne River, otherwise called Riviere des Champignons, and extending to the distance of six miles from Fort Douglas on every side, and likewise from Fort Doer, and also from the Great Forks and in other parts extending in breadth to the distance of two English statute miles back from the banks of

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<sup>4</sup> Arthur S.Morton, A History of the Canadian West to 1870-71 (2nd ed.; Toronto: University of Toronto Press, 1973), p.21.

<sup>5</sup> Arthur S.Morton, History of Prairie Settlement, ed. W.A.Mackintosh and W.L.G.Joerg, Canadian Frontiers of Settlement Series, Vol.II (Toronto: The MacMillan Company of Canada, 1938), p.13.

the said rivers, on each side, together with all appurtenances whatsoever of the said tract of land, to have and to hold forever the said tract of land and appurtenances to the use of the said Earl of Selkirk, and of the settlers established thereon, with the consent and permission of our Sovereign Lord the King, or of the said Earl of Selkirk.<sup>6</sup>

The Selkirk Treaty demonstrated the British Crown's recognition that Indian people did hold a special interest in the land. This interest had long been recognized through the Royal Proclamation of 1763.<sup>7</sup> J.Sissons of the Territorial Court of the Northwest Territories said of the Proclamation in 1963:

Like so many great charters in English history it does not create rights but rather affirms old rights. The Indians and Eskimos had their aboriginal rights and English law has always recognized these rights.<sup>8</sup>

The essential feature of the Proclamation as it related to the Indians, was expressed in 1974 by Lloyd Barber, the former Indian Claims Commissioner for Canada:

The Proclamation provided for the protection of Indian lands from settlers and others until such a time as the Indian rights to the land had been surrendered to the Crown. In effect it precluded anyone other than the Crown from dealing with Indians for land and laid the basis for the treaty making process in Canada.<sup>9</sup>

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<sup>6</sup> Alexander Morris, The Treaties of Canada With The Indians (Toronto: Belfords, Clarke & Co., Publishers, 1880), pp.298-300, see Appendix A for full text of Selkirk Treaty.

<sup>7</sup> See Appendix B for text of Proclamation of 7 October 1763, relating to Indians and lands reserved for Indians.

<sup>8</sup> Kenneth M. Narvey, "The Royal Proclamation of 7 October 1763: The Common Law and Native Rights To Land Within the Territory Granted to the Hudson's Bay Company," Saskatchewan Law Review, Vol.38.(1974), p.184, citing per Strong J. at 63; Regina v. Koonungnak (1963), 42 C.R. 143 at 160, 45 W.W.R. 282 at 302 per Sissons J. (N.W.T. Terr. Ct.).

<sup>9</sup> Lloyd Barber, Indian Land Claims and Rights, from an address at the Royal Society of Canada's Symposium on Amerindians, Quebec, October 1974, C.A.S.N.P. No.46/22, p.3.

The Selkirk Treaty took early steps to extinguish Indian title. However, in Manitoba, this only extended to lots along the Red River, from Lake Winnipeg to the American border and along the Assiniboine River, from the Red River to Rat Creek, a few miles west of Portage la Prairie.<sup>10</sup> By the late 1860's, new settlers from Central Canada were arriving and some began to stake out land claims in the area surrounding the Red River Settlement. The impending transfer of Hudson's Bay Company lands to the Dominion of Canada and the subsequent increase in western settlement, caused a great deal of anxiety among the Metis of Red River. The Metis, "half-breeds" of French-Canadian origin, were the offspring of voyageurs who had toiled for the rival North-West Company.<sup>11</sup> Rapidly becoming outnumbered by the new white settlers and English "half-breeds", the Metis had real concerns regarding the protection of their land rights under a new government. These concerns were heightened upon the arrival of surveying parties from central Canada, prior to the transfer of Hudson's Bay Company lands in 1869. Tensions increased to the point where the Metis actively obstructed the surveyors' work. The Metis based their actions on the premise that no lands should be surveyed until the Metis and Indian interest in the land was safeguarded.<sup>12</sup>

In response to the imminent transfer of power between the Hudson's Bay Company and the Dominion Government, the Metis, under the leadership of Louis Riel, formed a provisional government at Red River in December 1869. The Red River Settlement was anything but united under the Provi-

<sup>10</sup> W.L.Morton, op. cit., p.105.

<sup>11</sup> George F.G.Stanley, The Birth of Western Canada: A History of the Riel Rebellions (Toronto: University of Toronto Press, 1961), pp.6-7.

