

1 Colonization and Treaties



Six Nations Iroquois (Haudenosaunee) chiefs reading wampum belts on September 14, 1871.

LEARNING OUTCOMES

After completing this chapter, you should be able to:

- Identify the differences between the Western European world view and the world view of Indigenous peoples.
- Consider how differences in world view will affect the continuing relationship between mainstream culture and Indigenous cultures.
- Identify the core issues in the long-standing debate over Indigenous claims to land and authority in the Americas.
- Discuss the relationship between the new European arrivals and the Indigenous people in Canada up to the time of the *Royal Proclamation of 1763*.
- Explore the treaty-making process and consider the benefits and disadvantages to all parties involved.
- Identify the assimilation policies and legislation set out by the Dominion of Canada and discuss the moral and ethical implications of those policies.

Introduction

This chapter contrasts pre-contact Europe and pre-contact North America with the goal of understanding what the two cultures were like before they collided. Once this is established, we go on to examine the colonization of Canada and its effects on the original inhabitants of the land.

We gain insight into a culture's world view by examining its creation story. This chapter looks at Indigenous creation stories and at Western European creation stories. We will reflect briefly on Western creation stories. Not all Canadians today are familiar with the Christian religion. But at the time of colonization and well into the 20th century, the majority of Canadians were people of Western European origin—that is to say, overwhelmingly Christian. Their European culture was the dominant culture in Canada during colonization and arguably remains so today. Despite the fact that Canada is widely considered to be a cultural mosaic, the fundamental principles of Indigenous cultures have always been quite different from the European principles that underlie the mainstream world view in Canada.

After examining the creation stories and differences in world view between Indigenous culture and mainstream culture, we will examine the relationship between Indigenous people and Europeans as it developed from the time of first contact through to the period in which Indigenous people went from being partners in trade and allies in war to being displaced and subjugated peoples.

World View

A world view is the set of assumptions and beliefs on which a people's comprehension of the world is based. The stories, symbols, analogies, and metaphors that compose a people's mythology express a world view in coded form. Such expression occurs in informal, formal, unconscious, and conscious ways through family and community, through arts and media, and through economic, spiritual, governmental, and education institutions. (Cajete, 2000, p. 62)

What distinguishes the world view of the dominant culture in Canada? Amid the many cultures that compose Canada, there is a dominant, mainstream culture. Members of a mainstream

culture are sometimes hardly aware of its existence, but people from outside that culture tend to be acutely aware of it. According to Cajete, our culture gives us a particular world view that affects the way we live and our social and political actions. What are the stories, metaphors, symbols, and myths that express the mainstream Canadian world view?

Foundations of the Mainstream Canadian World View

The foundations of the mainstream Canadian world view before and during the centuries of colonization include stories of creation, 17th-century philosophy, structures of governance, and capitalist assumptions about land and property.

Religious Creation Story

Our society is still influenced by the Christian religion. The Christian belief is that humans are created in the image of God and that they, alone among the world's creatures, are endowed with a spirit. God has given humans “dominion over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the Earth” (Genesis 1:25). This belief has profoundly shaped mainstream Western culture's view of humanity's relationship with the natural world. Christian principles, including the concept of the Protestant work ethic, were in part responsible for the emphasis on industry in Western European society and the development of capitalism, which continues to be the dominant economic ideology in North America. The Bible's assertion that humans were made to cultivate the earth is in part responsible for the emphasis on agriculture in Western European society, while the biblical view that the human purpose is to populate the earth was, historically, one of the factors in the high populations of Western European societies.

Our conceptions of justice are rooted in religion. Until very recently, our principles of sentencing for criminal offences were based on notions of retribution and punishment that are biblical in origin. Although the purpose of sentencing, as expressed in section 718 of the *Criminal Code*, is now more in line with modern thinking, various signs and symbols within mainstream culture (for example, in film, books, and stories) still promote a biblical, “eye for an eye” view of justice.

Finally, the Christian faith is a proselytizing religion, based on the belief that there is only one God and one true religion and that others must convert to it or be damned. At the same time, it contains many factions. This state of affairs produced much religious intolerance and dissension and conflict in Europe, one of the many reasons Europeans came to settle in new lands. Christianity's proselytizing tendency has affinities with ethnocentrism—the idea that others must live as we do because ours is the best way to live and all other ways are inferior. Not just Indigenous people but all people from cultural traditions outside the mainstream one will have come across this ethnocentric propensity in members of the cultural majority.

Scientific Creation Story

Mainstream culture has a second creation story, the scientific one based on Charles Darwin's theory of evolution. This story locates the creation of humanity in the “Cradle of Humankind” in South Africa. (According to some Christian scientists seeking to validate the biblical story, this is the true site of the Garden of Eden.) It is a story that has humans evolving from apelike ancestors to their current form, then gradually migrating outward to occupy the earth.

Darwin's theory of evolution has had a huge impact on mainstream culture's world view. That impact is reflected in colloquialisms such as “dog eat dog” and “only the strong survive.” The creation story based on Darwin's theory has profoundly affected the way we see both ourselves and life on this planet. It supports our view that life is about competition for resources and survival. For mainstream Western culture, the scientific view of creation has displaced to some extent the religious view of creation.

Philosophy and Governance

Philosopher Thomas Hobbes wrote *Leviathan* in 1651, after the discovery of the Americas but prior to their full-scale colonization. Hobbes theorized that life in a state of nature, where there is no strong centralized government with absolute power, is “nasty, brutish, and short.” His view of human nature was not a positive one. He presumed that men would kill one another in order to survive. He advocated investing absolute power in a sovereign in order to maintain both structure and peace in society. Hobbes’s historical circumstances influenced his opinion. Europe in that period experienced political instability, war, and plagues that wiped out large portions of the population. There were huge class divisions between the wealthy and the poor, with wealth concentrated in the Church and monarchy. Europe was a long way from democracy. The Church and the sovereign were seen as a single concentrated source of power, while ordinary people had very little political control. It was a top-down structure of governance. This is the conception of government that many Europeans subscribed to when they embarked on the process of colonization.

Our political structure today is very different. While the Canadian political structure is in many ways based on the British political structure, some academics maintain that our current form of democratic government was to some extent modelled on the forms of government practised by Indigenous peoples at the time of their first contact with European explorers.

Locke’s Theory of Landownership

When we discuss land rights, we tend to think in terms of rights to private ownership of property; that is our cultural understanding of people’s relationship to land. This understanding is rooted in biblical texts and in political structures that date back to medieval times. Early in European history, the division of the “haves” and “have-nots” was determined by private landownership. By the time the Americas were “discovered,” most of the land in Europe was already in the hands of private landowners. Those who worked the land for landowners would almost certainly never own land; they would be labourers their entire lives. When the Americas were discovered, philosopher John Locke wrote a theory of landownership that reinforced the established Western European notion of man’s relationship to land. Locke’s theory would rationalize the European seizure of land in the Americas. In brief, his theory went like this:

1. All land is owned by all of mankind.
2. Land can be transferred from general to private ownership by mixing one’s labour with it.
3. Once converted to private ownership, land requires delineated boundaries (physically represented by fencing).
4. In order to have delineated boundaries, a society must have an established government and laws for enforcing private ownership.
5. Proviso: A man could take as much land as he required, provided that he left “enough, and as good” for others. (Bishop, 2003)

Locke’s theory is an important one: it will come up again later in this book in connection with the clearing of Indigenous people from the land and our society’s justifications for doing so. It is also relevant to our discussion later in this chapter; it provides a contrast to Indigenous concepts of land and methods of government.

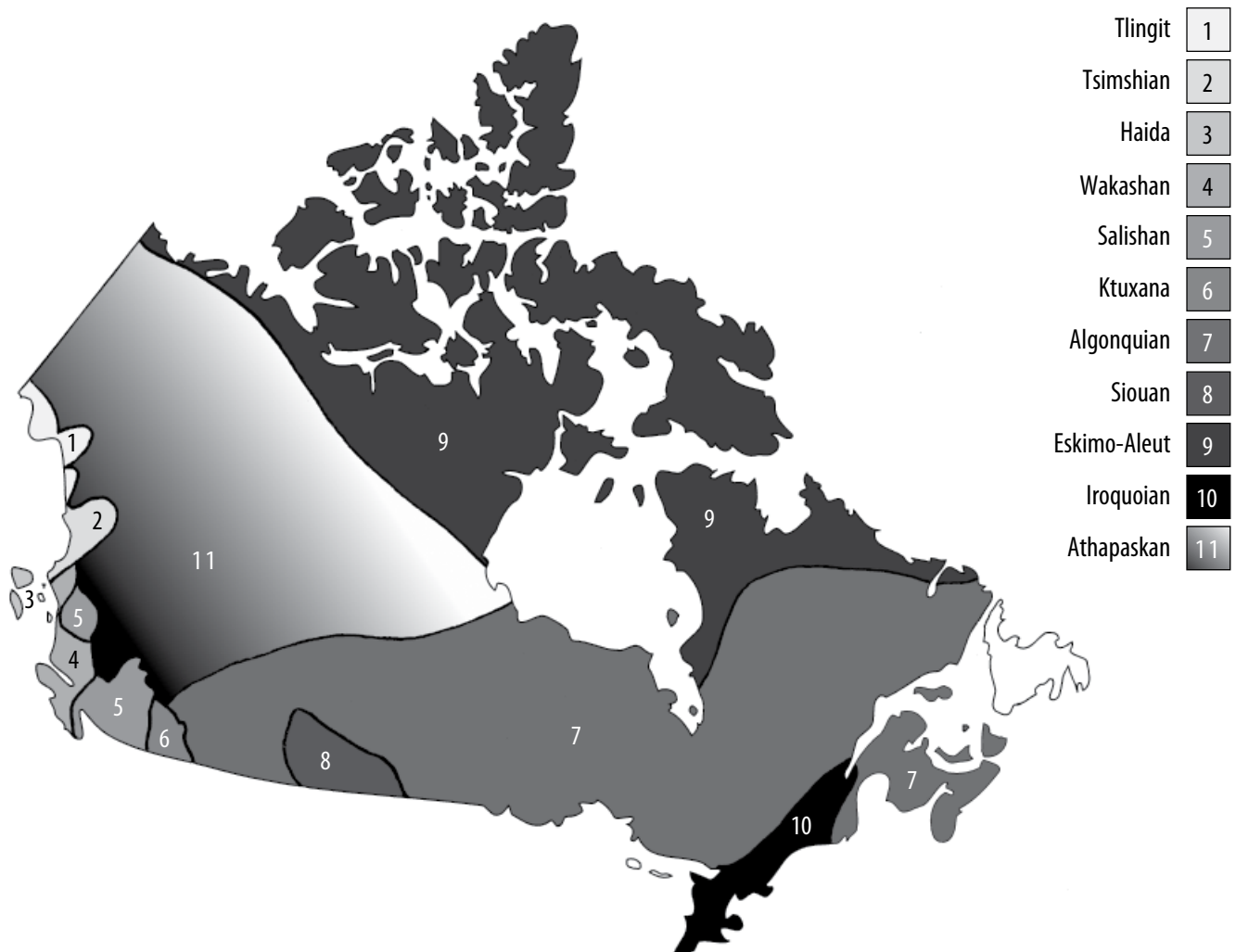
The concepts we have discussed thus far should be very familiar to all members of mainstream Canadian culture. They are the building blocks of our society’s world view. Many other concepts could be discussed, particularly the rise of capitalism, but space limitations preclude a fuller treatment. Now we must look at another world view, one that is very different from the mainstream one.

