

CHECKBACK

In Chapter 4, you learned how the Royal Proclamation established the right of the British Crown to negotiate treaties with First Nations.

THE NUMBERED TREATIES

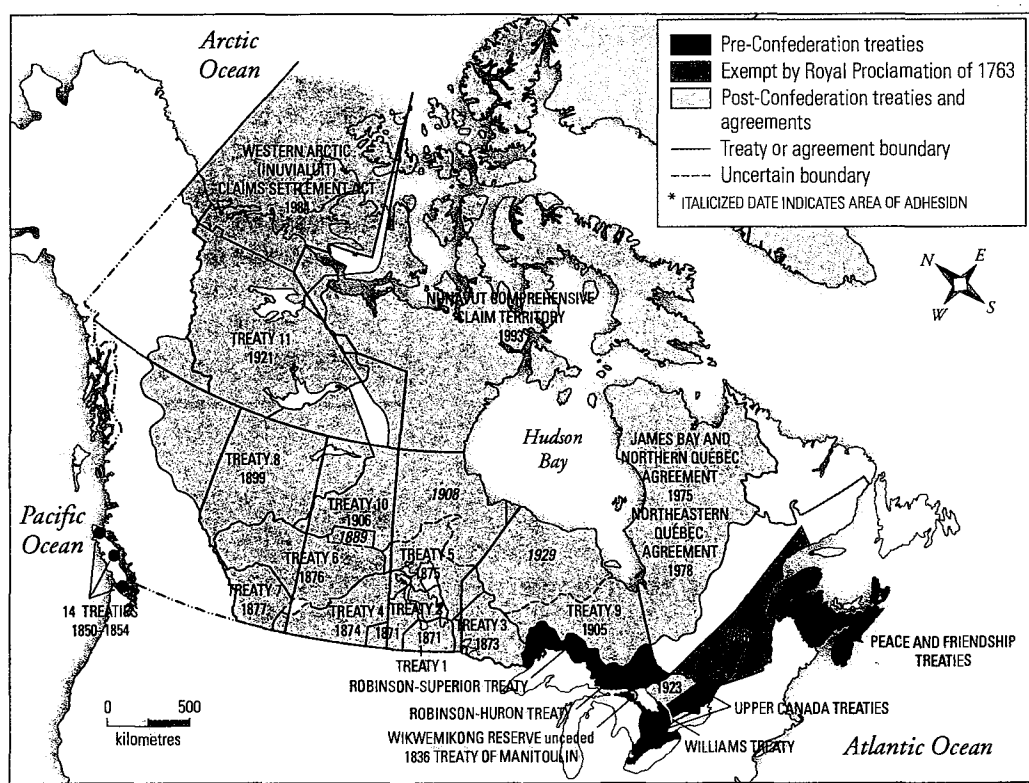
Between 1871 and 1921, the Government of Canada entered into eleven treaties with First Nations across the West. These treaties, known as the Numbered Treaties, covered vast areas of present-day northern Ontario, Manitoba, Saskatchewan, Alberta, and parts of British Columbia, Yukon, and the Northwest Territories. Over time, First Nations that were not present at the original treaty signings or that initially refused to sign a treaty were added at a later date. This type of change is known as a **treaty adhesion**.

The government's purpose for negotiating the Numbered Treaties was to open up land for immigrant settlement and ensure peaceful relations between First Nations and the newcomers. During this time period, the United States had been spending millions of dollars on wars with **Native Americans** of the Great Plains. Prime Minister Macdonald wanted to avoid such wars with First Nations in Canada and decided that treaties would be the solution.

As the government negotiated the treaties, Métis people were sometimes offered the opportunity to "take treaty" and be considered as First Nations people by the government. In 1883, the government amended the *Dominion Lands Act* to include provision for Métis claims to land in the Northwest Territories. Beginning in 1885, scrip commissions

travelled through areas in which treaties had been concluded to offer scrip to Métis people. However, land speculators often travelled with the scrip commissions, and many Métis people sold or were defrauded of their scrip.

Figure 9-4 Canada's Treaty Areas, 1993



HP How were the Canadian government's policies toward First Nations and Métis peoples different? Consider the differences between treaties and scrip. Take a historical perspective to consider why the policies were different.