<sup>12</sup> W.L.Morton, op. cit., pp. 118-120.

sional Government. Conflicts between French and English factions were evident from the beginning. The conflict came to a head in March 1870, when Thomas Scott, an Orangeman from Ontario, was executed for his refusal to recognize the Provisional Government under Riel. During the same time period, a delegation had been sent to Ottawa with a list of rights drawn up by the Provisional Government, requesting the admission of the Red River Settlement and surrounding districts into the Canadian Confederation. After brief, but intense discussions, an amended bill of rights was accepted, whereby the new Province of Manitoba was created, with a Legislative Council and Assembly, a constitution similar to that of the other provinces and Canadian Parliamentary representation.<sup>13</sup>

The Manitoba Act 1870 came into force on July 15, 1870 and the first Lieutenant Governor of Manitoba, Adams G. Archibald, arrived at Red River on August 24, 1870. Archibald's arrival had been preceded by a regiment of soldiers from central Canada, who were bent on gaining revenge for the execution of Scott. Scott's execution had raised a great deal of anti-French sentiment in Ontario. Riel, forewarned of the regiments mood, managed to slip away just in time to eventual exile in the United States.<sup>14</sup>

In the end, the concerns of the land-conscious Metis were addressed. Under terms of Section 31 of the Manitoba Act 1870, 1,400,000 acres were set aside for the benefit of the Metis and "half-breed" residents of Manitoba.<sup>15</sup> While the status of Indian lands had yet to be established,

<sup>13</sup> *ibid*; pp. 140-41.

<sup>14</sup> *ibid*.

<sup>15</sup> Canada, The Statutes of Canada, 33 Vict., Cap.III, pp. 25-26.

it was to gain a high priority in the federal government's future quest to settle the Canadian West.

### 1.3 TREATY NO.1

One of the initial tasks of the new Lieutenant Governor was to arrange a negotiated settlement of the Indian lands question. For this purpose Archibald was instructed by his superiors in Ottawa as follows:

1. You will, with as little delay as possible, open communication with the Indian Bands occupying the country lying between Lake Superior and the Province of Manitoba, with a view to the establishment of such friendly relations as may make the route from Thunder Bay to Fort Garry secure at all seasons of the year, and facilitate the settlement of such portion of the country as it may be practical to improve.
2. You will also turn your attention promptly to the condition of the country outside the Province of Manitoba, on the North and West; and while assuring the Indians of your desire to establish friendly relations with them, you will ascertain and report to his Excellency the course you may think most advisable to pursue whether by treaty or otherwise, for the removal of any obstructions that may be presented to the flow of the population into the fertile lands that lie between Manitoba and the Rocky Mountains.
3. You will also make a full report upon the state of the Indian Tribes now in the Territories, their numbers, wants and claims the system heretofore pursued by the Hudson's Bay Company in dealing with them, accompanied by any suggestions you may desire to offer with reference to their protection, and the improvement of their condition.<sup>16</sup>

Archibald met with the Indians of Manitoba in the fall of 1870, indicating that treaty negotiations would commence during the following summer. It was apparent that the Indians were as anxious as the Dominion

<sup>16</sup> Canada: Sessional Papers (1871), No.20, p.8.

Government to negotiate. As early as 1860, Chief Peguis, one of the signers' of the Selkirk Treaty, had protested that Indian title had not yet been properly extinguished, even for the lands included in the Selkirk Treaty.<sup>17</sup> Alexander Morris, later to become Lieutenant Governor of Manitoba and the Northwest Territories, and involved in the treaty negotiations after 1872, wrote an account of the treaty negotiations entitled, The Treaties of Canada With the Indians. In his book, Morris describes the position of the Indians at this meeting:

They were full of uneasiness owing to the influx of population, denied the validity of the Selkirk Treaty, and had in some instances obstructed settlers and surveyors. In view of the anxiety prevailing, these gentlemen were of opinion "that it was desirable to secure extinction of the Indian title not only to the lands within Manitoba, but also to much of the timber grounds east and north of the Province as were required for immediate entry and use, and also of a large tract of cultivable ground west of the Portage, where there were very few Indian inhabitants."<sup>18</sup>

In 1871, Wemyss McKenzie Simpson was appointed Indian Commissioner upon the recommendation of the Secretary of State of Canada, Joseph Howe. Simpson was given the task of negotiating treaties with the Indians of Manitoba and the outlying areas. Accordingly, Simpson issued invitations for the Indians to meet with him at Lower Fort Garry and at Manitoba Post, a Hudson's Bay fort at the north end of Lake Manitoba, on July 25th and August 17th, respectively.<sup>19</sup> Howe's instructions to Simpson implied the need to minimize the cost to the government, in arriving at treaty settlements:

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<sup>17</sup> W.L.Morton, op. cit., p. 105, Morton's footnote no. 12: Nor'Wester, I(3), January 28, 1860.