Indigenous World View

Before Europeans arrived on the shores of what would become Canada, there were self-governing nations of people living in organized groups throughout the land. Archaeologists estimate that the land sustained 500,000 to 2,000,000 people in all (Dickason, 1997, p. 43). These nations have rich histories that are tens of thousands of years old; conservative archaeological estimates put Indigenous occupancy at around 15,000 years. (According to Indigenous people, they have been here since time began.) In other words, European history on the continent represents less than one-tenth of the histories of these nations, who occupied every territory of the continent, using natural resources for sustenance.

Pre-contact population density estimates demonstrate Indigenous peoples' symbiotic relationship with the land. The highest population densities were in areas of plentiful resources that could support many people. Population densities in deserts and in temperate zones, where there is a short growing season, were smaller. Although the population of what would become Canada was low because of the climate, the population in Central and South America has been estimated as high as 37 million. The Aztec population alone was estimated at 11 million; their main city was said to be larger than Madrid, Spain. On the Caribbean island of the Dominican Republic, the site of the first European landing, the population density was very high.

FIGURE 1.1 Cultural and Language Groups Prior to Contact



In the 16th century, an estimated 2,200 languages were spoken across the continents of Central and South America (Dickason, 1997, p. 5). In what would become Canada, 50 languages were spoken, which have been classified into 11 language families (see Figure 1.1). Not all people who speak the same language can understand one another. Many languages have a number of different dialects—variations of a common language. Since language is the conduit of culture, we know that the cultures are as diverse as their languages. Often we approach Indigenous people across Canada as if they are all part of one homogeneous group. This misconception often damages relationships between Indigenous people and mainstream Canadians.

Oral Tradition

Language conveys culture from one generation to the next. Indigenous culture accomplishes this through an oral tradition in which storytelling is the means of conveying values, social expectations, history, and knowledge. Storytellers hold a special place in Indigenous communities; storytelling is a tremendous responsibility that is taken very seriously. Stories are not passed down in a spontaneous manner; they are told and retold by the storyteller in teaching circles and formal ceremonies. Traditionally, few Indigenous cultures found a need to write; their storytellers have always been like living books. The stories they tell have certain features in common:

- They include various aspects of the storyteller’s physical environment—the people, the local animals, and plants. Mythical creatures in the stories combine human characteristics with characteristics of local animals.
- They provide spiritual guidance and ethical instruction, exemplifying cultural values and expectations.
- They often include places that would be familiar and of spiritual significance to the listeners.
- They are rich in symbolism that sheds light on the origin of the people as well as on their world view.

European historians have tended to question the reliability of oral histories, believing that they are susceptible to being embellished, misinterpreted, or misunderstood. But they have found that the earliest recordings of Indigenous stories, which were compiled by Jesuit priests in the early 1600s, are identical to the stories being told by Indigenous elders and other storytellers today. This attests to the accuracy and completeness of oral transmission from one generation to the next and to the fact that these stories are timeless. Heirs to the text-centred European tradition would do well to remember that many of their culture’s central narratives—the Bible, for example, and the seminal works of Homer—were in fact derived from oral renderings that subsisted for hundreds or thousands of years before anyone wrote them down. The oral and the written modes are not as distinct as is sometimes assumed. Stories about the Garden of Eden and Noah’s ark, and other European creation stories, are, like Indigenous stories, filled with allegory and symbolism.

Creation Stories

One of the most important subjects in First Nations and Inuit stories is their origins. In all stories, the people either were created from the land in which they have traditionally lived or came to the land from some other spiritual place. Creation stories are important to a culture because they situate it in the world and shape its world view. Animals figure prominently in Indigenous stories of creation, working collaboratively with humans. Not only humans but animals and other natural elements are endowed with spirit by the Creator. The Creator gives humans stewardship of the natural world and compels them to live in harmony with it. This is

remarkably different from Western ideas about the role of humans, which were based on the Christian concept of humankind having dominion over the natural world.

Concepts of Land and Spirituality

From these creation stories come foundations for a distinct world view. Intrinsic to this view is the connection to land. In these stories, land is more than merely a geographic territory or a potential source of wealth. It is *Land*—a sacred living entity, with its own rhythms and cycles. The life and spirituality of Indigenous peoples have always been connected to the land in a close, symbiotic relationship. They believe that because the people were born with the land as part of the common creation, they cannot be separated or differentiated from it.

All Indigenous peoples' spirituality is connected to the land. Their spiritual practices developed to reflect this connection, and these practices are as diverse as the nations themselves.

Mi'kmaq Creation Story—Two Creators and Their Conflicts

Before the earth was new, the sun was all that existed in the great universe. The sun divided the earth into several parts separated by many great lakes. In each part he caused one man and one woman to be born. They bore children and lived for many years. Wickedness pervaded this family, and slowly they killed one another. The sun wept and wept with grief. The tears became rain that fell from the skies until water covered the entire earth. The family had to set sail in bark canoes to save themselves from the flood. A violent wind overturned their boats. All perished in the sea but the old man and the old woman, who were best of all people, and it was they who populated the earth.

Source: Whitehead (1991).

Community Organization

Indigenous people organized themselves in different ways depending on their unique environments and spiritual beliefs. Generally, they organized themselves into communal groups that were egalitarian, self-sufficient, and connected to the land and its resources. Often they were connected to other specific nations in cooperative relationships for trade and the sharing of resources. These relationships were often set out in treaties that outlined each nation's responsibility to the others and, at times, delineated territorial boundaries for the purpose of resource management and harvest. Several nations would often be unified in a confederacy.

The Haudenosaunee, for example, were a collection of five nations: Mohawk, Seneca, Oneida, Onondaga, and Cayuga. Each nation had its own distinctive clan system. The Mohawk were bear, turtle, or wolf clan. The other nations had their respective clans. The Five Nations were united in a "League of Peace," otherwise known as the Iroquois Confederacy. The Confederacy was governed by a council of 50 chiefs representing the participant nations. Decisions were made by **consensus** among the chiefs and by the chief's consultation with the people whose interests he represented. Women had tremendous influence in the governmental system since they selected the chiefs and had the right also to remove a chief who proved to be unsatisfactory. Clarkson, Morrisette, and Régallet (1992, p. 16) have described the Indigenous decision-making process as follows:

[W]hen decisions had to be made that affected the whole community, each clan would sit around a central fire with all other clans. Decisions the clan made together may include when to move, conservation of the resources of the territories, the striking of alliances and relationships with other nations and how to implement these decisions. Usually after

consensus government

a form of government that requires all parties to agree with a decision

much discussion and further consultation with their clan members, decisions would be made that would respect the interests of all clans and their members. Decisions were not arrived at in the same manner as western society today through majority vote. When decisions had to be made it would be through a consensus process. All people had to agree with the action or no action would be taken.

These forms of government indicate that cooperation and consensus are among the foundations of the Indigenous world view. Their spiritual teachings, by advising that decisions be made in the best interests not only of all living people but also of all people of the next seven generations, encourage a far-sighted concern for the community. Indigenous forms of governments are based on equality and on balancing individual interests against group interests, with group interests always taking precedence.

Because everything is connected in the Indigenous world view, spirituality influences land use, and both influence governance structures. There is no separation between these elements as there is in mainstream tradition. The conception of individual rights is not alien to the Indigenous system of social organization; it just is less important than group or collective rights. Negotiated rights to harvest territories are not individual rights; they are collective rights of the group. The harvest does not belong to the individual harvester but to the collective group and is distributed according to subsistence needs. The focus of Indigenous teachings is the individual's responsibilities to the group rather than the individual's rights within the group.

International Organization

Individual Indigenous nations did not exist in a vacuum. They were very aware of one another and entered into relationships to exchange knowledge and to trade material goods. In this way, they influenced one another's cultures. Sometimes nations traded for natural resources not available within their own territory. Agricultural societies such as the Iroquois traded their excess agricultural products. Trade took place over vast areas of the Americas.

Contact

First contact with Indigenous peoples in what would become Canada was made not by the British or the French, but by Vikings travelling from Greenland, drawn by the great supply of fish. They arrived in Newfoundland sometime between the 11th and 13th centuries and settled at L'Anse aux Meadows, which is today a UNESCO World Heritage Site. Little is known about the presence of the Vikings in North America; however, they did record their encounter with the Indigenous people of Newfoundland, whom they referred to as the "Skraelings." Although this group is known by several names, the most common is Beothuk. They were a small community of hunter-gatherers who depended upon the coastline for the fish and seals that they stored for consumption throughout the winter.

Explorer John Cabot arrived on the coast of Newfoundland in 1497, then carried news of the rich fishing waters back to Europe. Many Europeans were drawn by the opportunity to make their fortune exporting fish to Europe. In 1501, Portuguese explorer Gaspar Corte-Real captured 50 Beothuk and took them back to Europe as slaves. Probably as a result of this incident, the Beothuk subsequently avoided contact with whites.

By 1578, over 400 European fishing ships came to the region every summer. They began to occupy the coastline to dry fish, limiting the Beothuk's access to the ocean. Growing hostilities by the Europeans forced the Beothuk further inland, and, without access to the resources of the sea, they faced great hardship.

In 1713, the French were expelled, and the British increased their coastal settlements, further cutting off the Beothuk from the ocean and the resources that had sustained them for

thousands of years. After taking control of the land and the resources, the British decided to attempt to protect the remaining Beothuk, whose population they recorded in 1768 as a mere 400. The British captured the last few Beothuk in 1810. The last known Beothuk, Shanawdithit, died of tuberculosis in 1829 (Dickason, 1997, pp. 73–74).

The first true voyage of discovery into what would become Canada was Jacques Cartier's exploration of the Gulf of St. Lawrence in 1534. Cartier met with the St. Lawrence Iroquois and engaged in trade with them. They described to him the route to the interior of the continent, where he hoped to find gold. With the help of his Iroquois guides, Cartier made it all the way to Hochelaga, present-day Montreal. He counted 14 villages on the north shore, of which Hochelaga was the largest, numbering 50 longhouses, with an estimated population of 1,500.

Europeans continued to arrive on Canada's eastern shores, drawn by a variety of hopes—of growing wealthy through the region's natural resources, of acquiring land, or of escaping poverty or religious persecution in the Old World. These Europeans continued to make contact with various Indigenous nations, each with its own form of governance and economic system.

Initially, contact involved a spirit of cooperation between the Indigenous groups and the colonists, and respect for one another's sovereignty. The reasons were threefold, and quite practical:

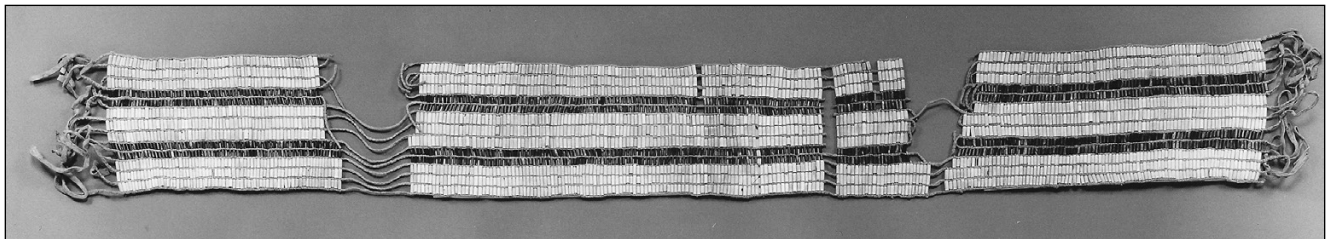
1. The Indigenous nations vastly outnumbered the colonists, who were poorly equipped for the harsh conditions of the land.
2. The economic interests of the newcomers depended on maintaining a good relationship with the Indigenous communities, who in turn benefited in terms of trade.
3. Indigenous people were desperately needed as military allies by the French and the English in their wars against each other, and, later, against the newly independent United States.

