

# Pre-Treaty History Synopsis

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# Disclaimer

Please Note: The following presentation is by **NO** means a comprehensive discussion on Pre Treaty History.

# 1. Papal Bull 1452

- The Papal Bull is a law that was made in 1452 that authorized the seizure of non-Christian Lands and approved Slavery
- The Papal Bull 1452 also authorized that our People as non-Christian's did not have the right of land ownership and only had the right to live on Our own Lands.
- The Supreme Court of Canada still enforces the Papal Bull 1452.

## 2. Papal Bull 1493

- The Papal Bull is a law that was made in 1493 that further emphasized and declared that only Christians had the right of land ownership.
- The Papal Bull 1493 also declared war on non-Christian nations.

# 3. British Common Law 1608

- Laid down the laws for Great Britain to follow in asserting Sovereignty in foreign land.
  1. Must defeat a Nation in war
    - 2. If the land is vacant or
    - 3. By Treaty

## 4. King Charles II 1670

- Land Grant by King Charles II to the company of adventures (which became the Hudson Bay Company HBC) in 1670. The land given to HBC became known as Rupert's Land.
- **The Question**: Whether or not the 1608 Common Law was binding on Great Britain at the time of the King Charles II grant of Rupert's Land.
- Did the Royal Charter violate the British Common Law of 1608?

# 4. Royal Proclamation 1763

- States that our People were under the protection of Great Britain. The Crown appointed its self as our trustee with a lot of discretionary power. But according to our Treaties it is a mutually agreed upon trust relationship that spells out the duties and responsibilities for the Crown and Indian Nations. The crown does not have any discretionary power as one imposed by the courts or the government. Both parties must abide by the Terms and conditions of Treaty.
- The Royal Proclamation states that Lands would be reserved for our People.
- Then in 1876, the dominion Government of Canada created the Indian Act with the purpose to break our Tribal System and to enable the white man to gain possession of the lands of the Indian.
- And the Frank Oliver Policy was created to manipulate our People into surrendering hundreds of thousands of acres of reserve lands.
- Over the years the Indian Act has been amended many many times except for Section 37 to Section 41, which deals with land surrenders.

# 5. Indian Act...

- The Indian Act also included the following amendments
  - A) Our sacred ceremonies were made illegal
  - B) To promote the gradual enfranchisement of our People
  - C) Made it lawful to arrest an Indian without due process of Law
  - D) To enfranchise any Indian admitted into a University
  - E) That a convicted Indian had no right of appeal
  - F) Prohibited the sale of ammunition to an Indian
  - G) Discouraged the use of our Language in Residential Schools
  - H) Directed treaty money to residential schools
  - I) That our annuity money be taken from the Consolidated Revenue Fund where all Indian Money is held (it looks like we were paid by our own money)
- There are probably more examples that are racist and dehumanizing - Where is the Protection of our People that the 1763 Royal Proclamation proclaimed?



## 6. HBC claim of governing Rupert's Land 1670

- The following information disputes HBC claim:
  - A) “... in spite of having received title to Rupert's Land from the English Crown the company's directors realized that the grant meant nothing to their customers (the Indians). The company had to obtain Native approval to occupy portions of their territory” (Bounty and Benevolence. Page 4)
  - B) In 1784, the North West Company “... pushed deeper into the interior of Canada challenging the HBC for control of the Fur Trade. They openly defied the Royal Charter often building their forts right beside those of the HCB.” (Hudson Bay Company Adventures. Page 94)

## 6. HBC claim of governing Rupert's Land 1670...

- C) “I think the establishment of law and order in the Saskatchewan District, as early as possible, is of the most vital importance to the future of the country and the interest of Canada, also the making of some treaty or settlements with the Indians who inhabit the Saskatchewan District.” (Treaties of Canada’s Indians - W.J. Christie, HBC.)
- D) “... that a treaty with the Indians of that country or at least an assurance during the coming years, that a treaty will shortly be made is essential to peace, if not the actual retention of the country.” (Treaties of Canada’s Indians, Indian Commissioner Mr. Sampson.)
- E) “HBC had to obtain consent from the Indians to build those forts and establish trade from their forts” (Bounty and Benevolence).

Also the HBC was a Company and not an elected government HBC did not govern the land or the people according to credible sources.

# 7. Rupert's Land Order 1870

- By the 1870 Rupert's Land Order authorizing the HBC to sell Rupert's land to Canada for 300,000 English pounds. Initially, Canada disputed HBC claim of ownership but paid the amount for moving expenses of HBC. By this Order, Canada claimed sovereignty over Rupert's land, as of June 23rd, 1870, the date of the 1870 Rupert's Land Order. The validity of such a claim should be questioned considering that Indian Treaties, the number Treaties did not happen until 1871 when Treaty no. 1 and Treaty no. 2 were concluded. All of the numbered Treaties No. 1 to Treaty No. 11 happened after 1870. In his book, published in 1880 titled *Canada's Treaties with the Indians*, Treaty Commissioner Alexander Morris acknowledged that the Treaties formalized Canadian Sovereignty.
- Should the previously mentioned evidence invalidate any claim of the sovereignty over Indian Nations and over Indian Lands before Treaty? If partial British Sovereignty existed before Treaty as implied by Alexander Morris, then what about the King Charles II grant of Rupert's Land 1670, which was acquired without any Treaty with the Indians? More research is required on this matter.