<sup>18</sup> Morris, op. cit., pp. 25-26.

<sup>19</sup> *ibid.*

The powers entrusted to you are large, and they should be used with constant reference to the responsibility which the Government owes to the Parliament and to the Country for the judicious and economical expenditures of the funds and supplies entrusted to your charge. It should therefore be your endeavor to secure the cession of the lands upon terms as favorable as possible to the Government, not going as far as the maximum sum hereafter named unless it be found impossible to obtain the object for a less amount.<sup>20</sup>

Howe referred to prior treaty settlements in Ontario and Quebec which had not exceeded four dollars per family of five, but indicated that the maximum compensation allowable was to be twelve dollars per family of five, or in that proportion for larger or smaller families.<sup>21</sup>

The first day of negotiations at Lower Fort Garry were postponed until July 27th, when the Indians, numbering close to one thousand, had all arrived. Lieutenant Governor Archibald was the first to address the assembled Indians. He thanked them, on behalf of the Queen, for coming to negotiate and further related some of Her concerns:

Your Great Mother wishes the good of all races under her sway. She wishes her red children to be happy and contented. She wishes them to live in comfort. She would like them to adopt the habits of the whites, to till the land and raise food, and store it up against a time of want...But the Queen, though she may think it good for you to adopt civilized habits, has no idea of compelling you to do so. This she leaves to your choice, and you need not live like the white man unless you can be persuaded to do so of your own free will. Many of you, however, are already doing this.<sup>22</sup>

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<sup>20</sup> Canada, Department of Indian Affairs, Annual Report 1871 (Secretary of State Howe to Commissioner Simpson, 6 May 1871), p.6, cited by W.E.Daugherty, Treaty Research Report: Treaty One and Treaty Two, (Treaties and Historical Research Centre, Research Branch, Corporate Policy Indian and Northern Affairs, Canada, 1983), p.6.

<sup>21</sup> ibid.

<sup>22</sup> The Manitoban, August 5, 1871.

Archibald then went on to discuss the issue of reserves. He stressed that those same reserves would exist into perpetuity, but he also cautioned them against unrealistic expectations as to their extent:

Your Great Mother, therefore, will lay aside for you lots of land to be used by you and your children forever. She will not allow the white man to intrude upon these lots. She will make rules to keep them for you, so that as long as the sun shall shine, there shall be no Indian who has not a place he can call his home, where he can go and pitch his camp, or if he chooses, build his house and till his land. These reserves will be large enough, but you must not expect them to be larger than will be enough to give a farm to each family, where farms shall be required. They will enable you to earn a living should the chase fail, and should you choose to get your living by tilling, you must not expect to have included in your reserve more of hay grounds than will be reasonably sufficient for your purposes in case you adopt the habits of farmers.<sup>23</sup>

Simpson spoke next and requested the Indians choose representatives in which they were confident, from each band, in order that the negotiations could proceed. In subsequent talks, the Portage Band was represented by Yellow Quill, "a Chief from the Portage."<sup>24</sup> The negotiations proceeded, but not without some difficulties. The government's proposal was for one hundred and sixty acres per family of five, or in that proportion, on land the various bands were to choose, plus an annuity of twelve dollars per family of five, or in that proportion per head. The Indian concept of a reserve however, did not coincide with the official government proposal. In a letter to Howe, dated July 29, 1871, Archibald describes the confusion:

When we met this morning, the Indians were invited to state their wishes as to the reserves, they were to say how much they thought would be sufficient, and whether they wished them all in one or in several places. In defining the limits of their reserves so far as we could see, they wished to have

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<sup>23</sup> *ibid.*

<sup>24</sup> The Manitoban, August 12, 1871.



about two-thirds of the Province. We heard them out, and then told them it was quite clear that they had entirely misunderstood the meaning and intentions of the reserves. We explained the object of these in something like the language of the memorandum enclosed, and then told them that it was no use for them to entertain any such ideas, which were entirely out of the question.<sup>25</sup>