In the relationship between the Europeans and the Indigenous nations, the latter clearly had the upper hand at this point. This was made most clear in the Two-Row Wampum, or the *Guswentha*, the first agreement entered into between the Five Nations of the Iroquois and the British. To the Iroquois, the *Guswentha* was international law, recorded in wampum beads as was their custom. The two coloured rows of wampum represented an English trading ship and an Iroquois canoe. They travel parallel paths along the river of life. These paths never meet; the two nations are bound together in peace and friendship, with an agreement for reciprocal aid and defence. At the same time, neither nation is to interfere with the other or attempt to impose laws on it.

This agreement is well documented by the British, referred to as the **covenant chain**. The covenant chain was a clear recognition by both sides that their political systems would remain separate even as their systems of trade and alliance bound them. The British historical record, until it reaches the early 1800s, contains many references to this agreement.

covenant chain

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The Two-Row Wampum Belt (*Guswentha*).

This military alliance with the Iroquois served the British well and led to their defeat of the French in 1760. The French and British continually accused one another of bribing their allies with gifts and also of using Indigenous people, who during battles sustained great losses on the front lines, as “cannon fodder.”

First Nations on both sides considered the battle to be between the French and the English and allied themselves with their traditional trade partners, viewing the outcome as a matter of trade dominance alone; they had no concept that their lands were at stake. They viewed the land as their sacred territory, which they had allowed Europeans to settle on under certain terms and conditions, such as trade alliances and gift distributions.

Upon the defeat of the French, many Indigenous leaders remarked to the English that it was not the Indigenous people that were conquered but the French. Ojibwe Chief Minweweh, whose warriors had fought on the side of the French, reminded the English: “Although you have conquered the French you have not conquered us. We are not your slaves. These lakes, woods and mountains were left us by our ancestors. They are our inheritance, and we will part with them to none” (Dickason, 1997, p. 155).

To address the Indigenous people’s fears concerning the loss of their ancestral lands, the British included article 40 in the Capitulation of Montreal between the French and English. This section guaranteed First Nations protection of their lands from the encroachment of new settlers. It immediately proved difficult to enforce, however, as settlers began to pour in once peace had been established. Colonial governments displayed little will to enforce the legislation (Dickason, 1997, p. 153).

After the defeat of the French, First Nations found their position worsening. They had been holding the balance of power between two rivals, but now found themselves becoming irrelevant to both the British and the French. Gift distributions ended quickly, as did the supply of guns and ammunition. The Europeans no longer respected boundaries that First Nations set out as hunting grounds or sacred territories. Discontent among various nations led to a formidable uprising led by a remarkable man named Pontiac, an Odawa war chief, who was able to unite a number of nations in his quest to defeat the Europeans and drive them from the land. Within the span of two months in 1763, nine British forts fell to Pontiac with almost no casualties sustained by his men. The British feared being overrun and resorted to the first ever recorded case of biological warfare. They distributed smallpox-infected blankets to Indigenous settlements, wiping out entire communities, including women, children, and elders.

In this intense political climate, the British tried to justify their acquisition of land in the Americas. It was apparent to them that the land was in fact occupied by organized nations of people, albeit non-Christians. The British sought to reconcile their principles of justice with acquiring land for resource extraction and settlement. Securing the land for these purposes would be impossible without the help of the Indigenous nations. Britain was facing a growing rebellion in the 13 colonies and would require the allegiance of Indigenous nations again in war to avoid the loss of the New World altogether. Britain would never be able to secure the necessary allegiance if Europeans continued to trespass on the Indigenous peoples’ territories, which was causing great animosity toward the British.

Royal Proclamation of 1763

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The Royal Proclamation

In 1763, the British drew up an important piece of legislation to address the dilemma. The **Royal Proclamation of 1763** would become the cornerstone of Indigenous land claims today. This document has been called the “*Magna Carta* of Indian Rights” and has been deemed by the courts to have the “force of a statute which has never been repealed.”

The first purpose of the Proclamation was to reserve a large piece of land for Indigenous occupation and use; under the Proclamation, the lands west of the Appalachian mountains were recognized as Indian lands. The second purpose was to appease Indigenous leaders in order to secure military allegiance and to stop the mounting Indigenous resistance movement. The third purpose was to create a treaty process by which the Crown alone could purchase Indigenous land for settlement.

Consider the wording of the Proclamation itself:

And We do hereby strictly forbid, on Pain of our Displeasure, all our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved [for Indians], without our especial leave and Licence for that Purpose first obtained.

And We do further strictly enjoin and require all Persons whatever who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described, or upon any other Lands which, not having been ceded to or Purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements.

And whereas great Frauds and Abuses have been committed in purchasing Lands of the Indians, to the great Prejudice of our Interests, and to the great Dissatisfaction of the said Indians: In order, therefore, to prevent such Irregularities for the future, and to the end that the Indians may be convinced of our Justice and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of our Privy Council strictly enjoin and require, that no private Person do presume to make any purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where We have thought proper to allow Settlement: but that, if at any Time any of the Said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians.

This powerful piece of legislation has never been repealed and therefore is still in effect and legally binding. The 13 colonies were very displeased with the limitations the Proclamation imposed on them; it became one of the many reasons for their rebellion against the British. The *Royal Proclamation* is legislation, drawn up by an imperial power, designed to protect the rights of Indigenous peoples to their land. As you continue to read, consider whether the British kept the terms of the Proclamation. Are we honouring these terms today?

The *Royal Proclamation* did accomplish what it set out to do: it drew a line between British territory and Indigenous land, and it convinced Indigenous people of Britain's "Justice and determined Resolution to remove all reasonable Cause of Discontent" where the Indigenous people were concerned. Its reassurances secured Indigenous support for the British in the upcoming American War of Independence and in Britain's later battles to repel the American invasion of what would become Canada.

The British government's third objective in establishing a treaty process to acquire land was to give the Crown a monopoly over land sales in Canada; it established itself as the only legal purchaser of Indigenous land. This was a source of enormous wealth for the British. In some of the first treaties in Ontario, the Crown purchased land for a mere 3 pence an acre from Indigenous people, who could not drive up the prices of their land by selling to any other party. The British then sold the land to private investors for settlement for 6 to 15 pence per acre, making a healthy profit.

The *Royal Proclamation* does not refer to Indigenous nations as sovereign nations, but neither does it refer to them as subjects of the Crown. It was not until after Confederation in 1867 that Canada began to aggressively and harshly subjugate Indigenous people.

The Fur Trade

During the early period of European–Indigenous contact, when settlement was still sparse, the fur trade was well under way. The French aligned with the Huron and other East Coast nations, and the English aligned with the Iroquois and their Indigenous allies. Both in trade and in war, the British and the French managed to exploit the divisions that had existed among Indigenous nations prior to contact.

The British set up the Hudson’s Bay Company and the French, the *Compagnie du Nord*. The companies were in direct competition for the harvest and export of furs. Both attempted to extend their trade northward so as to gain control over trade routes. As early as 1632, the French were exporting up to 15,000 kilograms of furs a year. The French had 500 to 700 men on the canoe routes travelling to Huronia. Furs were the next best thing to gold (Dickason, 1997, p. 103).

The balance of power at this time was still very much in favour of the Indigenous nations. Consider, for example, that in 1633 the French colonies had 3,000 people, while the Huron nation alone numbered over 30,000. However, the Huron would shortly experience a rapid population decline as a result of European diseases brought by the missionaries and traders.

The French established a system of **seigneurial farms**, in which one man, usually a soldier, was granted land in the name of France. The soldier would bring over his family from France to labour on the farm to produce food for the fledgling colonies. The French did not enact any treaties to acquire this land for farming; they simply considered themselves as sole proprietors of the land by their mere presence. They declared the land to be *terra nullius*—empty land. The French did not recognize Indigenous nations as rightful possessors of land, on the grounds that the Indigenous people were not Christian. The French were, however, very careful to maintain good relationships with Indigenous nations and never made any open assertions to them about the ownership of the land on which they settled. The lack of treaties or legal arrangements to clear the land of Indigenous title became problematic later; upon the defeat of the French, the British also did not enact any legislation to clear the land of Indigenous title, assuming that the French had already done so.

As the fur trade expanded, forts were erected to house staff and government officials. The fur trade extended into northern Ontario in search of fresh supplies and to advance British interests. The fur trade was not conducted at a sustainable rate; beavers were all but extinct south of today’s Canada–US border and soon neared extinction in southern Ontario in 1830 once the traders moved in.

The trading posts created new, non-Indigenous communities in Indigenous territory in the North, and had an impact on Indigenous people who came to sell furs. Posts were often established in strategic proximity to Indigenous campsites, and Indigenous groups who had traditionally been hunter-gatherers, travelling continuously with the seasons, began to create permanent dwellings around the trading posts.

Indigenous people began to barter for objects such as sewing needles, copper pots, knives, and hatchets. This improved their immediate quality of life; they traded for items they could not easily produce themselves. This trading system, however, could not create long-term economic prosperity in Indigenous communities. The real profits were being exported back to Europe in the form of furs, and the resources that had sustained Indigenous people for thousands of years were quickly being depleted beyond recovery.

Changes to Indigenous Communities

Contact with Europeans brought fundamental changes to Indigenous communities. For example, they began to develop notions of cumulative wealth. Before contact, Indigenous people had never viewed furs in terms of wealth. Animals were killed for food, shelter, clothing, and

seigneurial farms

a system in which a man, usually a soldier, was granted land in the name of France

CALL TO ACTION

The Truth and Reconciliation Commission (TRC) was established in 2008 with the goal of hearing the stories of First Nations people who had been affected by the residential school system, a part of Canada's systemic attempt to subjugate and assimilate Indigenous peoples. You will read more about this in Chapter 3. As part of its final report, issued in 2015, the TRC made 94 Calls to Action—steps to be taken to help redress the legacy of Canada's residential school system in particular and repair Canada's relationship with Indigenous peoples in general.

You will see some of these Calls to Action placed throughout the text near the historical incidents that they address. When you read them, consider how the repercussions of these historical incidents continue to affect the lives of Indigenous people today.

45. We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments: Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and *terra nullius*.

tools. Anything that the hunter did not need would be given to another family. The proceeds generated by the hunt were shared among community members. Hunting for more than the community needed simply did not make any sense; collecting and storing hides was ill-adapted to the Indigenous peoples' traditional lifestyle. Arrangements for trade of excesses could be made with neighbouring nations, but the scale of this trade was never such that it would outstrip the environment.

Economic imperatives, previously non-existent, began to influence the process by which Indigenous leaders were selected. The clan system, which had previously maintained the groups' cohesiveness by maintaining strict rules, values, and social mores, slowly lost its influence.

Indigenous groups became increasingly dependent on European traders and less reliant on their own natural environment and on the traditional web of trade established between Indigenous nations prior to contact. The introduction of alcohol through trade created new societal problems that have persisted to this day in some Indigenous communities. For many Indigenous nations, this dependence on European trade became entrenched; for others it remained insignificant. Europeans were eager to foster this dependence because it provided an advantage in trade. For Indigenous people, the fur trade did not provide economic stability; the prices of furs were dependent on the whims of fashion, and the fur harvest fluctuated according to environmental conditions and animal populations. The rate of harvest was unsustainable, and the fur trade was destined to collapse.