## 8. Indian Nations Defending their Lands from Settlement before Treaty

- The following are examples that should question the validity of the British sovereignty before Treaty:
- In Treaties No. 1 and Treaty No. 2 “Settlers were being warned by the Indians not to cut wood or otherwise take possession of the lands upon which they were squatting” (Morris, 1880. p. 37).
- “... they were unwilling to allow the settlers the free use of the country for themselves or their cattle” (Morris, 1880, p. 37).
- White settlers were being chased out of lands that would eventually be considered as Treaty No. 3 territory.
- The government was informed that an alliance had been formed by the Assiniboine and the Cree and that they were prepared to resort to “extreme measures” to stop white settlement in Treaty No. 6 Territory until a Treaty was made between them and the Crown.

## 8. Indian Nations Defending their Lands from Settlement before Treaty...

- In Treaty No. 7 the Treaty Commissioner was told by Chiefs "The Great Spirit and Not the great Mother gave us this Land"
- "A sign of serious Indian resistance came in June 1898, when 500 Indians at Fort St. John refused to allow police and miners to pass through their area until a Treaty was signed." (The Spirit of Alberta Indians Treaties. Page 64)

The strongest claim for land ownership is for a Nation to resort to armed confrontation to prevent their land from falling to foreign occupation, that was what Indians Nations were prepared to do, unless a Treaty was made. These matters should be taken into consideration in determining the importance of Indian Treaties.

## 9. The threat of possible US Annexation of Rupert's Land

- The political leaders of the frontier stated openly and encouraged American expansion into British Territory, and there is strong evidence that this movement was tolerated if not directly encouraged by Washington.” 1866 pg. 35 Birth of Western Canada
- US Senators introduces a resolution to annex the Red River Territory.
- “... Minnesota is confident to hold, occupy, and possess the valleys of Red River to Lake Winnipeg.
- According to Indian Commissioner the Treaties prevented US expansion of Rupert's Land.

If Indian Treaties prevented the US from expanding into Rupert's Land, then the Treaties should be recognized as International Treaties.

# 10. Treaties of Alliance

- Definition of Alliance - a Nation is an ally of another Nation if bound to it by Treaty for mutual defense.
- As an ally of Great Britain, would that acknowledge our People as one of the founding Nations of Canada?
- Treaty Commissioner Alexander Morris makes numerous references of establishing Treaties of Alliance between the Crown and our Nations.
- The Cree “desire a Treaty of Alliance with the Government” (Morris, 1880. p. 68)
- Chief Beardy “I will render all the assistance I can to my brother in taking care of the country.” (Morris, 1880. p. 227) The Chief is speaking as an Ally with Great Britain. The term Treaty of Alliance is not in the written text. The Indian Nations also requested for a Treaty of Alliance

# 11. Wood and Water

- The Treaty Commissioner Morris “The Great Spirit made this earth we are one. He planted the trees and made the rivers flow for the good of all his people, white and red...” Treaty No. 6 Page 231
- Wood and water were the gift of the Great Spirit and were made alike for the good of both the white man and the Red man” Page 57 Morris’s Book
- One of the Chiefs replied to Alexander Morris statement above. “What was said about the trees and the river was quite true but it was the Indians Country and not the white mans” Treaty No. 3 page 57 Morris’s Book
- The settlers “had been warned by the Indians not to cut wood or otherwise take possession of the lands upon which they were squatting”
- The following was also made by one of the Chiefs before Treaties. “The water out of which you sometimes take food for yourselves, we want to be free to take it anywhere on the common” Morris Book It’s implied that wood and water is a shared right between the Crown and our People. The government later described common land as crown land.



# 11. Wood and Water...

- Also the Rocky Mountains were never included in Treaty according to oral history.
- On more than one occasion Treaty Commissioner Morris refers that the Treaties only covered the lands to the foot of the Rocky Mountains
- “The Mountains were never mentioned according to my Grandfather” Page 119 R.D Book Treaty No. 6 Cree Elder John Buffalo
- Our Forefathers always maintained that this country was ours including the Mountains. They were positive that they never gave up the lands and the Mountains “ Lazarus Roan 70 Treaty No. 6 Cree Elder March 30, 1974, Treaty Interpreter Page 144 and 195 , page 215 Timber.
- The above references are important in order to support our interests to Water, Timber, Animals, food and medicine plants, as well as, using the Mountains for traditional purposes.