TERMS OF THE NUMBERED TREATIES

Although the Numbered Treaties are not identical, most have a few similar terms of agreement. In agreeing to “cede, release, surrender, and yield up” their land, First Nations were promised

- a payment upon signing the treaty (depending on the treaty, the amount varied between \$3 and \$12 per First Nations person)
- an annual payment of \$3 to \$5 for each First Nations person
- reserve land to live on
- the establishment of schools on reserve land
- the continuation of hunting and fishing rights on ceded land that was not being used for settlement, lumber, or mining
- a suit of clothing for chiefs every three years, and a payment of \$25 per year
- a medal and flag for each chief
- basic agricultural equipment and supplies

Each treaty also included a variety of other provisions.

In exchange for these payments, First Nations had to promise to keep peaceful relations with immigrants and to maintain order according to Canadian laws.

Each group of First Nations learned from the previous treaties that had been signed. As a result, each successive treaty allowed First Nations to negotiate better terms for their people. For example, in Treaty Six, the Nehiyawak (Plains Cree) First Nations negotiated that a medicine chest must be kept at the Indian agent’s house for First Nations use in times of illness.

CREATION OF RESERVES

The concept of giving First Nations a parcel, or reserve, of land was introduced by Europeans during the early years of colonization in North America. The Jesuits attempted to encourage First Nations people to settle on parcels of land in the hopes that they would adopt European ways of life, such as farming. Many years later, when the Numbered Treaties were signed, the basic purpose of the reserve remained the same: for First Nations to adopt a more European style of living.

From the vast lands from which First Nations and their ancestors had lived and sustained themselves, many Numbered Treaties gave First Nations just 65 hectares per family of five. The government promised to provide schools on each reserve in the hopes of educating First Nations children in European ways and culture. The government wanted First Nations people to build permanent homes on the reserves and to adopt European agricultural methods. To assist with this goal, the government provided some basic farm equipment and livestock. However, most of the animals, tools, and other equipment were of poor quality, and rarely were enough distributed for the number of families on a reserve. In addition, all of the farm animals remained the property of the government, so they could not be sold or slaughtered for food without permission.

Figure 9-5 This medal was presented to First Nations chiefs following the signing of Treaties Three, Four, Five, Six, and Seven. A profile of Queen Victoria is on one side, while the other side shows a First Nations chief shaking hands with a government official. Why do you think the government issued these medals?



... SHAPING CANADA TODAY ...

The “medicine chest” clause in Treaty Six laid the foundation for all First Nations people with treaty rights to later receive universal health coverage.

Figure 9-6 These Ininew (Cree) farmers, shown here around 1910, were all from the File Hills Colony, a successful First Nations farming operation on the Peepeekisis reserve in Saskatchewan.



ED Treaty One

In 1871, the government appointed Wemyss M. Simpson, a former governor of the Hudson's Bay Company and a Member of Parliament, as the new Indian commissioner. It was his job to negotiate the Numbered Treaties. Along with Adams G. Archibald, the lieutenant-governor of Manitoba and the North-West Territories, Simpson commenced negotiations for Treaty One on July 27, 1871, with several First Nations, including the Brokenhead, Long Plain, Peguis, Roseau River, Sagkeeng, Swan Lake, and Sandy Bay First Nations. Treaty One was negotiated at Lower Fort Garry and is known as the Stone Fort Treaty.

Archibald addressed the First Nations people who gathered to hear about the treaties by telling them that the Queen wanted to deal fairly with them. He also introduced the concept of reserves and described the rights First Nations would have to the land they ceded to the government:

Your Great Mother [the Queen], therefore, will lay aside for you "lots" of land to be used by you and your children forever. She will not allow the white man to intrude upon these lots. She will make rules to keep them for you, so that as long as the sun shall shine, there shall be no Indian who has not a place that he can call his home, where he can go and pitch his camp, or if he chooses, build his house and till his land.

When you have made your treaty you will still be free to hunt over much of the land included in the treaty. Much of it is rocky and unfit for cultivation, much of it that is wooded is beyond the places where the white man will require to go at all even for some time to come. Till these lands are needed for use you will be free to hunt over them, and make all the use of them which you have made in the past. But when lands are needed to be tilled or occupied, you must not go on them any more. There will still be plenty of land that is neither tilled nor occupied where you can go and roam and hunt as you have always done, and if you wish to farm you will go to your own reserve where you will find a place ready for you to live on and cultivate.

First Nations leaders at the negotiations had observed the events that led to Manitoba's entry into Confederation and seemed well aware that more immigrant settlers would soon be arriving. The leaders were eager to negotiate a treaty to secure their people's future, but with some misgivings and uncertainty. Je-ta-pe-pe-tungh of the Portage First Nation said, "All is darkness to me how to plan for the future welfare of my grandchildren." The Portage First Nation left negotiations before the treaty was signed.