Many animals that were hunted for their fur neared extinction by the early 1800s. As a result, many trading posts closed, bringing extreme hardship to those Indigenous people who had come to rely on their commerce. Many faced starvation and diseases unknown before contact. The government provided food and other necessities but could never restore the economy of Indigenous people. Animal resources had been depleted beyond recovery in the first phase of harvest. Indigenous lands later underwent a second harvesting of natural resources in the form of logging and mining, which proved no less devastating to their society.

Along with trade goods, Europeans brought Christian religion—English Protestant and French Catholic—and missionaries to spread the faith. Indigenous people were not eager to accept missionaries or their faith. Traders brought practical benefits such as guns and copper pots, but new spiritual beliefs were something Indigenous people simply did not value. Eventually,

however, most Indigenous groups began to accept missionaries into their communities, sometimes for self-serving reasons. In some instances, traders and missionaries assisted one another's causes; Indigenous trappers who had converted to Christianity were often given better prices for their furs and were permitted to purchase guns and ammunition while their non-Christian peers were not. The missionaries often became frustrated with these incentives, believing that Indigenous people were converting for convenience rather than from genuine desire for the Christian religion.

The Indigenous conversions may often have been half-hearted or purely mercenary, but the impact of European religion on Indigenous communities was unquestionably profound. Missionaries restricted or forbade Indigenous ceremonies, traditions, and cultural practices, pronouncing them “from the devil.” With these elements of their culture gone—elements that had been the foundations of their values, unity, and governance for thousands of years—Indigenous communities began to unravel. Differences arose between those who accepted European religion and those who did not, and this disrupted communities and families. In extreme cases, such as in Oka, Quebec, the churches or religious orders were given authority to govern reserve land and resources. Resources were extracted and the churches reaped the financial profits while the Indigenous people were driven into poverty.

Following the American Revolution, a massive influx of settlers into Upper Canada began. Land was needed for settlement, and in keeping with the *Royal Proclamation of 1763* the British began the tedious process of acquiring Indigenous land through treaty. Although Indigenous people did not fully understand the treaty-making process, they had no choice but to engage in it; with Canada competing with its US neighbours for occupancy and therefore title over lands and access to resources, the British felt pressure to expand westward.

CLOSE-UP Oka

In 1717, King Louis XV of France granted land 30 kilometres northwest of Montreal to the Seminary of Saint-Sulpice on the condition that it be used as a mission for the Mohawk people who had settled there. The grant was made to the seminary since it was deemed that the Mohawk could not manage the land themselves. The condition of the grant was such that if the Mohawk later abandoned the land, its ownership would revert to the Crown. The documents did not state whether the Sulpicians were the sole proprietors of the land or the trustees of the land for the Mohawk. As far as the Mohawk were concerned, the land had always been and continued to be their territory. The particular location was chosen so that the Mohawk territory, Kanesatake, was far enough from Montreal to limit negative influences from the French settler population, but close enough that the Mohawk could quickly be called into military action in defence of the French.

After the French lost their North American colonies, the Mohawk of Kanesatake unsuccessfully tried in 1781 to prove in court their proprietorship of the land. In 1841, the British issued a special ordinance confirming the seminary's title amid continuing disputes over the land and its resources. As the Mohawk began to turn from the Catholic faith to Methodism, the seminary encouraged them to leave Kanesatake so that French Canadians could settle there, establishing the town of Oka. To relieve tensions, in 1853 the Indian Department set aside land in Ontario and elsewhere in Quebec for the Mohawk of Kanesatake; however, most refused to leave. The Mohawk continued to assert

their rights to the land, cutting wood and building cabins. Some were jailed for cutting trees, since the seminary claimed rights to the timber. Violence ensued in many skirmishes, including one in which a church was burned down. In 1869, and again in 1878 and 1912, the government affirmed the seminary's ownership of the land.

In 1936, facing a financial crisis, the Church sold parts of this land for development, causing such strife that the Indian Department purchased the unsold portions of the land and managed it as a reserve, even though it was not granted reserve status. In 1961 the Mohawk requested that the land be granted reserve status so that it had protection from sale under the *Indian Act*; this was not granted. In 1975, as a new land claims process was outlined, the Mohawk put forward a comprehensive land claim, which was rejected. They filed a specific land claim two years later, which was rejected in 1986.

The claim, still unresolved, reached a boiling point in 1990 when the town of Oka announced that a nine-hole golf course on the contested land would be expanded and luxury condominiums built there also. In the resulting violent confrontation between Quebec police and the Indigenous residents of Kanesatake, an officer of the *Sûreté du Québec* was shot and killed. A 78-day standoff between the Canadian army and the Mohawk of Kanesatake cost millions and failed to resolve the land question.

Source: Dickason (1997, pp. 319–322).

Once occupancy was established, the “Indian question” remained. What would the colonies do with regard to the Indigenous peoples with whom they had entered into treaties? The newly formed government of Canada chose to embark upon a journey of forced assimilation by carefully enacting legislation designed to eliminate the Indigenous peoples as a special group within Canadian society.

Treaties Background

Most **treaties** in Canada were signed between 1800 and the early 1900s. They are documents drawn up by the Canadian government as purchase agreements for land recognized as having Indigenous title. In 1982 the treaties were protected in section 35 of the *Canadian Charter of Rights and Freedoms*, which reads as follows: “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.” This is a recent affirmation of the legitimacy of these treaty documents. Indigenous people continue to petition the government of Canada to fulfill its treaty promises and to have the original spirit of the treaties interpreted by the courts to uphold Indigenous rights to resources and land.

Treaties were not unknown to Indigenous people prior to the arrival of Europeans. Since time immemorial, Indigenous nations had made treaties among themselves to settle wars, establish ties of peace and friendship, create military alliances, delineate harvest territories, and facilitate trade. The records of these treaties were passed down orally and were honoured by the groups who entered into them.

When Europeans arrived, Indigenous people entered into treaties with them as well, such as the Two-Row Wampum treaty between the Iroquois and the British described above and the British–Mi’kmaq Treaty of 1725, which covered Nova Scotia as well as other territories. The British secured military neutrality and assistance from the Mi’kmaq in their war against the French in exchange for facilitating trade and guaranteeing protection of the Mi’kmaq people’s traditional economy of hunting and fishing.

Indigenous people expected that the principles that had governed their earlier agreements—treaties of peace and friendship, military and trade alliances—would carry over into their negotiations with the Europeans over land. To them, mutual respect and understanding were essential components of negotiations. And they assumed, in keeping with the principles of their oral culture, that terms negotiated by way of discussion would be included in the final agreement.

This was not the case for Europeans; they had a different conception of written documents as opposed to spoken assurances, and different goals for the negotiations. Indigenous people believed that no one could own the land in the European sense of ownership. The land was a gift from the Creator, and they were stewards of the land, not owners of it. Indigenous people viewed the treaties as laying out the terms of a mutual sharing of resources, including their own compensation for consenting to share with Europeans.

Europeans understood the treaties, according to their own cultural context, as requiring First Nations to yield the land to the Europeans, thus giving the Europeans absolute ownership of the land. The intention was to erase First Nations title to the land so that it could be parcelled out for sale for new ownership. Although both parties had interpreters present, it was difficult to translate the European understanding of ownership into terms the First Nations negotiators would grasp. In retrospect, too, one must wonder how diligently the Crown tried to convey its intended meaning; a full understanding on the part of the First Nations people would most certainly have brought negotiations to an unsuccessful conclusion. Many times it was not until the Europeans began the process of removing First Nations people from their land that the latter fully understood what they had signed.

There are three categories of treaties in Canada: (1) pre-Confederation treaties, which were entered into before 1867; (2) numbered treaties, signed between 1871 and 1921, and intended

treaty

an agreement between two states that has been formally concluded and ratified

to unite the interior of Canada and formally recognize these territories as part of Canada, as well as to clear title to build a railway to facilitate the extraction of resources; and (3) land claims agreements, which were made after 1973, when the government established a formal land claims policy.

All treaties before 1973 were initiated by Europeans. Indigenous people never began any negotiations to sell their land. Following the defeat of the British in the American Revolution of 1776–1783, the British sought land to compensate both their Indigenous allies—primarily, the Six Nations (Mohawk, Onondaga, Cayuga, Seneca, Oneida, and Tuscarora), who had performed military services and sustained considerable losses for the British—and their other military allies. In 1784, Frederick Haldimand purchased 3 million acres (1.2 million hectares) from the Mississauga for £1,180 worth of goods to facilitate the settlement of the Loyalists. The Iroquois loyalists were granted a tract 6 miles (10 kilometres) wide on either side of the Grand River, a total of almost 1.2 million hectares in what is today southwestern Ontario. This is known as the Haldimand Grant, which provided a land base for the Six Nations reserve. In Chapter 2 we will look at this grant and discuss its implications for today.

Until 1798, the government had no problem obtaining Indian land, through treaty, for about 3 pence per acre in either cash or goods, then selling that land for a healthy profit to private investors and settlers for 6 to 15 pence per acre. By 1912, there were 483 treaties listed for Canada, comprising a considerable body of law (Dickason, 1997, p. 163).

Indigenous allies became the deciding factor in yet another war—the War of 1812—as the newly independent United States attempted to make its way north into British-held territory. The British were victorious and in the end established a border between the United States and Canada. In the following years of peace, the European population in Canada once again exploded. Between 1821 and 1851, the European population rose from 750,000 to 2.3 million (Dickason, 1997, p. 198). Once again the Crown was desperate for land to accommodate the population growth. With peace in sight, the British had less need of their Indigenous allies, who thus lost one of their key means of maintaining a balance of power. The government began to offer First Nations people annuities for their land rather than the considerably larger one-sum payments. This was a more economical way for the Crown to obtain land through treaty, since the annuities could be paid from the profitable sale of the land to settlers.

The treaty-making process was quite irregular. The Crown representative was included as a negotiator, but otherwise there seems to have been no standard policy, especially concerning the price of land. In 1790, for example, 2 million acres (809,000 hectares) were purchased by the Crown for £1,200 from the Ojibwe and Odawa in southern Ontario. Two years later, 3 million acres (1.2 million hectares) were purchased from the same group for the same amount (Dickason, 1997, p. 164). Many of these land transactions were not properly recorded or were imprecise in their terms regarding boundaries, giving rise to later disputes. For example, one treaty, aptly named the “gunshot treaty,” describes a boundary as being “from the lakeshore to as far back as you can hear a gunshot.” Many of the original treaties were lost. By the mid-1830s, a sequence of over 30 treaties had been concluded, effectively covering southern Ontario.

