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The Treaty Annuity as Livelihood Assistance and Relationship Renewal

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Introduction

Of all federal benefits, the treaty annuity payment is perhaps the most difficult to understand and justify in a modern context. Every year, Indian and Northern Affairs Canada (INAC) distributes four or five dollars to individual registered Indians who are either members of, or affiliated with, First Nations that signed historic treaties with the Crown. Under terms of thirteen treaties signed between 1850 and 1921, covering over half of the land mass of Canada, these annual payments are made to over three hundred thousand registered Indians from approximately three hundred First Nations. Clearly the purchasing power of four or five dollars in today's terms is insignificant, and far less than its value at the time the treaties were signed.[1]

For the federal government, this payment represents partial fulfilment of ongoing treaty obligations in exchange for surrendered Indian title to land—what amounts to a legal obligation of a contractual nature. First Nations, however, have often characterized the treaty annuity as renewal of a nation-to-nation agreement to share the land in exchange for assurances of livelihood assistance for themselves and future generations. This paper examines the extent of discussion and debate concerning the annuity payment as support for Aboriginal livelihood leading up to and during treaty negotiations, and afterwards as part of treaty implementation. In this regard, the annuities must be understood in the context of the overall treaty bundle of benefits designed to assist First Nations to either maintain existing means of livelihood or transition to new means of survival in a changing world. The rationale for the annuity, as well as its significance as an economic benefit, is examined in some detail, including its value in today's dollars. The evidence is clear that both sides of the treaty relationship viewed the provision for livelihood assistance into the future as an important objective of the treaties.

The historical and modern meaning of the annuity as relationship renewal and as an annual reminder of obligations and promises is also examined. The consistency and regularity of the annuity payment in many ways remains at the heart of the treaty relationship between First Nations and the federal government. It speaks to an ongoing obligation to honour what are often characterized from the First Nation perspective as sacred agreements. It further lends an air of immediacy to these historical documents and represents a yearly renewal of the treaty relationship, which accords well with the First Nation perspective of the treaties as sacred "living" agreements. Here, the parties to the treaties differed significantly in their views. While government assumed that the terms of treaty were fully bound up in unchanging perpetuity in the written text, First Nations assumed that treaty terms could be reviewed and renegotiated as part of relationship or treaty renewal.

Rationale for the Treaty Annuity

Any discussion of the rationale for the annuity must begin with a discussion of the broader rationale for land surrender treaties, as required by the Royal Proclamation of 1763. The Royal Proclamation was written in large part in reaction to settler expansion of the Thirteen Colonies, and formally recognized Aboriginal land rights by stating that Indian lands could only be taken up for settlement purposes through formal purchase by representatives of the British Crown. It came to be understood, in effect, as a policy directive governing future purchases of First Nation land. The Crown's primary motivation to negotiate land surrender treaties was essentially an exercise in imperialism—whether to open up new lands for settlement or to access natural resources or otherwise secure a right-of-way. The Aboriginal motivation generally included a desire to formalize relations of peace and proactively negotiate assistance for future generations in recognition of inevitable and rapid change.

Beginning in the early 1800s, there was another motivating factor that impacted the Crown's approach to dealing with First Nations that had partly to do with developing philanthropic and humanitarian ideologies. Where First Nations had once been considered critical military allies of both the French and British Crowns, after the War of 1812, the British Crown began to see First Nations increasingly as a burden. They not only represented a growing expense on the Imperial Treasury as their traditional means of livelihood came under threat from competing land and resource interests, but were also in possession of large tracts of land wanted for settlement or other colonialist activity. The solution was seen to reside in a program of "civilization" where the goal was to assimilate the Aboriginal nations through means of education and agriculture, including removal to agricultural settlements.[2] Some government officials and humanitarian groups also began at this time to perceive First Nations as a doomed people, and the "civilization" program as the best, and perhaps only, means to secure their future. The treaty annuity policy itself would come to play a significant role in supporting the civilization program.

The policy shift from larger one-time treaty payments to smaller annual expenditures in exchange for First Nation lands occurred in 1818.[3] There are two distinct reasons for this change in policy. The first had to do with cutting costs and general financial retrenchment. There was constant pressure from Britain throughout the first half of the nineteenth century to transfer the costs of administering Indian affairs to the colonial government, including, after 1818, the costs associated with land surrender treaties. Part of these discussions inevitably included schemes to self-finance the Indian administration through sales of Indian land.[4] In 1819, Lieutenant-Governor Peregrine Maitland promoted a plan to self-finance the costs of these land purchases. He reasoned that if government could privately sell some of the land received through treaty at auction, using a method that included a mortgage with a 10 percent down payment, the interest from the down payments could then be used to finance the annuity.[5] Maitland, however, soon realized that current land values could not support this scheme and was forced instead to ask the Imperial Treasury to assume the annual treaty expenditure.[6]

The other significant motivation for changing from a one-time payment to perpetual annuity had to do with the well-being of the Aboriginal treaty signatories. Colonial Secretary Lord Bathurst argued in 1816 that one-time payments did not result in a lasting benefit, and that annual payments would better address ongoing Aboriginal welfare needs.[7] Government officials recognized that First Nations would require another source of income as their traditional means of livelihood came increasingly under threat.[8] Annuities had been part of the treaty-making process in the United States since the Canandaigua Treaty of 1794, where they were intended to provide "the means of subsistence in agriculture and arts, as well as their improvement in … civilization."[9] The first use of annuities as part of treaty terms in British Canada appeared in 1818 in the Adjetance, Rice Lake, and Lake Simcoe-Nottawasaga Treaties, followed closely by the Rideau, Longwoods, and Huron Tract Purchases of the early 1820s.[10]

There is no evidence that Aboriginal people were consulted about the change of payment and not much indication of their views when officials first explained the changes.[11] Certainly government officials sold the change as a lasting economic advantage in contrast to the one-time payment, and it is likely that the changes were received favourably. Aboriginal leaders had long expressed fear for their people's future, especially their ability to continue to make a living from traditional pursuits. They not only made specific requests for annual payments as part of later pre-Confederation treaties, but seemed to be well aware of the annuity terms offered in the American treaties, and often argued vociferously for similar terms. Further, there was a long-standing precedent of Aboriginal gift diplomacy that had been adopted by colonial governments to establish or maintain military alliance with First Nations.[12] An annual distribution of presents represented renewal of these alliances, and even though Aboriginal leaders would later insist that annuities and presents be considered separately, the notion of an annual distribution to reaffirm relations between nations was not a foreign one, having been an Aboriginal pre-contact practice that was later adapted to by traders and government officials.[13]

Annuities were not the only form of regular payment that was discussed prior to Confederation in terms of providing welfare assistance for First Nations. The annual presents were also considered important in this regard. Between 1816 and

1860 a number of commissions were established and proposals made with a view to limit the Indian expenditure, especially with regards to the annual presents.[14] Invariably, measures to end the practice of annual presents were met with strong opposition from First Nations, and from certain government officials familiar with First Nation diplomacy. They argued that the presents were not only crucial to honour past military alliance and maintain future loyalty, but were also necessary on humanitarian grounds for the economic well-being of First Nations.[15] For example, the Bagot Commission report of 1847 recommended that Indian presents be continued for First Nations residents in the Canadas because treaty annuities and the sale of lands were not yet sufficient to finance either their welfare or the civilization program.[16]

While the annuity policy was contemplated in the context of ongoing support for First Nations, the annuity amount was at base a payment for land, and was often perceived by representatives on both sides of the negotiations in terms of the relative value of the land. The link between land sales and treaty annuity expenses began with Maitland's scheme to self-finance the annuity in 1819, and was later explicitly made in three land surrender treaties post-1850, the largest being the Manitoulin Island Treaty of 1862,[17] where a provision was included to base the annuity amount directly on the interest earned on land sales.[18] Aboriginal negotiators also understood the link that government officials made between the annuity amount and their particular means of valuing the land in terms of agricultural or mineral worth. In 1846 Ojibwa brought copper ore and coal to government officials in order to argue the value of the land.[19] During the negotiations for the Robinson-Huron Treaties and Treaty 3, chiefs insisted on an annuity amount commensurate with the potential value from the recent discovery of minerals on their lands.[20] Conversely, following the difficult Treaty 3 negotiations, the First Nations who had signed Treaties 1 and 2 complained that their annuity amount should not have been less than the Treaty 3 amount given that their lands were of greater agricultural value.[21]

The Evolution of the Annuity as an Economic Benefit

It is clear from the historical evidence that at different times both Aboriginal and government representatives at the treaty discussions intended and perceived the annuity to be a significant economic benefit. Furthermore, if the annuity was at base a payment for land, negotiations over the annuity amount tended to focus more on economic need than land valuation.[22] This section will examine the initial use of the annuity to assist the government's civilization program, and how that concept evolved with the later western treaties, including use of the annuity to attempt to control behaviour. First Nation perceptions are also examined, namely the expectation that the annuity and other treaty benefits would be sufficient to assist them to provide for themselves and their families in the future. The expectation from both parties was that the annuity would assist in transitioning from a hunting and trapping economy to one based on agriculture, or supplement the continuation of a traditional hunting and fur trade economy.[23] Government officials often thought of the annuity as a form of necessary support, at least until such time as First Nations were able to be more self-sufficient and live without treaty assistance through a policy of enfranchisement.