The treaty talks proceeded well into the sixth day, August 2, but not all of the bands were yet ready to consent to the proposed terms. For a time, a settlement did not appear likely. Some of the Indians, led by Yellow Quill, threatened to leave:

But before closing the days proceedings, the Portage Chief and his followers left, formally bidding the Lieut. Governor and Commissioner good-bye. The other Indians were thinking of leaving, but Hon. Mr. McKay asked them to stay over one more night and meet the Commissioner again the next day, promising that in the interval he (McKay) would try and bring the Commissioner and Indians closer together.<sup>26</sup>

James McKay, at the time, was a member of the Executive Council of Manitoba. He had been requested to take part in the treaty negotiations, as he was a "half-breed" who was well acquainted with the Indian Tribes and held some influence over them.<sup>27</sup> McKay managed to help mediate the dispute, and on the following day the Indians were prepared to sign the treaty. In return for their co-operation, Simpson offered them a one-time gift of three dollars per head, a pair of oxen for each reserve, and buggies for each of the Chiefs except Yellow Quill.<sup>28</sup>

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<sup>25</sup> Morris, op. cit., p.34.

<sup>26</sup> The Manitoban, August 12, 1871.

<sup>27</sup> Morris, op. cit., p.25.

<sup>28</sup> The Manitoban, August 12, 1871.

Treaty No.1 was formally signed by representatives of the Indians and government on August 3, 1871. In return for the cession of their lands, then covering the approximate area of Manitoba in 1871, the Indians were to receive, among other things, one hundred and sixty acres for each family of five, or in that proportion for larger and smaller families, and also an annual payment of three dollars per head.<sup>29</sup>

#### 1.4 THE REVISION OF TREATY NO.1

Problems with Treaty No.1 were evident soon after the accord had been reached. Within a short period of time, the Indians came forward with grievances. Their complaints regarded the granting of certain gifts, known as the 'outside promises', which had not been incorporated into the actual text of the treaty. These promises included gifts such as; dresses for each Chief and agricultural equipment for each band.<sup>30</sup> In a letter to the Secretary of State for the Provinces, dated February 24, 1873, Alexander Morris, by then Lieutenant Governor of Manitoba and the Territories, described the problems of the 'outside promises':

The proceedings were over but a short time before it became evident that there was some misunderstanding, and with the view of setting the matter at rest, as far as regarded one side His Excellency the then Lieutenant Governor, asked Mr. Commissioner Simpson, the Hon. James McKay and myself, as the persons knowing best the circumstances and details of the matter, to join with him in signing a list of articles which we severally and collectively understood to be the things promised to the Indians but not mentioned in the Treaty. Some little discussion took place about this, but it was eventually signed, and, I believe forwarded to Ottawa with the Treaty in October, 1871.<sup>31</sup>

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<sup>29</sup> Morris, op. cit., p.315, see Appendix C for full text of Treaty No.1 and accompanying map.

<sup>30</sup> Canada, Sessional Papers (1873), No.23, pp.12-13.

The Portage Band was rather reluctant to accept their first annuity payment during the summer of 1872, owing to the dispute over the treaty promises. Eventually Morris persuaded them to accept payment and to wait until their problems could be dealt with by the government in Ottawa.<sup>32</sup> Payment was accepted in 1873 as well, but as dissatisfaction with the treaty still existed, they let it be known that payment would not be accepted in the future unless the treaty were to be rearranged.<sup>33</sup>

The Portage Band had an important grievance which outweighed any claims to the 'outside promises'. In 1871, during the sixth day of negotiations at Treaty No.1, the Portage Band, represented by Chief Yellow Quill, had threatened to leave. In order to gain their consent to the treaty, the Commissioner had given the Portage Band preferred status with respect to the size of their proposed reserve.<sup>34</sup> The key text of Treaty No.1, specifying the extent of the reserve was as follows:

And for the use of the Indians of whom Oo-za-wa-Kwun is Chief, so much land on the south and east side of the Assiniboine, about twenty miles above the Portage, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families, reserving also a further tract enclosing said reserve, to comprise an equivalent to twenty five square miles of equal breadth, to be laid out round the reserve<sup>35</sup>

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<sup>31</sup> *ibid.*, p.12.

<sup>32</sup> *ibid.*

<sup>33</sup> Canada, Sessional Papers (1875), No.8 (Indian Agent Molyneaux St. John to Indian Commissioner Colonel J.A.Provencher, October 22, 1873), p.59.

<sup>34</sup> Morris, *op. cit.*, p. 129.

<sup>35</sup> *ibid.*, p. 315.