There were many problems with the treaty process. First, as discussed previously, there was the problem of making the First Nations people understand such concepts as exclusive possession of property. Second, there was the government’s unscrupulous tendency to weight the written terms of the agreement more heavily than the oral ones that the First Nations negotiators considered binding. Today, efforts have been made to research the recorded minutes of council meetings before and after the signing of a treaty. This research has brought to light promises that were clearly made by the government but never written into treaty documents, which were then signed by individuals who could not read. Third, there was the problem of obtaining signatures from the leaders of First Nations affected by the treaty. Many First Nations were left out of the treaty-signing process simply because government officials did not know they were

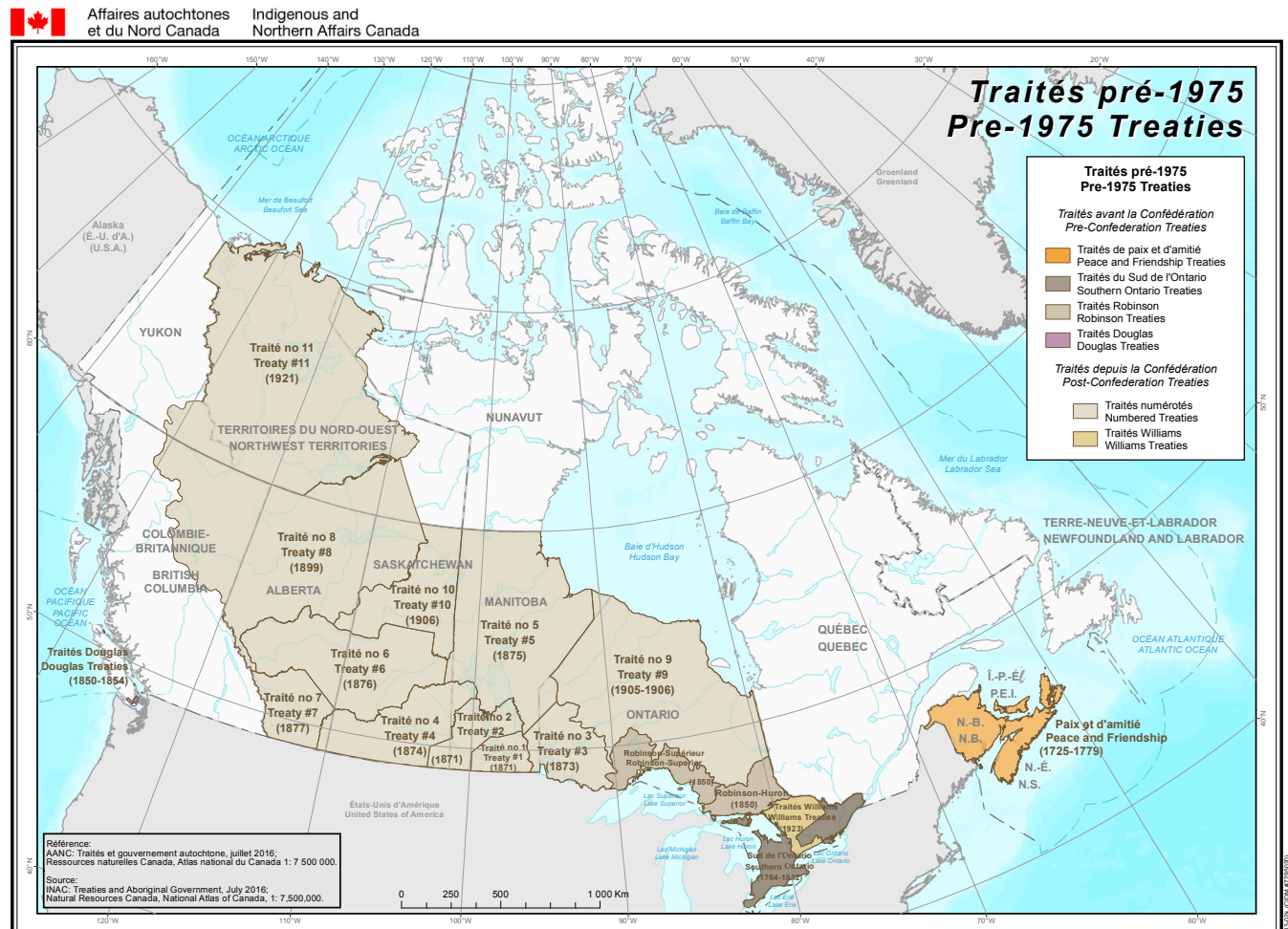
there. With a stroke of a pen, the government seized the land of these people without their permission or signatures. Adhesions (subsequent signings) had to be made later to the treaties to include some groups who had been overlooked.

Numbered Treaties

Following Confederation in 1867, treaty negotiations began with a large number of First Nations across Canada. These treaties are referred to as the “numbered treaties”; they were made in the interest of nation building and to acquire land for a national railway. These treaties cover very large land areas (see Figure 1.2). The terms of the 1850 Robinson–Huron treaty became a precedent for the other numbered treaties. These terms included the following:

- Sale of reserved lands and mineral rights was to be conducted by the government for the sole use and benefit of the First Nations.
- Negotiations were to be open and accessible to the public.

FIGURE 1.2 Treaties and Comprehensive Land Claims in Canada



This map shows the boundaries of the land surrender treaties made between Indigenous peoples and the Crown between 1725 and 1975.

- Land was to be surrendered only to the Crown.
- Annexed to each treaty, a schedule of reserves was to be held in common by each group affected by the treaty.
- Annuities were to be paid in cash to signing members.
- First Nations retained “the full and free privilege to hunt over the Territory now ceded by them, and to fish in the waters thereof ... saving and excepting such portions of the said Territory as may from time to time be sold or leased to individuals or companies of individuals” (Aboriginal Affairs and Northern Development Canada, 1939).

The numbered treaties based the quantity of land reserved for First Nations people on their population in the treaty area at the time. These populations were smaller than pre-contact populations, since Indigenous peoples had sustained at least an 80 percent death toll due to European diseases. Among other items, agreements regarding schooling, annuities, and agricultural equipment for First Nations were included in most numbered treaties.

This brings us to a common misconception among Canadians. Some believe that federally funded education, housing, or taxation exemption are special and generous provisions from the federal government for First Nations. This is not the case; the federal government has frequently tried to escape these obligations but has been instructed by the courts that the treaties hold the force of law and must be honoured. These benefits were granted to First Nations people in negotiated treaties by which the Crown acquired the land that is now Canada. In the words of the treaties, these terms are to be upheld “as long as the grass is green, as long as the sun shines and the rivers flow.”

Western Expansion

The pressure to populate the West with white settlers intensified following the conclusion of the American Revolution in 1783. It was apparent that the western lands and all the wealth and resources therein would belong to whoever could get there first and was prepared to defend it. The newly independent United States had severed its ties with Britain and therefore was no longer bound by the *Royal Proclamation*, and it embarked on a series of wars against the Indigenous inhabitants of the Americas in order to clear them from the land.

The British colonies created incentives for immigrants and other white settlers to move west, enticing agricultural settlers with 64 hectares of free “Crown land.” Rapid work was required to obtain that land from the current occupants by way of treaty. The protection of this western land would be provided in part by the Indigenous peoples themselves. Recall that the United States concluded terms of independence in 1783. After this, the British were concerned about the Americans moving west and northward, as well as about the possibility of an American attack on the remaining British colonies, which would ultimately happen in 1812. The British had learned a valuable lesson in their wars against the French: the side with the most Indigenous allies would win. Between 1784 and 1788, the British spent £20,000 on gift distributions to Indigenous people, hoping to secure military allegiance as they moved westward. This was more than the British had paid to secure land through most of the treaties to that date. They were successful in securing the allegiance of Tecumseh, who was a powerful Shawnee leader. He sided with the British and united more than 30 nations to lead in the defence of British-held territories. Together they helped the British repel the Americans in the War of 1812. Tecumseh sided with the British not only for the gift distributions but also because he believed them to be the lesser of two evils, since the British continued to make assurances of protecting Indian lands, an assurance that the United States would not make.

VOICES

Tecumseh

My heart is a stone. Heavy with sadness for my people; cold with the knowledge that no treaty will keep the whites out of our land; hard with determination to resist as long as I live and breathe. Now we are weak and many of our people are afraid. But hear me; a single twig breaks but the bundle of twigs is strong. Someday I will embrace our brother tribes and draw them into a bundle and together we will win our country back from the whites.

Following the War of 1812, western expansion accelerated again. Northwestern Indigenous peoples such as the Sioux, Blackfoot, and Plains Cree, as well as the Métis, had built an economy based on the buffalo. Upon the arrival of traders, a market was quickly created for buffalo products. The hides became fashionable to wear, and the bones were exported to create bone china, popular in Europe. Bison bones were used in a wide variety of other applications as well, including as fertilizer; as part of the refining of sugar, liquor, and vinegar; and during the manufacture of dyes. At the peak of the bison slaughter, a ton of dried bones could sell for as much as \$10. In less than a century, by 1889, the number of buffalo had been reduced from 70 million to 635. Needless to say, this caused extreme hardship among the Indigenous peoples of the plains at a time when treaty negotiations were fully under way.

Ultimately, Europeans made it all the way to the west coast of Canada. In 1785 the first trading ships arrived, drawn by the lucrative trade in sea otter pelts. Contact and trade were done by ship because an overland route was not found until 1804. Within the first 100 years of contact, West Coast peoples suffered an 80 percent population decrease due to European diseases, one of the most dramatic declines in an Indigenous population since first contact (Dickason, 1997, p. 180).

Sea otter pelt trading was in full swing by 1792, and by 1825 the sea otter population was devastated. One trader, John Kendrick, reported that he traded £100 worth of chisels and iron tools for 200 sea otter pelts. He then received £8,000 for the pelts in Europe (Dickason, 1997, p. 181).

In 1852, Vancouver Island had only 500 settlers; however, the discovery of gold brought 25,000 miners to Queen Charlotte Island in 1858. Salish First Nations and miners clashed regularly, sometimes violently. The destruction of Indigenous territories was rapid, and their land base eroded with the building of roads and mines.

Salmon resources were being exploited for export to European markets. Salmon was a main source of subsistence for many First Nations such as the Nisga'a, and the depletion of this resource caused them significant hardship. James Douglas, governor of Vancouver and the British Columbia mainland at this critical time, attempted to acquire land by way of treaty. He had signed 14 treaties with Salish bands on Vancouver Island by 1854, but this amounted to only 3 percent of the island's territory. The First Nations were not eager to enter into treaties, and James Douglas quickly ran out of money. Although the colony offered no further finances, Douglas was undeterred and continued to establish reservations for the First Nations people based on their favourite locations and on their numbers. He allotted 200 acres (81 hectares) per head of family, then simply assumed the rest of Vancouver Island and British Columbia to be territory of the Crown. He retired in 1864 and was succeeded by Frederick Seymore, who appointed a commissioner of Crown lands, Joseph Trutch. Trutch refused to recognize the legitimacy of the reserves established by Douglas, and was hostile to First Nations land claims. He wrote:

The Amerindians have no rights to the land as they were of no actual value to them, and I cannot see why they should either retain these lands to the prejudice of the general

interests of the colony. Or be allowed to make a market of them to either the government or individuals. (Dickason, 1997, p. 234)

Trutch proceeded to reduce the size of the reserves surveyed by Douglas from 200 to 10 acres (81 to 4 hectares) per head of family, again without compensation.

British Columbia entered Confederation with Canada in 1871 and was allowed to retain control over “Crown land.” But the federal government assumed responsibility for “Indians and lands reserved for Indians” as per the *British North America Act* of 1867. Arguments between provincial and federal governments began over how much land was to be granted for reserved First Nations land. British Columbia tried to reduce the lands even further, to 4 acres (1.6 hectares) per head of family, but the federal government insisted on 80 acres (32 hectares). British Columbia persisted in assigning reserves for First Nations without compensation, and by 1900 there were over 90 reserves established at an average of 185 acres (75 hectares) each (Dickason, 1997, pp. 234–235).

Note the emerging pattern here with regard to the seizure of land and resources. Most of the resources were exported to Europe; however, much of the wealth produced from the resources went toward building what is now our very affluent country. In fact, Canada still relies for its wealth on natural resources such as timber, oil, and gas; owners of land often grow wealthy from its natural resources. Unfortunately, Indigenous peoples generally do not share in this wealth. As we will see in Chapter 4, Indigenous people still suffer from higher than average levels of poverty and today live on only one-half of 1 percent of Canada’s land mass.