Increasingly in the 1800s missionaries and other humanitarian groups, such as the Aborigines Protection Association, began to lobby governments to support programs to protect and assimilate First Nations through religious and agricultural education.[24] After the inception of annuities in 1818, various levels of government and government commissions considered the use of the annuity to fund a program of civilization. The traditional resource base of many First Nations in southern Ontario had already been significantly eroded, and the idea was to use the annuity to help First Nations transition from a hunting- and trapping-based economy to an agrarian economy, ultimately reducing any future welfare expenditure. In 1828, Major General Henry Darling, who was asked to investigate the Indian Department, argued that the proposed Indian civilization program could be financed by using annuity payments and a portion of the annual presents to pay for such related items as schools, houses, roads, farm stock, agricultural equipment, and seed.[25] In 1829, under the leadership of Lieutenant-Governor Sir John Colborne, the annuities began to be credited to band accounts, along with money from the sales and leases of Indian lands, where it was used to promote the civilization program, and specifically towards the creation of settlements at Coldwater, the Narrows, St. Clair, and Munceytown.[26]

Prior to 1829, the payment of annuities in goods was favoured over cash as a means to encourage agriculture and civilization. In some of the earlier treaties government officials refused chiefs' requests that annuities be paid in cash from a paternalistic view that the money would be squandered instead of provide for tangible economic benefits. Government had a firm notion of the types of goods and services it felt should be financed by the annuity. Superintendent of Indian Affairs Samuel Peters Jarvis told the Legislative Committee in 1839–1840 that the practice of purchasing agricultural implements with the annuity money "seem[s] at first to have been unwillingly adopted, but the tribes now convinced that it is the most beneficial to their interests."[27]

Chiefs, of course, had their own ideas of the best use of annuities and other resources, and were also known to ask for goods instead of cash. Toward mid-century, chiefs began increasingly to demand assistance in education and agriculture as part of treaty terms. For example, Chief Peau de Chat, as part of the Robinson-Huron Treaty negotiations in 1849, wanted government to pay for a schoolmaster, a doctor, a blacksmith, a carpenter, a magistrate, and an agricultural instructor. Aboriginal leaders were pragmatic about their peoples' future in a changing world. They required assurances that they could hunt, fish, and trap on their lands as they had always done, but also insisted on treaty terms sufficient to help those who chose to settle down and farm.

In fact, the Aboriginal ability to negotiate the annuity amount, according to the available historical evidence, appears greater after 1850, and is especially evident for the Robinson Treaties, and Treaties 1 and 3, which set the tone for all future treaties, to Treaty 11 in the early 1920s.[28] When Lieutenant-Governor Archibald met with the Ojibwa in Manitoba in 1870 as part of Treaty 1 negotiations, he was immediately given two demands by Chief Prince for compensation. The first was to honour a former treaty commitment made by Lord Selkirk in 1817 for an annual distribution of one hundred pounds of tobacco for each of two nations, and the second was for Ojibwa loyalty during the recent Métis uprising.[29] When, by the spring of 1871, there was still no treaty or compensation, Ojibwa chiefs posted a notice on the church door that settlers would no longer be permitted to take up land without first negotiating a treaty. That summer, the journal *The Manitoban* reported difficult negotiations, which ultimately resulted in an annuity greater than what had been authorized by Ottawa, as well as a long list of other items, from clothes to livestock to chiefs' buggies, which would later come to be known as the "outside promises."[30]

Treaty 3 negotiations for lands in Ontario west of the Great Lakes took four seasons and resulted in a renegotiation and an increase to the three-dollar annuity provided in Treaties 1 and 2. In 1869, after surveying the situation in the context of the Métis uprising, Simon Dawson strongly advised that diplomatic arrangements be made with the Salteaux of Lake of the Woods for their consent in order to ensure future safe passage across their lands.[31] Negotiations began in 1870 with an initial demand from the Salteaux Chiefs for a ten-dollar per capita annuity for a right-of-way only. The following summer, government negotiators were instructed to negotiate a full land surrender treaty, but only managed to settle past claims through the distribution of provisions and clothing and a three-dollar per capita payment. Nor were they any more successful in the third season of negotiations, when the Salteaux insisted on an increase to the three-dollar annuity offered in Treaties 1 and 2, and refused to accept Treaty Commissioner Simpson's offer of doubling this amount for the first year and including annual salaries of twenty-five and fifteen dollars for chiefs and headmen respectively. In 1873, annuity amounts were increased to ten dollars for the first year, including a five-dollar "gratuity," and five dollars thereafter. The offer was again refused, and a counter-offer was made by the Salteaux in the form of an older petition listing twenty demands, including more than a doubling of the amounts offered to date.[32] The impasse was finally broken when one chief stepped forward to indicate his desire to treat on terms less than the twenty written demands, and others followed suit. The final terms included a twelve dollar gratuity for the first year followed by a five dollar annuity, as well as an annual budget of one thousand five hundred dollars for the purchase of ammunition and twine, twenty-five dollar annual salary for the chief (one per band) and fifteen dollars for the headmen (three per band), along with a number of agricultural items.

After Treaty 3, the annuity amount remained relatively fixed and the most contentious negotiations focused on other items that chiefs were able to include as part of treaty terms, such as agricultural implements, grain, and cattle, as well as education, instruction, and health care. Another topic of considerable concern for First Nations was whether, after the treaties were signed, they would be able to freely hunt, fish, and trap as they had always done. It should be kept in mind that while much of the focus of the negotiations may have shifted from the annuity to other items in the later Numbered Treaties, the discussion remained largely one of the extent of government assurances of livelihood support in exchange for land, a topic that was very much open to negotiation.

It is clear that the Aboriginal treaty signatories viewed the annuity as a significant economic benefit, and had expectations that the treaty terms, including the annuity amount, would be sufficient ongoing government livelihood support in exchange for land. [33] As historian Jean Friesen put it: "The only price which could balance the loss of such property was the assurance of full economic security."[34] Ojibwa Chief Wa-sus-koo-koon of the Treaty 1 negotiations argued that a three-dollar annuity was not enough to live on should they settle down to farm, and thus requested that a house be built and furnished, and a plough and cattle provided for each Ojibwa who decided to farm.[35] Saulteaux Chief Ma-we-do-pe-nais justified the twenty written demands during Treaty 3 negotiations as necessary "so that we may be able to support our families as long as the sun rises and the water runs."[36]

There are many examples throughout the nineteenth century of government officials characterizing the annuities as important economic support for Aboriginal livelihood. Government reports of treaty negotiations often contain reference to destitute First Nations who would benefit from taking treaty. Treaty Commissioner Simpson had characterized the annuity during Treaty 1 negotiations in 1871 as a "bounty" that would give the Aboriginal signatories an economic advantage over the white settlers.[37] He also used the following justification for limiting the annuity to three dollars: "The sum of three dollars does not appear to be large enough to enable an Indian to provide for himself with many of his winter necessities, but as he receives the same amount for his wife or wives, and for each of his children, the aggregate sum is usually sufficient to procure many comforts for his family."[38] He later wrote in his report of Treaties 1 and 2 that the First Nations "are fully impressed with the idea that the amelioration of their present condition is one of the objects of Her Majesty in making these treaties."[39] Alexander Morris noted in his treaty report of 1873 that he had explained to the Saulteaux Chief Ma-we-do-pe-nais that the terms of the treaty were to "put into their hands the means of providing for themselves and their families at home."[40]

Morris often spoke of the well-being of children, and of "children's children" during negotiations, which was a powerful expression that future generations would be looked after under the treaty relationship.[41] Morris stated on the third day of Treaty 3 negotiations in 1873: "I only ask you to think for yourselves, and for your families, and for your children and children's children,"[42] and on the fourth and sixth days of Treaty 4 negotiations respectively: "The promises we have to make to you are … not only for you but for your children born and unborn," and "it is for you now to act … whether or not you will … let your children grow up and do nothing to keep off the hunger and the cold that is before them."[43] And again, he emphasized during Treaty 6 negotiations: "I would like your children to be able to find food for themselves and their children that come after them,"[44] and "I have told you that the money I have offered you would be paid to you and to your children's children."[45] It was the annual payment of the annuity that most outwardly represented the assurances that future generations would be looked after.