After deliberating for two days, First Nations representatives returned and stated what they expected in terms of the size of the reserves. To continue their traditional ways of life and to be self-sufficient, First Nations believed that each First Nations person would need several thousand hectare

As the Government of Canada would not agree to these terms, Archibald and Simpson presented the First Nations representatives with an ultimatum. In a report to the government, Archibald explained what happened:

In defining the limits of their reserves, so far as we could see, they wished to have about two-thirds of the Province. We heard them out, and then told them it was quite clear that they had entirely misunderstood the meaning and intention of reserves. We explained the object of these in something like the language of the memorandum enclosed, and then told them it was of no use for them to entertain any such ideas, which were entirely out of the question. We told them that whether they wished it or not, immigrants would come in and fill up the country, that every year from this one twice as many in number as their whole people there assembled would pour into the Province, and in a little while would spread all over it, and that now was the time for them to come to an arrangement that would secure homes and annuities for themselves and their children . . .

If they thought it better to have no treaty at all, they might do without one, but they must make up their minds; if there was to be a treaty, it must be on a basis like that offered.

First Nations negotiators were unhappy about the unwillingness of government negotiators to bargain. One First Nations leader, Ayeetapepetung, commented that he could not “see anything in it [the government proposal] to benefit my children. This is what frightens me.”

In the end, First Nations negotiators were able to win some concessions from the government, such as promises of agricultural equipment and schools, as well as a suggestion that, if the lands provided for their reserves was not enough, more land could be provided to the West.

Realizing that Simpson and Archibald were correct in stating that European occupation of their land would happen with or without a treaty, the First Nations representatives signed Treaty One on August 3, 1871.

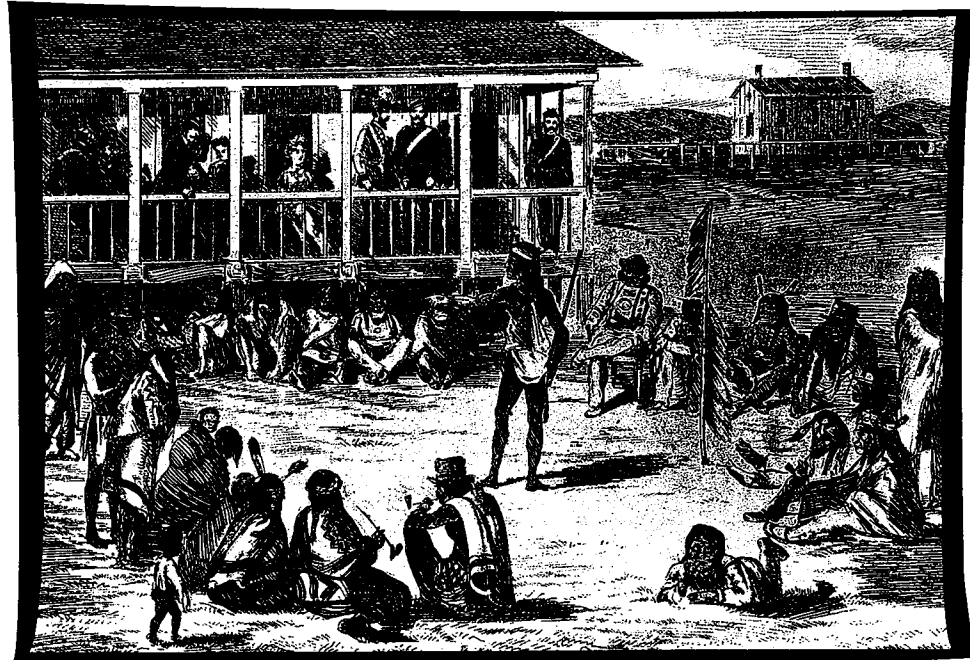
However, the written treaty did not include many of the promises made during negotiations, such as promises of hunting privileges, agricultural implements, clothing, and livestock.

Archibald warned the federal government that they needed to honour the full extent of the agreement reached during negotiations, because “They [First Nations] recollect with astonishing accuracy every stipulation made at the Treaty, and if we expect our relations with them to be of the kind which it is desirable to maintain we must fulfill our obligations with scrupulous fidelity.” In 1875, Treaty One was revised to include the missing promises.

Figure 9-7 Adams G. Archibald, the lieutenant-governor of Manitoba and the North-West Territories, was a key negotiator for the Canadian government in Treaty One.



Figure 9-8 *Treaty No. 1 with First Nations, 1871*. This illustration appeared in the Montréal newspaper, *L'Opinion Publique*, on September 14, 1873. What biases are present in this illustration? How does it compare with Figure 9-1 on page 254?