EXERCISE 1

Consider the concept of “progress” from different cultural world views. How did the Western concept of progress affect Canada’s Indigenous peoples?

Vanishing Race

The size of almost all reserves established through the treaty process was based on the population of the First Nation at the time of the treaty. But First Nations populations were low during this period, and the treaties made no provision for an increase in numbers. This seems evidence of a strong belief that Indigenous people were vanishing. And in fact they were dying at a rapid rate from disease, and many were lost in the numerous wars among the colonists. It was generally believed that within three generations of treaty-making there would be no Indigenous people left; they would either die of disease or be assimilated into mainstream Canada.

The Canadian government’s intent regarding First Nations was never made so clear as it was by Deputy Superintendent of Indian Affairs Duncan Campbell Scott in 1920:

I want to get rid of the Indian problem. I do not think as a matter of fact that this country ought to continually protect a class of people who are able to stand alone. That is my whole point. ... That has been the whole purpose of Indian Education and advancement since earliest times. One of the very earliest enactments was to provide for the enfranchisement of the Indian. So it is written in our law that the Indian was eventually to become enfranchised. ... Our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian department, that is the whole object of this Bill. (Leslie & Maguire, 1978)

Scott’s view was reflected in the actions of certain Canadians during this period. Indigenous graves, often fresh, were dug up so that the remains could be put on display at Wild West

VOICES

Repatriating the G'psgolox Totem Pole

The G'psgolox totem pole was carved and raised in British Columbia in 1872 by the Raven Clan of the Haisla Nation after its chief, G'psgolox, had had a spiritual experience. An avalanche drove the nation to abandon its home, where the pole stood. Shortly thereafter, collectors from Sweden, who had been looking for a totem pole for their museum, found and removed it. The Haisla did not know where the pole had gone, and its whereabouts remained a mystery until it was located in the Museum of Ethnography in Stockholm, Sweden in 1991. The chief of the Haisla and a descendant of the pole's creator went to Sweden to request the pole's return. After long negotiations, the support of the BC government, and many delays, the return of the pole was celebrated in 2006 in Kitimaat, BC. The G'psgolox totem pole was the first to be repatriated to its people and began the return of many artifacts that have been housed for a century or more in European museums.



Source: Gersten (2007).

shows. Spiritual and cultural artifacts still in use by Indigenous people were taken and sold to collectors, who anticipated their value increasing as the Indigenous people themselves vanished. Today, Indigenous nations have undertaken serious efforts to repatriate these items and bring them back to their communities from museums around the world.

The idea of the Indigenous peoples' vanishing was appealing to the British for one very important reason: the treaties they had entered into with First Nations were binding in perpetuity. The British could see that the cost of maintaining these promises forever could be high, particularly because the depletion of resources was impoverishing First Nations people and creating a need among them for the relief assistance guaranteed by the treaties. Assimilation of those who survived disease and poverty became a paramount concern for the British in the years to come. The complete assimilation of First Nations meant no obligation to honour treaties and free access to reserve lands.

Assimilation Legislation

In the 1830s, as settlers and resource speculators increasingly encroached on reserve land, it became necessary to define who was an Indian and who therefore could reside on reserves. The following were considered Indians under the definition fashioned by the Crown:

- All individuals of Indian blood belonging to a tribe, band, or body of Indians and their descendants.
- Any person residing among such Indians whose parents were or are descended on either side from Indians, and the descendants of this person.
- All women lawfully married to an Indian and their children. First Nations women who married non-First Nations men would not be entitled to be Indian; nor would their children.

In 1830, the British began attempts to assimilate Indigenous people into mainstream culture, pushing them to become agriculturalists, to set up communities similar to white settlements, and to adopt the Christian religion and ways of life. Some Indigenous nations accepted this transition and requested assistance with it; they recognized that the industrialization of their lands would make the hunting way of life impossible. Furthermore, they believed that conversion to the “ideal” might help protect their lands. Model villages were set up and overseen by missionaries; many were quite successful. However, regardless of their success, as white communities expanded, the model villages lost land, and many were relocated. From the perspective of the British government, the genius of this plan was that the finances required to set up these communities and begin the “civilizing” process would come from the funds generated through the sale of reserve land or through the extraction of resources such as lumber from reserve lands. In effect, Indigenous people would pay their own way to “civilization” (Dickason, 1997, p. 199).

CALL TO ACTION

60. We call upon leaders of the church parties to the Settlement Agreement and all other faiths, in collaboration with Indigenous spiritual leaders, Survivors, schools of theology, seminaries, and other religious training centres, to develop and teach curriculum for all student clergy, and all clergy and staff who work in Aboriginal communities, on the need to respect Indigenous spirituality in its own right, the history and legacy of residential schools and the roles of the church parties in that system, the history and legacy of religious conflict in Aboriginal families and communities, and the responsibility that churches have to mitigate such conflicts and prevent spiritual violence.

The Crown passed legislation in 1857 called the *Gradual Civilization Act* to create a process of enfranchisement for First Nations people, so that they could cease being considered Indigenous. Enfranchisement began as a voluntary process. The legislation set out that if a First Nations male was self-supporting, debt-free, and deemed by the superintendent to be a suitable candidate for enfranchisement, he could forfeit his Indian status and receive 50 acres (20 hectares) of land cut from his people’s reserve. Furthermore, he would thereafter have all the rights of a regular citizen, including the right to vote in provincial and federal elections. If it had been successful, this legislation would have eroded the reserve land base as well as First Nations sovereignty. Very few First Nations people accepted this offer (Dickason, 1997, p. 225).

In 1869, the *Enfranchisement Act* was introduced to limit blood quantum to at least one-quarter Indian in order to qualify to remain a status Indian. All others would be removed automatically from treaty entitlements. The purpose of this legislation, in the words of a bureaucrat in 1871, was “to lead the Indian people by degrees to mingle with the white race in the ordinary avocations of life” (Miller, 2004). The result would be fewer treaty Indians. Amazingly, this focus continued to be central to all legislation designed to administer Indian people until 1985.

During Confederation in 1867, at a time when efforts were focused on nation building, the British Parliament passed the **British North America Act**, also known now as the *Constitution Act, 1867*. Indigenous people were not consulted in the creation of the Act, and the Act did not recognize the right of Indigenous self-government. Section 91(24) of this Act gave Canada authority over “Indians, and Lands reserved for Indians.” Many historians believe this was a turning point in history that marked the beginning of an era of serious oppression of Indigenous people in Canada. Through the BNA Act, the power of Indigenous governments was reduced to less than that of a municipality. Power would be held by the federal government with no regard to the diversity of First Nations peoples, their cultures, or their historical relationships with the Crown. They would all be treated as one homogeneous group and governed by a one-size-fits-all policy. They would no longer have the right to negotiate with the British

British North America Act

a statute enacted on March 29, 1867, by the British Parliament providing for the Confederation of Canada

Crown in regard to legislation affecting them or their lands; rather, they would have to negotiate with the federal government, which had a keen interest in acquiring the lands occupied by Indigenous people.

CALL TO ACTION

45. We call upon the Government of Canada ... to ... [r]econcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.

The Indian Act

Within nine years of Confederation, the legislation regarding First Nations was consolidated into one act called the **Indian Act**. The *Indian Act* retained the earlier definition of an Indian but, continuing to broaden its scope of authority, now defined a band as well (Dickason, 1997, p. 259). The original *Indian Act* defined a band as follows:

The term “band” means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; the term “the band” means the band to which the context relates; and the term “band,” when action is being taken by the band as such, means the band in council.

According to the current *Indian Act*, a band is

a body of Indians

- (a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after September 4, 1951,
- (b) for whose use and benefit in common, moneys are held by Her Majesty, or
- (c) declared by the Governor in Council to be a band for the purposes of this Act.

The lands mentioned in paragraph (a) refer to a reserve. Many First Nation groups are still awaiting designation as bands in accordance with this legislation; without such designation, the government does not afford them any benefits or protection. There are currently 617 recognized bands in Canada and 126 in Ontario.

The *Indian Act* did not include the Inuit because there was little contact between Canada and the Inuit at the time. The government was intent on reducing rather than increasing the number of status Indians. So when the Inuit question arose in the 1930s, Ottawa’s position was that since the Inuit are not culturally Indians, they were not included in the *British North America Act*, section 91(24), which designated the federal government’s responsibility for Indians. In the 1930s, the Inuit of northern Quebec were hard hit by a scarcity in the game that were their traditional source of sustenance, and they needed relief assistance. Neither level of government wanted any responsibility to provide this assistance, even though fur traders, miners, and whalers had spent decades extracting resources from Inuit land without compensating the land’s inhabitants. The Quebec government took the federal government to court, arguing that the Inuit were Indians for all intents and purposes and should fall under the authority of the federal government. In 1939, the Supreme Court of Canada ruled that the Inuit, although culturally distinct, would be considered Indians, but would not be included in the *Indian Act*.

Despite the Inuit’s being legally classified as Indians, the government neglected them until after the Second World War, when the need arose for military expansion into the North. Between

Indian Act

a statute created in 1876 to consolidate all policies aimed at the administration of Indian populations in Canada and giving the federal government exclusive jurisdiction over Indians and reserves

1941 and 1970, the federal government used a disk system to identify those Inuit for which it accepted responsibility. Each disk, which could be worn on a string around the neck, bore the Canadian coat of arms and the identity number of the wearer. This simplified record keeping, since the naming system used by the Inuit was unfamiliar to the government. The disk evolved into proof of status: those who had disks were eligible for government services; those without were not.

Other groups were also left out of the legislation aimed at Indians, including the Innu of Newfoundland and Labrador. When these territories entered Confederation in 1949, the rights of Indians to be defined and dealt with in accordance with Canadian legislation such as the *Indian Act* were originally included in the documents but were deleted prior to ratification, leaving the Innu with no protection for their territories and no guarantees of any assistance in times of need.

The Métis

As a result of the fur trade, many French and English traders married Inuit and First Nations women, creating a new and culturally distinct group of people in Canada. This group—the Métis—were also not included as Indians within the Act. The children of these unions grew up predominantly in their mothers' cultures—commonly Cree, Ojibwe, Saukteaux, or Inuit—but they were also introduced to French Catholicism and English Protestantism. As these communities grew in number, they became even more distinct as second and third generations intermarried. They occupied settled communities in Rupert's Land, owned under Crown patent by the Hudson's Bay Company; spoke French or English; and were predominantly employed by the Hudson's Bay Company or the North West Company as trappers, traders, buffalo hunters, exporters of pemmican, and interpreters. The Métis settlements in the Red River Colony (today's Winnipeg area) and Saskatchewan each developed a unique culture. When the government of Canada took over Rupert's Land in 1869, the ownership of the Red River Colony land was called into question.

The Métis as a distinct group did not enter into treaties but were occasionally included in treaty documents, listed as “half-breeds.” They had settled all over Rupert's Land, and its sale to Canada left them with claims to settlements that had never been treated. The Métis united to set up a provisional government under Louis Riel, who negotiated the passage of the *Manitoba Act* in 1870, which brought the Red River Colony into Confederation as the province of Manitoba shortly thereafter. The Act provided Métis with 1.4 million acres (570,000 hectares) of reserve land. This was intended to give the Métis, who already lived there, a head start on land acquisition and to secure their settlements before a massive influx of European settlers arrived. After Manitoba joined Confederation, the transfer of land did not proceed as promised. However, the Supreme Court of Canada's recent decision in *Daniels v. Canada (Indian Affairs and Northern Development)* (2016) confirmed that Métis peoples are recognized as Indians under section 91(24) of the *Constitution Act, 1867*. This may open the door to the future settlement of historic Métis land claims.