In correspondence regarding implementation of the treaty and annuity, there is occasional mention of the necessity of the annuity, or for advances made against the annuity, to carry certain families over winter.[46] Mostly, however, the annuity was seen as an important aspect of an overall livelihood strategy, along with other means such as the raising of grain, selling of cattle, traditional pursuits, and seasonal employment. A typical entry from an Indian Affairs annual report reads: "The members of this band do little grain-raising, depending more upon their income derived from each annuity, hunting, fishing and working for lumber camps, and at various occupations."[47]

Given that the annuity was understood by government officials in the context of livelihood assistance, how the money was spent was of considerable concern throughout the nineteenth century as part of treaty implementation. The annual reports are full of commentary on how the annuity money was being used, or should be used, and how government policy and practices should direct the spending of annuities. For example, many officials argued for a policy of payment closer to the reserves, away from settlements where annuities could be spent on "useless or injurious articles."[48] Regulations were created to attempt to control the purchase of goods, including the prohibition of certain items described as "trinkets" or "gewgaws," as well as alcohol. A policy was further instituted that required prospective traders to apply for a licence from government in order to sell their goods during annuity payment periods.[49] There was also ongoing discussion in the annual reports as to whether government should revert to paying annuities in goods of lasting utility, such as agricultural items, instead of in cash.

Indian agents were asked to report specifically on the use of the annuity, and there are consistent entries that indicate whether, in the opinion of the agent, the annuity was spent wisely on items that could assist with attaining a livelihood, especially over the winter months. The following is fairly typical: "I visited Macleod the next day and found them spending their money in a judicious manner. A goodly number of cooking and heating stoves were bought and also furniture and the usual supply of warm clothing for themselves and families."[50] The Indian commissioner for Manitoba and the Northwest Territories explained that the annuity payments were initially made in the springtime, but were moved closer to winter because families had been in the habit of wasting their spring annuities, leaving them unprepared for the coming winter "in the form of clothing etc."[51]

Annuities were sometimes specifically targeted to programs of agriculture or education. For example, annuities could be used to pay for school infrastructure or teachers' salaries, such as in 1884 when Indian Superintendent Walton for the northern superintendency at Sault Ste. Marie encouraged the Temogamingue Band to use one dollar per capita of their annuity money toward the salary of a schoolteacher.[52] Annuities could be communally used by First Nations to purchase livestock, grist or sawmills, or for church repairs or church-related items. Agricultural items in particular were often advanced to First Nations on credit against future annuities. For example, the Water Hen Band councillors in 1882 asked for a cow to be provided, which they would collectively pay for out of their annuities,[53] and the Pas Band in 1899 bought a team of horses "by an assessment on their annuity money."[54] Annuities could also be placed into special student accounts for Aboriginal children, which they could then access in a lump sum, with interest, upon graduation.[55]

On other occasions, Indian agents may have withheld annuities or otherwise coerced the use of annuities for agricultural- or educational-related purposes. For example, in 1887, Indian Agent Pither forced the Little Forks Reserve to pay for the keep of their cattle by withholding their annuities,[56] and in 1893 fines for absenteeism of children from the schools appear to have been levied against the Parry Island Band annuities.[57] Annuities could thus be used by government as economic punishment or incentive in an attempt to control behaviour.

The most evident example of this occurred after the North-West Rebellion of 1885, when annuities were withheld from those First Nations thought to have participated. The withholding of annuities was initially justified in order to pay for damages from looting,[58] but soon became a tool of punishment and reward for subsequent behaviour. Indian agents reinstated annuities on a case-by-case basis as a reward to those who showed "practical evidence of sincere contrition, furnished by cheerful application to the pursuit of industry."[59] Discretion was used in the determination of whose annuities to reinstate as a means to encourage others to follow their good example. Annuities were also withheld or deducted from individuals in response to damages or thefts, such as in the case of alleged cattle killings.[60] Other examples include annuities being withheld in cases of polygamy; from those who had deserted their wives and children (often to help pay for their support[61]); from those refusing to take part in statutory labour (e.g., road building); for those who were thought to have been overpaid (as a result of double counting or changes to the policies or practices of determining eligibility); and as an incentive to encourage residency on the reserves.

The annuity policy came under attack from time to time by Indian Affairs officials as being outmoded and too expensive. Enough time had passed between the signing of Treaty 7 in 1877 and Treaty 8 in 1899 that the question of the best method of payment, annuity versus one-time lump sum, was again debated in earnest. As earlier, arguments for and against the annuity were made both in the context of government expenses and Aboriginal welfare. The Hudson's Bay Company (HBC), missionaries, and First Nations themselves consistently lobbied government for a treaty as a means to assist First Nations maintain a livelihood in the years leading up to Treaty 8. These lands, however, were not required for settlement in the same way as more southern arable lands had been, and the government remained reluctant to make a treaty, arguing that the HBC maintained a responsibility to assist First Nations in times of need. When government finally decided to make a treaty, Secretary of Indian Affairs J. A. Macrae argued that the rationalization for the perpetual annuity in the early 1870s, "when the Indians were looked upon as a disappearing race," no longer applied, and that a single payment of, for example, one hundred dollars each would be more appealing for signatories.[62] Ultimately, however, the decision to maintain the smaller perpetual annuity was made in consideration of future generations.[63]

Government proved more than willing to put aside its assimilationist goals out of economic expediency when it came to treaty-making in areas where game was still thought to be plentiful or where agricultural opportunities were limited. In some cases, government proved reluctant to sign treaties at all in areas where it was felt that First Nations could continue to live off the land with a minimum of interference, and in other cases government was practical in its support of a hunting economy, even if that seemed counterintuitive to its assimilationist policies.[64] Treaty commissioners, beginning with Treaty 3, included provisions for ammunition and twine, as well as agricultural implements and cattle, in order to support existing hunting economies. References can also be found in government records to the annuity as a means of support for traditional economies.[65]

Certainly education, agricultural settlement, and assimilation through such means as enfranchisement remained fundamental goals of the government's Indian administration. There is considerable evidence that government often thought of the annuity as a necessary but temporary measure of welfare support until such time as First Nations could become self-reliant. And this was in spite of the language of metaphor about the treaties and the annuity lasting as long as the sun shines and the water runs. A report from the treaty commissioner's office in Winnipeg, dated months after the signing of Treaty 3, recommended that temporary instead of permanent annuities be adopted for a future treaty because certain bands "are already sufficiently civilized … that in fifteen or twenty years, if not sooner, they will be able to do without assistance from Government."[66]

The notion of the role of treaty, and of the annuity, as livelihood assistance until eventual assimilation into the broader society, when such assistance may no longer be required, is most evident in the policies of enfranchisement and withdrawal of treaty to take up Métis scrip. The idea that First Nations needed to eventually assimilate remained at the forefront of Aboriginal policy development in the nineteenth century, and was reflected in the enfranchisement provisions of the *Gradual Civilization Act* of 1857, the *Gradual Enfranchisement Act* of 1869, and the amalgamated *Indian Acts* of 1868 and 1876. Under this policy, individuals were considered wards of the state until enfranchised, either voluntarily or mandatorily, and the process of becoming full Canadian citizens included being able to live without treaty-based assistance. Beginning with the *Gradual Civilization Act*, individual males over twenty-one years of age could apply for voluntary enfranchisement, and if successful, their wives and children would be enfranchised along with them.[67] Applicants, who were extremely rare, first had to meet certain criteria designed to ensure that they would be able to live without government or treaty assistance; for example, that they were formally educated and free of debt.