# 12. Treaty Commissioner and Treaty Interpreters

- Treaty Commissioner Morris: “I have to acknowledge the benefit I desired from the services of the Hon. James McKay, Camping as he did near the Indian encampment. He had the opportunity of meeting them constantly and learning their views which his familiarity with the Indian dialects enabled him to do.” AM Book p. 195
- Hon. James McKay was one of the Treaty Commissioners who also acted as one of the Interpreters. Appears to be a conflict of interest Alexander Morris stated more than once “I can not treat you differently than other Indians” Page 81 and 121-122.

# 12. Treaty Commissioner and Treaty Interpreters...

- The terms of the treaty were identical with those of Treaties Numbers Three and Four, except that a smaller quantity of land was granted to each family, being one hundred and sixty, or in some cases one hundred acres to each family of five, while under Treaties Numbers Three and Four the quantity of land allowed was six hundred and forty acres to each such family. The Treaties of Canada with the Indians Page 145. There are other examples that show Alexander Morris contradicted his words.
- Treaty Commissioner Alexander Morris makes the following comment about Hon. James McKay who was also a Treaty Commissioner and treaty interpreter, “Thoroughly understanding the Indian character, he possessed large influence over the Indian tribes, which he always used for the benefit and the advantage of the Government”. The Treaties of Canada with the Indians Page 144.

## 13. Sources Questioning the accuracy and correctness of the written text of Treaties

- Bishop Grandin's record of the Treaty: "the secretary of the Lt. Governor (Morris) brought them the minutes of the Treaty in order that they would affix their signatures, they did so without having taken then precaution of reading it, not having suspected that the text was different on many points from the words which they had heard during the meetings.
- Treaty No. 8 Elder William Okeymaw 87 years old, March 27, 1975. "There were many things we did not see. The Indian People still have promises coming to them. The promises made to us that are missing. There is still a great deal missing"

## 13. Sources Questioning the accuracy and correctness of the written text of Treaties...

- From James K. Cornwall, Peace River, Treaty No. 8 “I was present when Treaty No. 8 was made at Lesser Slave Lake and Peace River Crossing. The Treaty, as presented by the Commissioner to the Indians for their approval and signature, was apparently prepared elsewhere as it did not contain many things.” \*See also pp. 109-96-94-110-72-73-115-117-123
- Treaty no. 6 Cree Elder John Buffalo April 18, 1975 “When they took the papers back to Ottawa, they made them so the agreement could claim all of Canada.” “I myself think that it was their own arrangement that the whole of Canada would belong to them, including the timber and everything else.” p. 119 R.P. Book
- Treaty no. 7 Chief John Yellowhorn May, 10 1975 “ Mostly the promises that were made at the treaty were never kept.” - The Spirit of the Alberta Indian Treaties p. 139.

# 14. Unwritten Treaty promises and other Contradictions

A. The term “As long as the sun shines, the grass grows, and the rivers flow” is not mentioned in the treaties.

- That is how long the treaties are to last.
- The key promise to impress and convince our people to agree to the treaty.
- The meaning was well understood by Indian people
- Has a sacred meaning for Indian people
- It's our statute of limitation

B. The term “Your great white Mother” is mentioned in the Treaty negotiations but is replaced by the term “Her Majesty” in the written Treaty that has a very different meaning

# 14. Unwritten Treaty promises and other Contradictions...

## C. “Treaty of Alliances”

- More than once the treaty commissioner describes the treaties as establishing an alliance

## D. “No draft to join any war”

## E. “The prohibition of liquor on reserve”

- Government added the clause “on less otherwise determined by her government”

## F. “Mining or lumbering”

- In Fort Carlton the Chiefs presented a list to the Treaty Commissioners that they requested to take timber on common land. After Treaty Commissioner left they found their list on the ground all torn up.
- Mining and lumbering were never discussed during the treaty negotiations.

# 14. Unwritten Treaty promises and other Contradictions...

## G. “To the foot of the Rocky Mountains”

- The Treaty Commissioner makes several reference that the treaties only extend to the foot of the Rocky Mountains. But that written text describes that the treaties cover up to the “easterly range of the mountains or the Central range of the Rocky Mountains.” In Treaty 7 the treaty extends to the boundary of British Columbia”

## H. “That only farming land was open to white settlement up to the depth of a plow”

## I. “That the government would not interfere with our internal affairs”

## J. “That the Indians traditional means of subsistence would not be interfered by government”

## K. “The government would provide police protection”



# 14. Unwritten Treaty promises and other Contradictions...

L. “That what is done is done in the name of the great spirit” is not included in the written text

M. “What she promises never changes - the Queen always keeps her word”

N. “That the buffalo was to be protected” (Elder John Buffalo)

O. “Treaty No. 8 were promised medical services but they were not included in the Treaty”

Treat 7 Elders also state that they too were promised medical services

## 14. Unwritten Treaty promises and other Contradictions...

. “The Spirit and Intent of the Treaty is for the Crown to assist our People to become self supporting, until then the Crown has the responsibility for our Health and Well Being.”