When Ottawa sent out surveyors to assess and survey Rupert's Land to prepare for additional settlement, the Métis became very concerned over their position in their territories and the preservation of their unique culture. The Métis blocked the surveyors' access to the territory and rebelled against the settler government. Louis Riel, as leader of the rebellion, ordered the execution of one of its representatives and, as a result, was himself later hanged for treason.

The Métis did not fall under the strict definition of the *Indian Act* since they had no formally recognized bands, although they were defined as a distinct people. The *Indian Act* therefore did not provide the Métis land protection rights nor rights to education or relief. They are today recognized as one of Canada's founding Indigenous peoples, and their Aboriginal rights are protected under section 35 of the *Constitution Act, 1982*. To be recognized as Métis today, an

individual must fulfill the following three conditions: self-identification as a Métis, ancestral connection to a historic Métis community, and acceptance by a Métis community (*R v. Powley*, 2003).

Imposed System of Government

The *Indian Act* quickly provided for the removal of First Nations traditional systems of governance and replaced them with a system called the band council. It is similar in nature to municipal governments in that it comprises one chief and several councillors elected through a process that is strictly regulated by the Act. This system was implemented for all First Nations in a one-size-fits-all fashion with no consideration given to the diverse forms of government and culture across First Nations. Furthermore, a person called the Indian agent (a white government official set in place to oversee the functions of the reserve) had authority under the Act to remove the chief or council members for any number of reasons.

Some nations resisted this intrusion on their established systems of government, the Six Nations being one of them. This band tried to resist the transition to an elected band council by agitating for change to the system and petitioning the Queen, insisting that they were allies, not subjects, of the British Crown, and had never given up their sovereignty. In 1924, Deputy Superintendent General of Indian Affairs Duncan Campbell Scott ordered the overthrow of the Six Nations' traditional council by force. Lt. Col. Morgan was charged with the responsibility of overseeing troops provided by the RCMP to overthrow the traditional council and oversee the institution of the first elected band council for the Six Nations.

Tax Exemption

The *Indian Act* included laws surrounding taxation. First Nations people living on reserves were not to be taxed either on any purchases they made while living on a reserve or on income generated from on-reserve activities. This provision was included in recognition of the special status accorded to “reserved territories” and was rooted in principles concerning nationhood and self-government. This tax exemption still exists today and is misunderstood by some non-Indigenous people, who perceive it as an unfair advantage. Many Indigenous people assert that this tax exemption signifies that Indigenous land is sovereign land and not a part of Canada, based on the fact that Indigenous people have never surrendered their sovereignty and right to self-government. Many non-Indigenous people overestimate the benefits of tax exemption. It is only for people living on the reserve and does not exempt income earned off-reserve. Since on-reserve employment is hard to find and on average generates income levels that are less

CLOSE-UP The Métis National Council

Today, the Métis National Council is made up of five provincial organizations: Métis Nation British Columbia, Métis Nation of Alberta, Métis Nation—Saskatchewan, Manitoba Métis Federation, and the Métis Nation of Ontario. The provincial organizations have regional councils to represent Métis throughout each province. This council represents the voice of the Métis to the federal government and argues for the rights of the Métis under section 35 of the *Constitution Act, 1982*. The Métis have their own flag, which depicts the joining of two nations and the eternal existence of a people, represented by the infinity symbol on a blue background.



The councillors of the Métis Provisional Government in 1870. Louis Riel is seated in the centre.

than half the average Canadian income, most Indigenous people work off-reserve and are subject to income tax and all other taxes that other Canadians pay.

Sixty percent of First Nations people live off-reserve and therefore work off-reserve. Since tax-exemption status is attached to the territory of a reserve, not to the person, fully 60 percent of First Nations people pay all of the taxes that other Canadians pay, apart from provincial sales tax on purchases. Status Indians living off-reserve do not access provincial dollars to obtain services as non-First Nations members of the community do. They are the sole responsibility of the federal government and therefore must access federal funds allocated through Indian Affairs for services. For example, the province funds non-Indigenous education, while the federal government funds status Indians attending provincial schools in an agreed sum per student. It makes sense, then, that First Nations people are not forced to contribute to a provincial tax base that they are unable to access for services.

Changes Through Time

The first change to the *Indian Act* in 1880 was to withdraw “half-breeds” (Métis) from treaty agreements. This measure was calculated to quickly reduce the number of Indians that held status and therefore had treaty rights. At the same time, treaties were being made in the western plains area. The government could see that the buffalo population was in sharp decline and that the Métis, a distinguishable group who had already asserted their right to land, would require assistance in rebuilding their economy. In order to avoid any obligation of assistance, the government encouraged the Métis to accept **scrip**—a one-time payment and small land allocation—in lieu of the assistance they would have been entitled to as treaty Indians.

scrip

a one-time payment issued to Métis to discharge treaty rights

In the same year, the Indian Branch became its own department, with inside staff based in Ottawa, including a superintendent general, a chief clerk, an accountant, and clerical staff, as well as outside staff comprising 460 field workers responsible for the implementation of policies directed at Indians. These outside workers were called **Indian agents**, and were invested with tremendous authority over the reservation and the people with whom they worked.

Indian agent

a federal employee of Indian Affairs in charge of administration on reserves

A 1958 job study lists the authorities of the Indian agent as follows: dealing with the recording of property; registering births, deaths, and marriages; administering band funds; and holding elections. The Indian agent interviewed people who needed farming equipment, those who complained about land encroachments, and those applying for loans. He encouraged people to marry legally and to enlist in the armed forces. He adjusted property when members left or joined the band. He dealt with the estates of the deceased and supervised the building of infrastructure, including schools. He negotiated the surrender of band lands for highways or other purposes, and applied for relief funds to house those in need. He informed the court of matters concerning Indians who were on trial for criminal matters. He was the justice of the peace and the health inspector for the community and, later, for the schools. He presided over band council meetings and could vote to break a tie. Finally, he enforced the *Indian Act* and policies directed at Indians.

In some cases, Indian agents were capable people with integrity; in others, they were not. In all cases, they were non-Indigenous. This continued for decades. Slowly, bands have wrested authority for these matters back from the federal government.

In 1880, the “unmaking” of Indians continued, with mandatory enfranchisement of Indigenous people who held a university degree, joined the clergy or the armed forces, or voted in a federal election. The 1880 changes to the *Indian Act* dispensed with recognition of hereditary chiefs and recognized only elected band council chiefs. Indigenous peoples in the West were prohibited from selling their agricultural products because the government did not want them to purchase liquor or other “worthless” things.

In 1884, First Nations people complained that the government was not fulfilling the treaty agreements that would enable them to use the land; agricultural equipment promised in the treaties was not delivered. The government conceded that this was a legitimate complaint but excused the breach, explaining that the bands were not sufficiently advanced to benefit from the promised tools, livestock, and schools.

The potlatch and other Indigenous ceremonies were banned in 1884, with a two- to six-month jail term for those who contravened this prohibition. This prohibition was included in the Act but was not enforced until the 1920s under the leadership of Deputy Superintendent General of Indian Affairs Duncan Campbell Scott. Cultural practices and ceremonies went underground to avoid the watchful eye of the Indian agent. These practices had always played a critical part in the Indigenous oral culture, conveying to the next generation the people's history, their principles of governance, and their spirituality. Repressing these practices resulted in the beginning of loss of culture.

In 1889, the *Indian Act* was amended to allow the federal government to override a band that did not wish to lease land. By 1894, any Indian lands that were not worked (agriculturally) due to illness or injury could be leased to non-Indigenous Canadians under the authority of the superintendent. Idle or surplus Indian land was also seen as fair game.

In 1911, section 46 of the *Indian Act* allowed portions of land to be taken by municipalities or companies for roads or railways without consent of the band but with permission of the superintendent. Section 46(a) permitted the removal of Indians, against their wishes, from any reserve next to or partly within a town of 8,000 inhabitants. For example, a Mi'kmaq reserve in Sydney, Nova Scotia and the Songhees reserve in Victoria, British Columbia were moved outside these cities to free up urban land for development. In the West, between July 1, 1896 and March 31, 1909, First Nations received \$74,343 for surrendered land. The Department of Indian Affairs subsequently received \$2,156,020 for that land.

The promise of reserved lands through treaty was in some cases not fulfilled; in other cases, the power given to the Indian agent through the *Indian Act* resulted in large sections of reserved lands, coveted by settlers and resource speculators, being carved out of the First Nation's territory, sometimes without compensation. Railways expropriated reserved lands freely, often splitting communities down the centre. The railway towns that were springing up often grew to displace Indigenous people, and more land was seized, often without compensation, as the towns expanded.

In 1918, the enfranchisement of Indigenous people was made easier for those who wished to apply; however, the plan still did not meet with success. Subsequently, in 1921, legislation changed to provide the Indian agent with the authority to enfranchise any Indian who was deemed suitable regardless of his or her wishes. In other words, without giving consent, an Indian could lose his or her status with the stroke of a bureaucrat's pen.

You may be wondering why Indigenous people did not rebel against this oppressive legislation and continued seizure of their lands. In fact they did respond and organize resistance, but it seemed futile. In 1880, in response to political movement in the West to oppose land seizure, a pass system was implemented, requiring any Indian leaving the reserve to have a pass issued by the Indian agent. The goal of the system was to inhibit Indigenous people's mobility and discourage Indigenous alliances that might threaten Canadian authority. Many reserves were impoverished due to the depletion of resources, and any sign of political activism was quickly met with governmental threats of withdrawal of its relief funds.

In 1927, in a heavy-handed response to Six Nations' resistance to the authority of the Act and the West Coast Nisga'a's continued appeals to England, the *Indian Act* was again amended to proclaim that no person could raise money to fund any form of claims to land against the federal government without the express permission of the Indian agent.

VOICES

Deskaheh

Deskaheh was Cayuga, born in 1873 in western New York. He moved to the Six Nations reserve in Ontario, married, and had a family. In 1917, he became hereditary Chief of the Cayuga Nation. In 1921, Deskaheh travelled to London, England on a passport issued by the Iroquois Confederacy because the Canadian government would not allow him to travel. He went to Europe with an attorney hired by the band to speak on behalf of the Six Nations against the subjugation of his people by the Canadian government. He petitioned to join the League of Nations but was ultimately unsuccessful; he did, however, garner support from many European nations when he presented his "Petition and case of the Six Nations of the Grand River." With his lawyer, he returned to the United States to petition in Washington, DC. He was denied re-entry into Canada and spent his last days in Tuscarora, New York. Although he gained the support of nations such as Ireland, Switzerland, and the Netherlands, he was unable to achieve his goal of obtaining recognized international nation status for the Six Nations. In 1924, the hereditary council was forcibly removed from Six Nations and a band council imposed while Deskaheh was in exile in the United States. One of his most famous statements commented on Canadian policies of assimilation:

Over in Ottawa, they call that policy "Indian Advancement." Over in Washington they call it "Assimilation." We who would be the helpless victims call it tyranny. If it must go on to the bitter end we would rather that you come with your guns and poison gases and get rid of us that way. Do it openly and above board.

It is believed that Deskaheh's actions resulted in Ottawa's oppression of Six Nations in the following years.

EXERCISE 2

The legislated disempowerment of Indigenous people through legislation such as the *Indian Act* led to the federal government assuming fiduciary responsibility for First Nations in Canada.