Beginning with the *Gradual Enfranchisement Act*, and replicated in the *Indian Act* of 1876, women who married non-treaty Indian men were enfranchised and could, upon their request and approval by their First Nation, be provided with a one-time payment of ten years' worth of annuities, referred to as commutation. Between 1879 and 1894 there were a total of 182 commutations,[68] but this number increased substantially after 1920 when the power to refuse commutation was removed from First Nations in order that "unprogressive bands" could no longer prevent their members from gaining "full citizenship."[69] While the enfranchisement and commutation policy may have been perceived as a way to ultimately reduce the annual treaty expenditure, it was also true that women who married outside of treaty were then not considered to be in the same need of treaty-based assistance.[70]

Government policy regarding Métis in the nineteenth century was, in accordance with the *Manitoba Act* of 1870, to provide Métis heads of households with a one-time allotment of land or money referred to as scrip, in place of negotiating land rights with a collectivity.[71] Government, however, was often prepared to make a distinction between those Métis who had adopted an "Indian way of life," and those who had not—the former being permitted to join treaty if they so chose,[72] while the latter were not considered to be in need of the same treaty assistance as First Nations. Amendments to the *Indian Act* in 1879 allowed for individuals, often men on behalf of their families, to withdraw from treaty to take up scrip. Initially, the amount of scrip was to be reduced by the amount of annuities already received, but this provision was amended in 1886 such that individuals could take scrip without first paying back their annuities. This legislative amendment resulted in many communities losing a large portion of their members through the taking up of scrip. One official in Manitoba, for example, reported of the Duck Bay Reserve that "all the members of this band withdrew from treaty excepting a few families who removed to Pine Creek,"[73] and another reported that "the idea of leaving the treaty and receiving scrip in compensation for annuity … spread almost like an epidemic."[74]

Indian Affairs officials maintained a right of refusal for discharges from treaty based on whether it was felt that the individual or family in question was sufficiently self-reliant to live without the government annuity and other treaty benefits.[75] The report for the District of Alberta in 1887, in justification of the large numbers that had been allowed to withdraw from treaty, stated: "None were permitted to withdraw, however, unless the Agent and the Inspector of Indian Agencies were satisfied that they could support themselves without assistance from the Government."[76] The report goes on to indicate, however, that "in very many of these cases [to date] it was injudicious to give them [treaty signatories] a discharge, as they proved to be quite incapable of earning their own livelihood, and some of them have applied and have been re-admitted into treaty." Requests for withdrawal from treaty were more carefully considered once government began to fear growing poverty among those not covered by treaty-based assistance. An Indian agent's report of the Scrip Commission's consideration of withdrawals in the Treaty 6 area assured that "none but those who would support themselves and families in the future were discharged."[77] These examples of enfranchisement and leaving treaty to take up Métis scrip clearly demonstrate that government perceived the annuity and other treaty benefits as essential livelihood assistance for many treaty signatories.

In order to help contextualize the economic importance of the annuity at the time the treaties were signed, some evidence for the price of goods and salaries was compiled. A five-dollar annuity in 1850 could have bought over 160 pounds of flour or 50 pounds of pork,[78] and in 1871 could have bought 100 pounds of flour or 30 pounds of beef. [79] Arthur Ray has shown that in 1870 a hunter with a family could equip himself for the year for about twenty to twenty-five dollars, the equivalent to an annuity for a family of four or five.[80] An annuity of five dollars for a family of five in the early 1880s was equivalent to about one month's wages as either an Aboriginal farm labourer[81] or sawmill worker.[82] There is further evidence from treaty elder testimony that the annuity had important economic significance for families and communities well into the 1950s.[83]

The oral evidence from treaty elders, especially from Treaty 4 to Treaty 8, is remarkably consistent in the view that promises of livelihood assistance were a primary consideration during treaty negotiations. A continuing right of livelihood is one of five guiding principles of the understandings of treaty that came out of extensive elder testimony outlined in the book *Treaty Elders of Saskatchewan*.[84] Likewise, the Treaty and Aboriginal Rights Research group's years of interviews with elders in Alberta revealed an overarching belief that the treaties concerned first and foremost people's livelihoods.[85] The authors of *The True Spirit and Original Intent of Treaty 7* concluded: "That they would be taken care of was the theme reoccurring throughout the elders' testimony."[86]

Once government made up its mind to clear title to land that was thought to be useful for settlement or access to resources, its priority was to do so as quickly and as cheaply as possible. That the welfare of the Aboriginal people living on these lands was often a secondary consideration can be seen from government's inaction in responding to First Nations' requests for treaty as a means of livelihood assistance, until such time as the land was deemed to be of value for settlement or natural resource use.[87] To discount livelihood assistance as a significant consideration for government leading up to, during, and after treaty negotiations, however, is to also discount a large body of evidence to this effect.

Assurances of ongoing government livelihood assistance were consistently sought by First Nations, and often made by government representatives. The historical record shows that Aboriginal signatories had expectations of being looked after, and historians and others have aptly demonstrated that government's subsequent policies and practices sadly had an opposite effect.[88] The message of livelihood assistance was used as an incentive in treaty negotiations, but did not always have the desired effect for more northern First Nations who continued to make a living through traditional means. Some nations in the Treaty 8 area, for example, "did not want to take treaty, as they had no trouble in making their own living."[89] Most, however, were not only receptive to the message of livelihood assistance, but repeatedly asked for clarification of government's assurances.

Gifting, Feasting, and Renewal

It is important to understand something of the larger historical and cultural context in which the annuity was introduced. Prior to treaty relations with the government, many First Nations had alliances of trade with fur traders, some had military alliances with early colonial governments, and all likely had alliances and trading relations of one kind or another with each other. These alliances had a tradition of gift-giving and reciprocity in common, referred to by some scholars as gift or forest diplomacy. Much of the traditional ceremony and First Nation practice of gift-giving was adopted and actively practiced by fur traders and colonial governments. The regular, often annual, gift-giving signalled a renewal of alliances and trading relationships. This section will examine the perception of the annuity as an important annual renewal of the treaty relationship. Along with gift-giving, feasting was also of great ceremonial importance for First Nations in cementing and renewing relationships between nations, and the provision of treaty rations at treaty events will also be briefly examined as possible treaty renewal. There is considerable evidence that the treaty, rather than a once-for-all unchanging agreement between treaty parties, was in fact often considered by First Nations to be a fluid or living agreement that could be modified over time. The annuity payments represented a renewal of the agreement and a time when grievances could be voiced and treaty terms reconsidered.

Some early examples of alliances between First Nations and European newcomers include French fur trade alliances with the Huron, the Algonquin, and the Montagnais (or Innu), and Dutch and later British alliances with the Iroquois nations. It was essential that all of these alliances included not only an initial gift-giving ceremony, but periodic ceremonial reaffirmation or renewal of relations. The Dutch, and later the British, adapted to Iroquois customs of diplomacy, commonly referred to as the "Covenant Chain." This involved a complex process of renewal that included regular distribution of gifts to chiefs, warriors, and their dependants.[90] In 1756, Sir William Johnson was given responsibility to promote and augment the British military alliance with the Six Nations League of Iroquois. Johnson was successful in this by following elaborate Iroquoian custom and ceremony that involved the exchange of wampum belts and distribution of presents, also included as compensation to wounded Iroquois warriors and their families. In fact, Johnson became somewhat of a recognized expert in First Nation diplomatic practices, and actively advocated for the use of wampum belts, distribution of presents, and specifically the need for renewal of existing treaties.[91]

When the concept of annuities first became a reality in Canada in 1818, there had long been an established practice of gift diplomacy that continued to exist alongside the provision of annuities. After 1812, these diplomatic practices turned into formal distribution of annual presents made at specified times and locations for First Nations on both sides of the border who had been loyal to the British during conflict with the Americans. This distribution was part of a trend that began with colonial adaptations to Aboriginal diplomatic practices. The early French-First Nation military and trade alliances were continued by the British after the fall of New France and the Pontiac uprising of 1760.

The annual presents as a means of maintaining and honouring military alliance and the annuities as compensation for land, while occasionally confused by British colonial administrators, were mostly recognized as serving two distinct purposes. In fact, chiefs insisted that government keep the two items separate for fear that officials would try to use the same annual payments to honour different obligations, especially given government attempts to curtail the annual present as a cost-cutting measure.[92] It is nevertheless apparent that the annual present and the annuity could be made up of the same types of goods,[93] and could even on occasion be distributed at the same time and location.[94] What is important for this discussion is that the concept of an annual payment for the pre-Confederation Upper Canada treaties fit well within an overall trend that saw the continuation of an Aboriginal tradition of treaty or relationship renewal.