ÉD

1. Given that Treaty One was the first of many treaties the government wanted signed, what type of message do you think Archibald and Simpson were trying to send to other First Nations in the West who would be entering treaty negotiations? What are the ethical issues in the government's approach?
2. Parties generally enter negotiations to further their own interests. To what extent should negotiators consider the interests and needs of the other side?

WHY DID FIRST NATIONS SIGN THE NUMBERED TREATIES?

Figure 9-9 This photo of a massive pile of bison skulls was taken August 9, 1890, in Saskatoon, Saskatchewan. By the 1870s, bison had been hunted to the edge of extinction, largely by American and European hunters. Without the bison, First Nations came to rely on the benefits promised in the Numbered Treaties.

First Nations motivations for signing the treaties were primarily based on a need to protect their traditional cultures and ways of life. By 1870, the bison was on the edge of extinction. As the bison was such a critical component to both the well being and economy of many First Nations of the Great Plains, its demise led to food shortages and periods of starvation among many First Nations. Some First Nations people began to see treaties as a means of survival through which they could farm to help feed their people.



Also by the 1870s, disease, such as smallpox, had caused a devastating decline in the First Nations population across the West. Between 1800 and 1870, many communities lost more than half their population. This decline coincided with the arrival of increasing numbers of immigrants who were moving onto their lands. Most First Nations knew that the arrival of a large number of European immigrants would further threaten their traditional ways of life. First Nations also realized that immigrant occupation of their land would come with or without treaties. Many First Nations people could see that their traditional ways of life would soon disappear if they did not secure land for their communities. Entering into the treaties became a necessity for their physical and cultural survival.

They were also aware of the conditions facing Native Americans in the western United States, who were dealing with loss of territory, war with the American government, disease, starvation, and a severe population decline. Hoping to avoid such devastation, First Nations leaders wanted to establish peaceful, cordial relations with the Canadian government. For these reasons, many First Nations leaders hoped the treaties would secure their people a land base and other provisions that would protect their communities and cultures.

VOICES

This is our land, it isn't a piece of pemmican to be cut off and given back in little pieces to us. It's ours and we'll take what we want.

— Chief Pitikwahanapiwiyin
(Poundmaker), Ininew (Cree) leader,
about Treaty Six, 1876

RELEVANCE OF THE NUMBERED TREATIES TODAY

The Numbered Treaties are still legally binding under the Canadian Constitution. Although the Treaty Relations Commission of Manitoba states that “Treaties are the building blocks for the future of the relationship between First Nations and the rest of Canada,” the Numbered Treaties had a number of problems:

- Most reserves were too small to continue traditional ways of life and the reserve lands were often poor for agriculture, which made it difficult for First Nations to create a strong economic base for their communities.
- Oral promises made by the government during treaty negotiations were not always recorded on the treaty documents. According to First Nations oral traditions, these oral promises should have been honoured, but European traditions of treaty making upheld only written treaty terms.
- Today, because of lack of clarity and different understandings of the terms, many First Nations have ongoing disputes with the federal government over treaty rights, land-use rights, fishing and hunting rights, use of natural resources, and respect for traditional territories.

The enforcement of treaty rights for First Nations has also been an ongoing concern, especially in regard to hunting and fishing rights. Hunting and fishing continue to be significant activities in many First Nations communities. The right to hunt and fish for food on unoccupied land was a critical part of many of the Numbered Treaties, and also goes back to the Royal Proclamation of 1763. However, since the signing of the treaties, some provinces and even the federal government have introduced legislation that place restrictions on the hunting and fishing rights of First Nations.

ED What ethical questions might a judge need to consider when determining whether a new law can overrule what has been established in the Numbered Treaties?

Although there have been many negative effects from the Numbered Treaties, the process of negotiating treaties with First Nations continues. A number of First Nations are currently in negotiations with the federal government to create modern-day treaties known as **land-claim agreements**. Land-claim agreements occur between specific Aboriginal communities, the Government of Canada, and the provincial governments in areas where Aboriginal rights have not been addressed by treaty or other legal means.

Figure 9-10 *Trick or Treaty*, by Gerald McMaster, 1990. Gerald McMaster was born on the Red Pheasant reserve in Saskatchewan but is currently a member of the Siksika (Blackfoot) First Nation in Alberta. In this painting, featuring Sir John A. Macdonald, what message do you think McMaster is trying to communicate?



CHECKFORWARD

You will learn more about present-day treaty negotiations in Chapter 17.