Fiduciary responsibility is the legal or ethical responsibility to manage something, usually money or property, in trust for another person (or people) and act in their best interests. Do you think that the federal government has fulfilled this duty? Why or why not?

fiduciary responsibility

the legal or ethical responsibility to manage something, usually money or property, in trust for another person (or people) and act in their best interests

1951: Changes to the Act

The *Indian Act* was overhauled in 1951 in an attempt to create a more equitable piece of legislation. The ban on potlaches and other traditional dances and ceremonies was lifted. Over the previous 30 years, however, the passing of Indigenous culture and oral history to new generations, which was a central function of these practices, had been seriously disrupted. Added to this was the residential school system, to be addressed in Chapter 3, which all but eliminated Indigenous languages and culture through the education department's primary goal of assimilation.

The Act established the Indian Register as a centralized record of all individuals entitled to be registered as status Indians. The registrar was given authority to add or delete names from the general band lists. In response to complaints from Indians who were unilaterally removed from the band list or who could not be included on the band list because their births had never been registered, new rules required the posting of the band list. An appeal process was instituted for those who were removed from the list, with a limit of six months for appeal.

Despite the overhaul of the Act, there was still no agreement to set up a land claims commission as requested by Indigenous people. Furthermore, the 1951 revisions to section 88 of the Act allowed “all laws of general application in force in any Province to apply as well to Indians on and off reserves.” This was undoubtedly a precursor to the federal government’s intention to slowly devolve the responsibilities for Indians onto the provinces. The problem with this amendment was that certain provincial laws, such as hunting and fishing regulations, if applied to Indians, violated treaty rights. Today, Canadian courts are attempting to navigate their way through layers of treaty and provincial law to provide an equitable interpretation of that law and to define Indigenous rights in Canada.

It was not until the early 1960s that First Nations people were given the right to vote in federal elections. Soon after, they would use this right to become politically active in opposing the White Paper of 1969, proposed by Liberal Indian Affairs Minister Jean Chrétien. This paper called for the elimination of the *Indian Act*, reserved land for Indians, and the special legal category of status Indian. It further proposed to transfer all responsibilities for First Nations to the provinces and promised to look into land claims. Although it was claimed that the White Paper laid out a path to equality for First Nations people in Canada, they viewed it as the final stroke of assimilation. The National Indian Brotherhood stated: “We view this as a policy designed to divest us of our aboriginal, residual, and statutory rights. If we accept this policy, and in the process lose our rights and our lands, we become willing partners in culture genocide. This we cannot do” (Dickason, 1997, p. 364).

Once again, a policy had been created with little consultation with Indigenous people. In the words of Dave Courchene, president of the Manitoba Indian Brotherhood from 1967 to 1974: “Once again the future of the Indian people has been dealt with in a high-handed and arbitrary manner. We have not been consulted; we have been advised of decisions already taken. I feel like a man who has been told he must die and am now to be consulted on the methods of implementing that decision” (Dickason, 1997, p. 364). Cree leader Harold Cardinal wrote:

We do not want the Indian Act retained because it is a good piece of legislation. It is not. It’s discriminatory from start to finish. But it is a lever in our hands and an embarrassment to the government, as it should be. No just society with even pretensions to being just can long tolerate such a piece of legislation, but we would rather continue to live in bondage under the inequitable Indian Act than surrender our sacred rights. Any time the government wants to honor its obligation to us we are more than ready to help devise new legislation. (Cardinal, 1969, p. 140)

Many treaties had originally been made with the British, and legislation passed the responsibility to honour those treaties to the federal government upon the transfer of power during Confederation. The federal government could not simply exonerate itself of those obligations by passing them on to provincial governments. In 1971, the federal government abandoned the White Paper, but the idea of devolving responsibilities for First Nations onto the provinces had not disappeared. It resurfaced in 1986, when the Nielson report recommended that the cost of delivering services to First Nations be shared by the provinces. This was motivated by the rising costs of program delivery, since First Nations populations increased dramatically around this time, and their communities were suffering from the effects of the residential school system, which increased the need for social services. This recommendation was abandoned after much protest from First Nations people.

The fight against the White Paper resulted in a positive change to policy and practice under the *Indian Act*; for the first time, the federal government agreed to fund research into land claims and to set up processes by which those claims could be negotiated. We will discuss land claims in Chapter 2.

CHAPTER SUMMARY

Although the mainstream political structure in Canada today borrows from Indigenous government structure, the two systems are based on very different world views, particularly in regard to land and relationships between peoples and nations. Though Indigenous people held significant political power in their relationship with Europeans until the signing of the *Royal Proclamation*, they were quickly divested of that power following the collapse of their traditional economies during rapid expansion and multiple waves of harvest of natural resources by new arrivals.

The dispossession and disempowerment of Indigenous people in Canada has been a long process that has spanned generations. This dispossession was purposefully conducted

by many levels of government to facilitate expansion and economic growth for Canada; however, Indigenous people in Canada rarely benefited from the economic growth. Aggressive policies of assimilation were created to ensure that status Indians with treaty entitlements would slowly disappear. But Indigenous people, against all odds, managed to cling to their heritage and status; today we grapple with the important task of defining Indigenous rights in Canada in accordance with the treaties. Indigenous people in Canada struggle to reclaim authority over their own affairs, to reclaim lost culture, to rebuild healthy communities, and to create economic growth and prosperity for themselves within Canada.

REFERENCES

- Aboriginal Affairs and Northern Development Canada. (1939). Copy of the Robinson Treaty made in the year 1850 with the Ojibwa Indians of Lake Huron conveying certain lands to the Crown. <https://www.aadnc-aandc.gc.ca/eng/1100100028984/1100100028994>.
- Bishop, J.D. (2003). The Lockean basis of Iroquoian land ownership. In R.B. Anderson & R.M. Bone (Eds.), *Natural resources and Aboriginal people in Canada: Readings, cases, and commentary*. Toronto: Captus Press.
- British North America Act*. (1867). 30 & 31 Vict., c. 3, reprinted in RSC 1985, app. II, no. 5.
- Cajete, G. (2000). Philosophy of native science. In G. Cajete, *Native science: Natural laws of interdependence*. Santa Fe, NM: Clear Light.
- Canadian Charter of Rights and Freedoms*. (1982). Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c. 11.
- Cardinal, H. (1969). *The unjust society: The tragedy of Canada's Indians*. Edmonton: Hurtig.
- Clarkson, L., Morrissette, V., & Régallet, G. (1992). *Our responsibility to the seventh generation: Indigenous peoples and sustainable development*. Winnipeg: International Institute for Sustainable Development. http://www.iisd.org/pdf/seventh_gen.pdf.
- Criminal Code*. (1985). RSC 1985, c. C-46.
- Daniels v. Canada (Indian Affairs and Northern Development)*. (2016). 2016 SCC 12.
- Dickason, O.P. (1997). *Canada's First Nations: A history of founding peoples from earliest times* (2nd ed.). Toronto: Oxford University Press.
- Gersten, P. (2007). Cultural heritage legal summary. *Journal of Field Archaeology*, 32(1), 86.
- Indian Act*. (1985). RSC 1985, c. I-5.
- Leslie, J., & Maguire, R. (Eds.). (1978). *The historical development of the Indian Act* (2nd ed.). Ottawa: Indian and Northern Affairs Canada.
- Miller, J.R. (2004). *Lethal legacy: Current Native controversies in Canada*. Toronto: Macfarlane Walter & Ross.
- Powley, R v.* (2003). 2003 SCC 43, [2003] 2 SCR 207.
- Royal Proclamation of 1763*. (1763). RSC 1970, app. II, no. 1.
- Whitehead, R.H. (Ed.). (1991). *The old man told us: Excerpts from Micmac history, 1500–1950*. Halifax: Nimbus Publishing.

REVIEW QUESTIONS

True or False?

- _____ 1. Prior to European arrival in what today is Canada, there were 20,000 people living on this land mass.
- _____ 2. In the oral tradition, spoken language is used to convey culture from one generation to the next.
- _____ 3. The idea of collective rights was more prominent in European culture than in Indigenous culture.
- _____ 4. According to Iroquois history, the Two-Row Wampum is an agreement between the British and the Iroquois to respect each other's sovereignty and to form a military alliance.
- _____ 5. The *Royal Proclamation of 1763* is deemed to carry the force of law and has never been repealed.
- _____ 6. Through the *Indian Act*, the government recognizes traditional forms of Indigenous government.
- _____ 7. The *Constitution Act, 1982* recognizes existing treaty rights.
- _____ 8. Treaties are a strictly European creation; Indigenous peoples never entered into treaties prior to European arrival.

- ___ 9. It was not until the 1940s that First Nations people were given the right to vote in federal elections.
- ___ 10. The White Paper of 1969 proposed the elimination of reserved lands for Indians.

Multiple Choice

- Indigenous peoples' creation stories most often assert that
 - they travelled across the Bering Sea
 - they travelled across the Atlantic Ocean
 - the people were born from the land or came to the land from a spiritual place
 - they travelled from the South Pacific on ocean currents
- Many academics assert that our current form of democracy was influenced by
 - Locke's theory of landownership
 - Indigenous forms of government at the time of European contact
 - Thomas Hobbes's philosophy
 - Charles Darwin
- In Europe, the Christian religion was a "proselytizing religion." This means that
 - Christians believed in one God manifested in many forms
 - Christians believed that others must convert to Christianity or be eternally damned
 - Christians were very tolerant of others' spiritual beliefs
 - the Christian religion was not central to European culture at that time
- Which of the following is not true of the outcomes of the fur trade as it affected Indigenous people?
 - Indigenous people became increasingly dependent on European traders for goods.
 - Many animal species neared extinction due to overhunting.
 - Indigenous people incorporated the accumulation of wealth into their culture, which upset traditional balances.
 - The fur trade created long-term and permanent economic stability for Indigenous nations.
- The term *terra nullius* means
 - empty land
 - unfertile land
 - land whose ownership is contested
 - lawfully purchased land
- A treaty is
 - a promise that is not legally binding
 - an agreement between states in written form and governed by international law
 - an agreement that is informal in nature
 - an agreement between two states that has been formally concluded and ratified
- The Robinson–Huron treaty of 1850 set a precedent for all future treaties made to acquire lands for settlement. Which of the following is not true of those precedent-setting inclusions to treaties?
 - Sales of reserve lands and mineral rights were to be conducted by the government for the sole use and benefit of the Indians.
 - Land was to be surrendered only to the Crown.
 - Annuities were to be paid.
 - Indigenous people were to forfeit hunting and fishing rights over the land that was ceded in the treaty.
- The government accepted fiduciary responsibility for First Nations people when it passed the *Indian Act*. Fiduciary responsibility means
 - the responsibility to cultivate the natural resources on land granted by the government
 - the responsibility to educate
 - the legal or ethical responsibility to manage something, usually money or property, in trust for another person (or people) and act in their best interests
 - the responsibility to civilize
- Indigenous people opposed Chrétien's White Paper, which proposed legislation that would in effect eliminate the *Indian Act*. Why?
 - Because they believed that the *Indian Act* was fair and equitable.
 - Because they were resistant to change of any kind.
 - Because the White Paper did not address the issue of land claims.
 - Because the White Paper proposed to eliminate reserve land and treaty status for Indians.
- Special rights accorded to Indigenous people in Canada today in the areas of education and taxation are
 - an attempt at reconciling the inequalities of the past
 - acts of generosity by the Canadian government
 - attempts to resolve social problems prevalent on reserves
 - obligations of the federal Crown that are rooted in treaty law
- After the *Indian Act* was established, who had control over the sale of Indian reserve lands?
 - Indians
 - the federal government through the Indian agent
 - band-elected First Nations representatives
 - traditional councils established by the band