Evidence that the annuity payments followed a tradition of gift diplomacy is even more prevalent for the post-Confederation Numbered Treaties, which were made in the context of long-standing fur trade relations. Fur traders were long accustomed to adapting to Aboriginal practices of regular renewal of relationships through the giving of gifts. Fur traders and First Nations over time negotiated social protocols and practices that were deeply rooted in Aboriginal concepts of renewal and reciprocity. Many of the fur trade practices would in turn come to inform the treaty relationship, and it is of interest to note that the annuity itself was sometimes referred to in negotiations as a "gift."[95] Alexander Morris explained his distribution of presents at Fort Ellice in 1876 as being "in conformity with the custom prevailing here, descending from the Hudson's Bay Company's rule."[96] There are also examples where HBC-First Nation gift diplomacy found expression in treaty terms, such as the suit of clothing given to chiefs and headmen.[97]

The HBC traditionally looked after provisioning First Nations for the hunt as part and parcel of their economic interests, as well as providing rations, often as advances on credit, in order to assist certain families over winter or through other difficult times. When the government purchased the Hudson's Bay Company Charter in 1870, there was an expectation that they had also inherited the responsibility for providing relief to Aboriginal families in times of need. The fact that many of the Numbered Treaties were negotiated around the question of government responsibility for looking after First Nations in times of need harkens back to these fur trade relations. As fur traders often advanced goods on credit to assist certain families over winter, so government officials often advanced goods against future annuities, also to assist families over winter.[98] In this way, the treaties continued and further formalized for First Nations what had been ongoing relations of mutual benefit that had evolved out of the fur trade.[99] The perception of continuity in this regard was helped by the fact that HBC personnel continued to play a significant role during treaty negotiations and treaty implementation, including occasionally assisting with the annuity payment.[100]

Feasting was closely associated with gift-giving, and was another Aboriginal traditional practice of relationship renewal that found expression first with fur traders and later as part of the treaty relationship.[101] There are many references in the historical record to the necessity of government "rations" or "provisions" during negotiations, or later as part of treaty implementation. These rations or provisions were sometimes made in the context of relief, harkening back to the HBC practice of providing relief, but more often were made in response to First Nation expectations of protocol. One of the demands of the Saulteaux during the 1870 season of the Treaty 3 negotiations, in exchange for a right-of-way across their lands, was to be provided with sufficient goods in order to have a feast each year at the annuity payment.[102] Evidence for feasting and requests for provisions for feasting can be found throughout implementation of the annuity. The lack or poor quality of rations at treaty payments often became a major cause of complaint, and was in itself considered by First Nations to be a significant breach of treaty terms. Some even refused to accept the annuity until such time as satisfactory rations had arrived.[103] The symbolic and ceremonial importance of certain treaty items in the context of relationship renewal, such as provisions for feasting or the giving of suits of clothing, flags, and medals to chiefs, should not be underestimated.[104] Time and again complaints about these items were at the heart of much of the dissatisfaction expressed over non-fulfilment of treaty terms.

An analysis of the annuity adds to an already large body of literature demonstrating that First Nations perceived the treaties quite differently than government. For government, the treaties were once-for-all land transactions that bound both parties to certain ongoing obligations. These obligations were fixed in place by the written terms of the treaty. First Nations traditions did not include such a concept of obligations being bound-up in the unchanging words on a page.[105] For First Nations, the treaties were sacred agreements made in the presence of the Creator, which could also not be broken once they were made. This, however, did not mean that the agreements could not be adjusted as circumstances might warrant. For First Nations, the treaty terms were fluid, rather than fixed, and there was an expectation that terms could be discussed and reviewed as part of an annual treaty renewal.[106]

There is considerable evidence, for example, of First Nations refusing to accept the annuity, which was interpreted as a protest in order to draw attention to their particular claim or grievance. This was likely more than a simple show of dissatisfaction, however. To not accept the annuity was a refusal to renew the treaty relationship, and on some level represented an attempt to renegotiate the relationship.[107] The Pembina, Portage La Prairie, and St. Peter's bands all refused their annuity in the early 1870s over the so-called "outside promises" issue of Treaties 1 and 2.[108] There are reports of at least fifteen instances in the Indian Affairs Annual Reports alone of First Nations and chiefs refusing to accept annuities, and constant attempts to renegotiate aspects of the treaty.[109] In 1884, Indian Inspector Wadsworth for Treaty 6 wrote about grievances being voiced during annuity payment periods: "It is the occasion in the year upon which they feel bound to mention them [grievances], as again receiving the money is looked upon by them as a ratification of the treaty."[110] The refusal to accept the annuity, in these terms, was thus a refusal to ratify the treaty for a given time.

Ultimately, refusal to accept the annuity and other means of attempting to review and renegotiate aspects of the treaty that were not satisfactory to First Nations, speak strongly to a belief that the terms of the treaties would be periodically reviewed and could be altered. Rather than representing the starting point for the relationship and its primary defining attribute, the treaty document may be more accurately understood from a First Nation perspective as one component of a longer relationship continuum that began with the elaborate commercial compacts of the fur trade.[111] Historian James Morrison argued that the Ojibwa viewed the Robinson Treaties as an "open contract," with use of the term "Chi-Debahk-(In)-Nee-Gay-Win."[112] There is further linguistic evidence that the Cree word for "treaty" had the meaning to "weigh and measure" the relationship, which included review of the annuity payment itself.[113] Cardinal and Hildebrandt, in their analysis of elders' testimony in Saskatchewan, concluded that "the initial treaty process was to provide a framework within which further arrangements arising from the agreement to live together was to be discussed in subsequent treaty negotiations."[114]

The Treaty Annuity in a Modern Context

The treaty annuity in a modern context is more than representative of ongoing mutual obligations, but is seen by many First Nations as a renewal of the treaty relationship—a relationship that continues to define much of the political landscape in terms of Aboriginal issues across Canada. Nevertheless, as much as the annual payment may be perceived as an important symbolic renewal of a relationship and as outwardly representative of all of government's treaty promises of livelihood assistance, there are those who find the distribution of four or five dollars a year to be demeaning if not unethical.[115] There have been a number of calls to revisit the historic treaties and to revitalize or modernize the historic treaty relationship. First Nations have stated that the treaties were intended to provide for a new economic base, given that they had been deprived of their traditional one.[116] The Royal Commission on Aboriginal Peoples (RCAP) report, noting that the annuity payment was regarded as a formal opportunity to discuss and renew the relationship each year, argued that the treaties need to be flexible enough to address new concerns of an evolving relationship. The RCAP report goes on to recommend that a formal process of revitalization be established, and that this process include a reconsideration of the "treaty promises of wealth transfer."[117]

The issue of modernization or indexation of the treaty amount has been raised in different contexts: in treaty elder testimony, through the media and other means of political lobby, under court challenge, and in the research papers of Robert Metcs, Jean Allard, and John Richards. Metcs makes a persuasive argument, using the legal underpinnings of the *Marshall* decision, that the only way to make sense of the "common intention" of treaty parties regarding the annuity is to assume that the Crown, rather than the First Nations, accepted all the risks associated with potential future inflation and congruent devaluation of the annuity. The annuity was meant to be a significant contribution to livelihood, he argues, and the Crown, believing the currency to be relatively stable, was prepared to provide annually into the future the *buying power* of the dollar amount at the time the treaties were signed. By way of comparison, he concludes that the very same arguments of justness and fairness that lead to Canada's modifications to old-age pensions commensurate with inflation should also be applied to the treaty annuity.[118]

Allard is very critical of the government's handling of Indian affairs, specifically of what he sees as rampant misspending of funds on misguided welfare programs and perpetuation of a reserve system that encourages abuses of power from chief and council. The solution, he argues, has been there all along in the provisions of the historic treaties. For Allard, a large individualized annuity benefit represents an opportunity to empower individuals and establish responsible First Nation governance structures.[119] This notion has been picked up and further developed by John Richards of the C. D. Howe Institute. Richards argues that transfer payments to First Nations on reserve not only create unhealthy or corrupt governance, but also act as a disincentive for individuals to leave the reserves. Providing individualized benefits to band members, while at the same time reducing band transfers, he argues, would first empower individuals to make a real choice of where to live, and also help create accountability on reserve via the creation of taxation structures.[120] It is not at all clear, however, that First Nations would welcome a reduction of band transfers in favour of individual benefits, as this may be viewed by some as a further erosion of communal-based Aboriginal

Table 5.1: Estimated 2007 Value of Original Annuity Amount, Adjusted for the Consumer Price Index, for Major Treaty and Adhesion Dates

Treaty	Signing Dates	# of First Nations	Annuity Amount	CPI Adjusted Amount
Treaties 1 & 2	1871	16	$5	$100.32
Treaty 3	1873–1875	26	$5	$85.51
Treaty 4	1874–1877	33	$5	$86.29
Treaty 5	1875–1876	21	$5	$84.40
Treaty 5	1908–1910	17	$5	$91.52
Treaty 6	1876–1882	36	$5	$85.18
Treaty 6	1889–1898	5	$5	$91.41
Treaty 7	1877	7	$5	$83.40
Treaty 8	1899–1900	38	$5	$92.69
Treaty 9	1905	9	$4	$72.28
Treaty 9	1906	11	$4	$77.85
Treaty 9	1929–1930	11	$5	$58.90
Treaty 10	1906	5	$5	$97.31
Treaty 10	1907	2	$5	$89.85
Treaty 11	1921	19	$5	$54.45
Treaty 11	1922	2	$5	$59.46

cultural norms. Allard had proposed an increase of the annuity amount from five dollars to five thousand dollars, while Richards proposed halving this amount. But what is the real value of the annuity amount indexed to today's cost of living?

Stewart Clatworthy has estimated a measure of cost of living change over the life span of the treaties using the consumer price index (CPI) and wholesale price index. Calculations were made based on the original signing dates of the Numbered Treaties, and some of the more important adhesion dates, when First Nations signed on to an existing treaty at a later date. Calculations are not included for the Robinson Treaties because of a lack of a reliable measure of price change for Canada prior to 1867. Official CPI estimates of cost of living changes only exist from 1914 to 2007. Statistics Canada has, however, developed estimates of wholesale prices and related indices since 1867. Clatworthy has established a measure of Canadian price change from 1867 to 2007 by splicing the general wholesale price index (excluding gold) for the 1867–1914 period to the 1914–2007 CPI series.[121] **Table 5.1** contains the CPI adjusted amount in 2007 dollars for the major treaty signing and adhesion dates. In 1871 or 1906, five dollars is estimated to have been equivalent to about one hundred dollars in 2007.

Conclusion

An analysis of the terms, implementation, and perceptions of the annuity payment provides a window on which to view some of the fundamentals of the historic treaty relationship—namely the extent of livelihood assistance intended, and view of the treaties as "living" and evolving arrangements. The annuity policy was initially adopted as both a cost-cutting measure and as a means to promote First Nation welfare and encourage assimilation. Government clearly viewed the annuity as a significant economic expenditure and benefit,[122] attempting to limit the cost in relation to the perceived value of the land, and using it to fund its civilization program. The annuity was expected to help certain families over difficult times, just as the HBC had provided livelihood assistance prior to the treaties. Annuities were used as assistance in the transition from a hunting to an agrarian economy, or to supplement more traditional livelihood pursuits, depending on the circumstances. Ultimately, many government officials considered the annuity to be a necessary but temporary welfare measure until First Nations became enfranchised.

First Nations, on the other hand, were able to negotiate an annuity greater than what government was initially willing to provide, and were led to believe that the annuity and other treaty terms would be of significant economic benefit for themselves and future generations. Far from a means of temporary support on the way to becoming enfranchised, the annuity represented for many First Nations an annual renewal of nation-to-nation agreements. An annual payment fit well with the Aboriginal practice and concept of renewal that was an important part of early military alliances and later fur trade relations. Evidence is strong in both the historic written record of treaty implementation and First Nation elder oral testimony that, from the First Nation perspective, the treaties were part of a living and evolving relationship. In this conception of the relationship, the treaty terms were not bound by the written word, but could be reviewed and renegotiated from time to time. In attempts to renegotiate aspects of the treaty, First Nations often refused to renew the relationship by refusing to accept the annuity.

Today, many of the 369 Treaty First Nations in Canada view a renewal and revitalization of the treaty relationship as long overdue. The lack of a common understanding of the treaty terms has led to deep feelings of mistrust that impact virtually all aspects of the modern relationship. Cardinal and Hildebrandt, in their summary of elder testimony, conclude that "the livelihood arrangements of treaty must be the basis for bringing back on track the treaty relationship."[123] That the annuity and other treaty terms have not been effective as livelihood assistance is clear from the disparity that exists today between Treaty First Nations and other Canadians. A study of treaty annuities helps to underscore the importance of both historic and modern-day treaty renewal and the need to come to a mutually acceptable understanding on the question of treaty livelihood assistance.

Endnotes

1 According to the consumer price index, five dollars in 1913—when the Big Island Lake Cree Nation adhered to Treaty 6—would be worth close to one hundred dollars in 2007.

2 See John Milloy, *The Era of Civilization—British Policy for the Indians of Canada, 1830–1860*, for a discussion of the transition from a policy of "conciliation," which began in 1763 with the Royal Proclamation, to a policy of "civilization" beginning c.1830.

3 The first annuity provisions may have appeared in a 1752 Halifax Treaty with the Shubenacadie band of Mi'kmaq in the form of promised regular gift distributions; see Dickason, *Canada's First Nations,* p. 179. Also, Lord Selkirk had purchased lands in Manitoba from the Saulteaux in 1817 for an annual amount of tobacco; see Alexander Morris, *The Treaties of Canada with the Indians of Canada and the North West Territories,* p. 15.

4 See, in particular, John F. Leslie and Betsey Baldwin, "Indian Treaty Annuities: The Historical Evolution of Government Policy, from Colonial Times to Treaty 3."

5 Ibid., pp. 36, 166. In 1820 it was calculated that ninety-eight thousand acres sold would yield enough interest to cover the annuity payments to date; see Gates, *Land Policies of Upper Canada*, 159. See also Robert J. Surtees, "Indian Land Cessions in Ontario, 1763–1862: The Evolution of a System," p. 30, 174–175; Robert J. Surtees, "Land Cessions, 1763–1830," pp. 112–113; Joan Holmes and Associates, "Land Cession Treaties and Reserve Surrenders in Pre-Confederation Ontario, Volume I," pp. 63–64, 110–111; and Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*, p. 117.

6 Lillian Gates, *Land Policies of Upper Canada*, p. 159.

7 Leslie and Baldwin, p. 166.

8 Surtees, "Indian Land Cessions in Ontario, 1763–1862," p. 30, 185.

9 Schoolcraft, Indian Agent at Sault Ste. Marie, Michigan, as quoted in Leslie and Baldwin, 28. Perpetual annuities were replaced by temporary annuities beginning in 1816 due to a prevailing view among American government and humanitarian groups that perpetual annuities led to an unhealthy dependence on government; see Leslie and Baldwin, pp. 29–31.

10 Ibid., p. 36.

11 Ibid., p. 36.

12 See, for example, Dorothy V. Jones, "British Colonial Indian Treaties," and Jean Friesen, "Magnificent Gifts: The Treaties of Canada with the Indians of the Northwest, 1869–70."

13 The Algonkian Nations, for example, first educated the French and later the British in the importance of gift-giving in human interaction; see Catherine Sims, *Algonkian-British Relations in the Upper Great Lakes Region*, pp. 2–8.

14 Proposals were also made to limit the annuity expenditure, such as to introduce a cap on the amount payable, to pay in cash instead of goods (in order to limit transportation and storage costs), and to limit eligibility.

15 Editor's note: Eventually (1855) presents were discontinued for several reasons, including the cost involved. More information can be found in: *Her Majesty's Indian Allies: British Indian Policy in the Defence of Canada, 1774–1815*, by Robert S. Allen, American Council of Learned Societies (edition published by Dundurn Press Ltd., 1992).

16 Leslie and Baldwin, p. 66; see also Milloy, The Era of Civilization, pp. 63, 81–97. The annual presents were discontinued in 1858.

17 Holmes and Associates, "Land Cession Treaties, Volume I," p. 63.

18 All Upper Canada treaty annuities were capitalized at Confederation such that annuity interest, along with the interest from the sale of land and timber, was paid semi-annually; see "Report of the Deputy Superintendent General," August 15, 1922, in the Annual Report of the Department of Indian Affairs, p. 7.

19 James Morrison, "The Robinson Treaties of 1850: A Case Study," p. 30; Leslie and Baldwin, p. 70.

20 Leslie and Baldwin, pp. 138, 146, 169; Wayne Daugherty, "Treaty Research Report: Treaty

Three," not paginated; Joan Holmes and Associates, "Treaty Research Report—Treaty 3 (1873)," p. 14; Morris, p. 62.

21 Report of the Indian Commissioner's Office, Winnipeg, December 31, 1873, in the Annual Report of the Department of the Interior, 1874, p. 55; Report of the Indian Office Winnipeg, October 22, 1873, in the Annual Report of the Department of the Interior, 1874, p. 61; Chief Henry Prince to Minister of the Interior, September 26, 1874, as quoted in Dolores Vader, "Treaty Annuities," p. 27. Less generous treaty terms were either considered or ultimately offered as part of Treaties 3, 5, 8, 9, and 10, because the land was deemed to be of lesser value.

22 Arthur J. Ray, Jim Miller, and Frank Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties*, p. 74; Frank Tough, "As Their Natural Resources Fail," p. 90.

23 See Robert Metcs, "The Common Intention of the Parties and the Payment of Annuities under the Numbered Treaties," pp. 44–46, 60, for the view that annuities were meant to be a significant contribution to livelihood, whether traditional or agricultural.

24 The British government at this time also began to be suffused with a new liberalism that led, for example, to the abolishment of the slave trade; see Robert J. Surtees, "The Development of an Indian Reserve Policy in Canada" and "Indian Land Cessions in Ontario, 1763–1862," and Holmes and Associates, "Land Cession Treaties, Volume I," p. 46.

25 Leslie and Baldwin, p. 48.

26 Ibid., pp. 48–50; and Holmes and Associates, "Land Cession Treaties, Volume I," pp. 45–50, 112.

27 Report of Committee No. 4, on Indian Department, published within the Bagot Commission Report, as quoted in Leslie and Baldwin, p. 61.

28 Historical evidence of treaty negotiations is relatively lacking for Treaty 2.

29 Leslie and Baldwin, p. 98.

30 *The Manitoban*, August 12, 1871, in Leslie and Baldwin, pp. 122–128; the initial amount authorized was twelve dollars for a family of five or like proportion.

31 Leslie and Baldwin, p. 106.

32 Ibid., pp. 144–145; and Holmes and Associates, "Treaty Research Report—Treaty 3 (1873)," p. 23.

33 See Ray, Miller, and Tough, pp. 83–85 for a discussion of First Nation expectations regarding annuities.

34 Friesen, "Magnificent Gifts," p. 207.

35 *The Manitoban*, August 12, 1871, as quoted in Leslie and Baldwin, pp. 123–124.

36 Morris to the Minister, October 14, 1873 as quoted in Leslie and Baldwin, p. 146.

37 *The Manitoban*, August 12, 1871, as quoted in Leslie and Baldwin, pp. 169–170. See also Ray, Miller, and Tough, p. 78 for evidence of the suggestion that annuities would secure a livelihood for signatories.

38 Simpson to Howe, November 3, 1871, as quoted in Leslie and Baldwin, p. 129.

39 As quoted in Ray, Miller, and Tough, p. 68.

40 *The Manitoban*, October 18, 1873, as quoted in Leslie and Baldwin, p. 149.

41 The language of kinship, such as the "Great White Mother" (the Queen) and her "Indian children," was used often in treaty negotiations to indicate the notion of protection—both in the sense of physical protection (e.g., from settlers or traders of liquor) and material assistance; see Friesen, "Magnificent Gifts," p. 208.

42 Morris, p. 61; this statement was made in an attempt to explain the relative advantage of having a perpetual annuity over the annuity practice in the United States of providing a larger amount, but over a limited period of time, such as for twenty years.

43 Ibid., pp. 96, 117.

44 Ibid., p. 204.

45 Ibid., p. 211.

46 Report on the Manitoba Superintendency, November 28, 1882, in the Indian Affairs (IA) Annual Report, 1882, p. 143; Report of the Northern Superintendency, Ontario, August 31, 1889, in the IA Annual Report, 1889, p. 5; Report from Manitoba and the North-West Territories, November 20, 1897, in the IA Annual Report, 1897, p. 215; see also Tough, p. 90.

47 Report from the Manitoba Superintendency, Rat Portage Inspectorate, July 27, 1901, in the IA Annual Report, 1901, p. 113.

48 Report of the Indian Commissioner's Office, Winnipeg, October 30, 1875, in the IA Annual Report, 1875, p. 37.

49 IA Annual Report, 1891, p. xvii.

50 Report of the Blood Agency, Macleod, Alberta, August 8, 1890, in the IA Annual Report, 1895, p. 75.

51 Report of the Indian Commissioner, Manitoba and North-West Territories, November 20, 1897, in the IA Annual Report, 1897, p. 215.

52 Report of the Northern Superintendency-Division No. 2., August 26, 1884, in the IA Annual Report, 1884, p. 9.

53 Report of the Agency of Mr. Martineau, Winnipeg, July 26, 1882, in the IA Annual Report, 1882, p. 149.

54 Report of the Manitoba Superintendency, Portage la Prairie, September 15, 1899, in the IA Annual Report, 1899, p. 97.

55 Report of the Indian Commissioner, Regina, N.W.T., December 1, 1891, in the IA Annual Report, 1891, p. 201.

56 Report of the Coutcheching Agency, July 29, 1887, in the IA Annual Report, 1887, p. 66.

57 Report of Parry Sound, August 28, 1893, in the IA Annual Report, 1893, p. 7.

Editor's note: It is interesting to note that annuities were reinstated after a three-year period (1888) when DIA decided that the punishment was sufficient and there was growing evidence that that more harm was being done by withholding the annuities.

58 Report of Manitoba and the North-West Territories, November 17, 1886, in the IA Annual Report, 1886, p. 106; Memo from Lawrence Vankoughnet to John A. Macdonald, August 17, 1885, as quoted in Vader, p. 64.

59 Report of Hayter Reed, Commissioner, Regina, N.W.T., October 31, 1888, in the IA Annual Report, 1888, p. 124.

60 In one case annuities were even withheld because of children who had allegedly stolen biscuits from the local missionary; see the Report of Coutcheching Agency—Treaty No. 3, August 9, 1887, in the IA Annual Report, 1888, p. 53.

61 This was first legislated under the *Gradual Enfranchisement Act*, 1869.

62 As quoted in Dennis F. K. Madill, "Treaty Research Report: Treaty Eight," not paginated.

63 Ibid.

64 See, for example, Kenneth S. Coates, "Treaty Research Report: Treaty No. 10." In 1884 Deputy Superintendent General Vankoughnet argued, in the context of applicable game laws, that if First Nations were prevented from hunting for subsistence purposes, they would then have to be fed by government; Joan Holmes and Associates, "Treaty Research Report—Treaties 1 & 2," p. 47. See also Tough, p. 90 for the view that annuities were "a means to maintain Indian labour in a commercial hunting economy."

65 See, for example, report from Dewdney to Superintendent General of Indian Affairs, January 1, 1882, in the IA Annual Report, 1881, p. 38. Morris, p. 75, indicated that instead of purchasing items right away, many First Nations kept the money to use as leverage to secure credit from the HBC.

66 Report of Commissioner J. A. N. Provencher, Winnipeg, December 31, 1873, in IA Annual Report, 1874, p. 56.

67 Women could also enfranchise voluntarily beginning with the 1876 *Indian Act*.

68 "Indian Women Who Have Commuted Their Annuity by a Ten Year's Purchase Under Section 11

of the Indian Act" in the IA Annual Report, 1894, pp. 358–363.

69 Letter from Deputy Superintendent General Scott to Arthur Meighen, Superintendent General of Indian Affairs (January 12, 1920), quoted in Royal Commission on Aboriginal Peoples report, Vol. 4, p. 29.

70 The broader societal expectation at this time, espoused by Indian Agents, missionaries, and others, was that men were responsible for the economic welfare of families, and married women would raise families in places where their husbands could make a living; see the Royal Commission on Aboriginal Peoples report, Vol. 4, p. 28, for a similar view about property rights on reserve.

71 The only exception to this was the Métis at Rainey Lake, who were included under Treaty 3 at the insistence of the First Nations.

72 See, for example, the Report from Fort Walsh, Cypress Hills, N.W. Territory, September 12, 1876, in the IA Annual Report, 1876, pp. xxxvii–xxxviii.

73 Report of the Manitoba Superintendency, Winnipeg, December 7, 1886, in the IA Annual Report, 1886, p. 163.

74 Report of the Pas Agency—Treaty No. 5, Cumberland, N.W.T., July 2, 1886, in IA Annual Report, 1886, p. 76.

75 Editor's note: There were of course other issues that influenced these decisions, such as band reactions to post-1885-rebellion Department of Indian Affairs policy.

76 IA Annual Report, 1887, p. liii; see also Report of the Office of the Indian Commissioner for Manitoba and the North-West Territories, December 23, 1887, p. 113, and Coates, "Treaty Research Report: Treaty No. 10," not paginated.

77 Report of Indian Agency—Treaty No. 6, Saddle Lake, N.W.T., June 30, 1887, in the IA Annual Report, 1887, p. 93; see also Tough, p. 120.

78 Morrison, "The Robinson Treaties of 1850," p. 124.

79 HBC post records, Red River, as indicated in Leslie and Baldwin, p. 134.

80 Arthur Ray, *The Canadian Fur Trade in the Industrial Age*, p. 200.

81 Report of the Manitoba Superintendency, Portage la Prairie Agency, December 10, 1881, in the IA Annual Report, 1881, p. 61.

82 Report of the Office of the Inspector of Indian Agencies, Manitoba Superintendency, November 30, 1883, in the IA Annual Report, 1883, p. 137.

83 Federation of Saskatchewan Indian Nations and Canada, "Annuities in the Context of Treaty," p. 14.

84 H. Cardinal and W. Hildebrandt, *Treaty Elders of Saskatchewan*, p. 36.

85 Lynn Hickey, Richard L. Lightning, and Gordon Lee, "T.A.R.R. Interview with Elders Program," pp. 103–160; see also Vader, p. 91.

86 Treaty 7 Elders and Tribal Council with Walter Hildebrandt, Sarah Carter, and Dorothy First Rider, *The True Spirit and Original Intent of Treaty 7*, pp. 120–121. See also evidence of Treaty 4 elders' testimony in John Leonard Taylor, *Treaty Research Report: Treaty Six*, not paginated.

87 See, for example, Richard Daniel, "The Spirit and Terms of Treaty 8," and Madill, "Treaty Research Report: Treaty Eight."

88 See, for example, Sarah Carter, *Lost Harvests*.

89 Report from Inspector for Treaty No. 8, October 5, 1903, in the IA Annual Report, 1903, p. 235.

90 Leslie and Baldwin, p. 15; Jones, "British Colonial Indian Treaties;" J. R. Miller, "Compact, Contract, Covenant: The Evolution of Indian Treaty Making," pp. 73–75.

91 Holmes and Associates, "Land Cession Treaties, Volume I," pp. 11–20; Leslie and Baldwin, p. 17; Sims, pp. 10–12.

92 See, for example, Joan Holmes and Associates, "Land Cession Treaties and Reserve Surrenders in Pre-Confederation Ontario, Volume II: Case Studies," p. 11; and Leslie and Baldwin, pp. 44–48, 56–68.

93 The Bagot Commission Report in Leslie and Baldwin, pp. 66, 91.

94 Morrison, "The Robinson Treaties of 1850," p. 126.

95 See, for example, J. E. Foster, "Indian-White Relations in the Prairie West during the Fur Trade Period—A Compact?" and Ray, Miller, and Tough; Jean Friesen has emphasized that the traditional annual Aboriginal trade fairs, renewal of peace ceremonies, and other First Nation gatherings fit well with the fur trade annual round, Friesen, "Magnificent Gifts," p. 210.

96 Morris to Howe, February 26, 1876, as quoted in Leslie and Baldwin. p. 103.

97 Dickieson letter, November 18, 1874, in Vader, p. 34. See also Miller, "Compact, Contract, Covenant," p. 85. All of the numbered treaties, except Treaty 9, included provision of a "suitable suit of clothing" for each chief and between two to four headmen (also referred to as "subordinate officers" or "councillors") every three years (or annually in the case of Treaty 6). The annual treaty provision of ammunition and twine may also owe its origin to the HBC practice of providing ammunition for the hunt; see the Federation of Saskatchewan Indian Nations and Canada, p. 6. At the close of Treaty 1 negotiations in 1870 Lieutenant-Governor Archibald distributed ammunition to enable those in attendance to gain a living from hunting over the coming winter, reminiscent of HBC practices; Morris, 27.

98 The HBC commonly provided hunters in the autumn with goods on credit that were collectively referred to as "winter outfits," including ammunition, nets, fishing line, twine, traps, knives etc.; see A. J. Ray, "Shading a Promise: Interpreting the Livelihood Rights Clauses in Nineteenth-Century Canadian Treaties with First Nations."

99 See especially Ray, Miller, and Tough, p. 74, for the notion that the annuity was a continuation of a pre-existing HBC responsibility. See also Miller, "Compact, Contract, Covenant," pp. 70–71, and Daniel.

100 See, for example, Leslie and Baldwin, pp. 149, 153; Ray, Miller, and Tough, p. 56; and Holmes and Associates, "Treaty Research Report—Treaty 3 (1873)," p. 35. The connection between the history and culture of HBC trade relations and relations with government formed under treaty is examined in detail by Ray, Miller, and Tough in their book *Bounty and Benevolence*.

101 See, for example, Morrison, "The Robinson Treaties of 1850," pp. 90–93.

102 Leslie and Baldwin, p. 107, also p. 152 for general Saulteaux expectations of provisions; Morris, p. 72; Holmes and Associates, "Treaty Research Report—Treaty 3 (1873)," p. 6.

103 See for example the Report from Fort Macleod, August 14, 1880, in the IA Annual Report, 1880, p. 88; and the Report of the Savanne Agency—Treaty No. 3, August 13, 1886, in the IA Annual Report, 1886, p. 69.

104 Chief Yellow Quill, for example, in 1874 had indicated that he would refuse the suit of clothes, flag, and medal offered to him unless government made annuity payment in arrears (i.e., for late adherents, or those absent during treaty payment); Alexander Morris as quoted in Vader, pp. 41–42.

105 One possible exception may be the Iroquois use of wampum belts.

106 See, for example, Friesen, "Magnificent Gifts" and the RCAP report, Vol. 2, Part One, p. 51.

107 Leslie and Baldwin, p. 170. There is also evidence of a "renewal ceremony" that existed within the fur trade, whereby a calumet (pipe) was either left at a fort by the First Nation trading captains or chiefs to indicate contentment, or taken with them to indicate the opposite; see Ray, Miller, and Tough, pp. 9, 20, and Miller, "Compact, Contract, Covenant," p. 70.

108 Holmes and Associates, "Treaty Research Report—Treaties 1 & 2," pp. 28–30; Wayne Daugherty, "Treaty Research Report: Treaty One and Treaty Two," not paginated; Leslie and Baldwin, p. 130.

109 Poundmaker, Piapot, and Big Bear all refused annuities in the early 1880s in an attempt to draw attention to renegotiation of treaty terms; see Morin, "Perceptions of Implementation," pp. 133–135 and John Tobias, "Canada's Subjugation of the Plains Cree, 1879–1885," p. 232. See also Vader, p. 56, for Beardy and the Duck Lake Indians' refusal to take annuities in 1879.

110 Report of Treaty No. 6, August 26, 1884, in the IA Annual Report, 1884, p. 154.

111 Miller, "Compact, Contract, Covenant," p. 71. There are also examples of First Nations refusing to accept gifts or provisions prior to treaty, interpreted as chiefs not wanting to be baited into treaty or otherwise bound to the government; see, for example, Leslie and Baldwin, p. 115, and

Holmes and Associates, "Treaty Research Report—Treaty 3 (1873)," p. 6.

112 Morrison, "The Robinson Treaties of 1850," p. 157.

113 Vader, p. 46.

114 Cardinal and Hildebradt, p. 66.

115 "Treaty ceremony draws fire, Payouts trivial, say detractors," *The Winnipeg Sun*, June 11, 2008; "Treaty is a Rip-off," *Cision* media transcript, May 7, 2008.

116 See, for example, the Alberta Indian Chiefs quoted in Taylor, "Treaty Research Report: Treaty Six," not paginated.

117 RCAP report, Vol. 2, Part One, p. 77.

118 Metcs, "The Common Intention of the Parties and the Payment of Annuities under the Numbered Treaties."

119 Jean Allard, "Big Bear's Treaty: The Road to Freedom," and Jean Allard, *The Rebirth of Big Bear's People: The Treaties: A New Foundation for Status Indian Rights in the 21st Century.*

120 John Richards, "A New Agenda for Strengthening Canada's Aboriginal Population: Individual Treaty Benefits, Reduced Transfers to Bands and Own-Source Taxation;" John Richards, *Creating Choices: Rethinking Aboriginal Policy*.

121 Clatworthy spliced the two indices together by setting the value of both to 1.00 in 1914. This method assumes that wholesale and consumer prices are highly correlated; personal correspondence with the author.

122 Between 1868 and 1881 Treaties 1–7 represented 11 percent of all government expenditures in the territory, and escalating annuity expenses from late adherents was a major concern given the lack of reliable information on numbers of potential annuitants; Ray, *The Canadian Fur Trade in the Industrial Age*, pp. 34–40.

123 Cardinal and Hildebrandt, p. 47.