

# HISTORY 859.3 (08) T2, Studies in Canadian History: Indian Treaties in Canada

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Arts 610

Jan.-April 2011

966-5806

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## General

History 859.3 (08) T2 is a one-term seminar that meets Wednesday mornings at 9:30 in Arts 710 for three hours of discussion of prescribed topics (below). The intent of the course is to explore the origins, evolution, and significance of treaty-making between First Nations and a succession of governments – colonial and then national – throughout post-contact Canadian history. At the end of the course students should have a better appreciation of the dynamics of treaty-making throughout Canadian history, of the historical significance of treaties both to First Nations and non-Natives, and of the implications and importance of treaties and treaty-making today.

Weekly meetings will examine the emergence of a treaty-making tradition in the early fur trade and French colonial wars, consider the significance of the Royal Proclamation of 1763 for treaty-making from that date onward, survey treaty-making in Upper Canada, consider in depth the numbered treaties of the West and North, examine the reasons for the absence of formal treaties from 1921 until 1975, and conclude with evaluation of both recent treaties and comprehensive claims settlements as the culmination of the Canadian treaty-making tradition. Throughout the course, the focus of reading, discussion, and research will be on both First Nations and non-Native governments that made treaties.

Members of the seminar are expected to prepare for each meeting of the class by reading as much as their schedules permit from the list of recommended readings (below). All members of the seminar are responsible for preparing for and participating in discussion at the weekly class.

## Course requirements

In addition to careful preparation for weekly discussions, students are required to make one brief oral presentation to the seminar on one of the weekly topics, submit a brief historiographical essay on the literature about a treaty of their choosing (9 February), prepare a longer research paper on a topic worked out in discussion with the instructor (30 March), and write a final examination. Term marks are assigned for weekly oral contributions to the seminar, the oral presentation, and written work.

The historiographical paper, which is due 9 February 2011, should be approximately 2000-2500 words (8-10 double-spaced pages), and must deal with the literature on a treaty that is **not**

covered by your research paper.

The research paper, which is due 30 March 2011, should be approximately 5000-6000 words (20-25 double-spaced pages). The topic is to be developed in consultation with the instructor.

The final requirement of the course is a final examination, which will be written during the regular examination period, 11-30 April. Examples of prior examinations in this course will be distributed in advance so that you will be familiar with the format. At the examination itself no books, notes, reading lists, electronic equipment, or other forms of assistance are to be used.

The breakdown of marks is:

Term work:

weekly participation	20%
oral presentation	10%
historiographical paper	15%
research paper	25%

Final examination	30%
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Required texts

The Bookstore has been asked to stock copies of the following works:

Miller, J.R., *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada*. Toronto: University of Toronto Press 2009. **paperback**

Morris, Alexander, *The Treaties of Canada with the Indians*. Calgary: Fifth House 1991. **paperback**

Schedule of meetings

5 January	Introduction and organization
12 January	Treaty-making in New France (to 1701)
19 January	Eighteenth-century colonial Maritime treaties
26 January	The Royal Proclamation of 1763 and Upper Canadian Treaties (to 1812)
2 February	Upper Canadian Treaties (to 1862)

9 February	The numbered treaties of the West, 1871-77: motives and expectations <b>historiographical papers due</b>
16 February	The numbered treaties of the West, 1871-77: contents and implications
2 March	The northern numbered treaties: motives, contents, and implications
9 March	The resumption of ‘treaty’-making: the James Bay and Northern Quebec Agreement, 1975
16 March	Comprehensive claims settlements as modern-day treaties
23 March	Treaty-making in the 1990s: Nunavut and Nisga’a
30 March	Treaty interpretation and treaty-making in the twenty-first century <b>research papers due</b>
6 April	Wrap up

### Recommended readings

#### Websites

[www.inac.gc.ca](http://www.inac.gc.ca)

Indian and Northern Affairs Canada (Treaty Reports on agreements from 1850 onward)

[www.otc.ca](http://www.otc.ca)

Office of the Treaty Commissioner for Saskatchewan

[www.sicc.sk.ca](http://www.sicc.sk.ca)

Saskatchewan Indian Cultural Centre

12 January Treaty-making in New France (to 1701)

#### **Primary sources for discussion**

R.G. Thwaites, ed., *The Jesuit Relations and Allied Documents*, vol. 27, Relation of 1644-45, 147-61 and 267

James H. Merrell, ed., *The Lancaster Treaty of 1744 with Related Documents*, 43-51

Miller, J.R., *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada* [*Compact, Contract, Covenant*], chaps 1 and 2

Jaenen, C.J., “Crown Sovereignty and Native Nationhood during the French Regime,” *Native Studies Review* 2, no. 1, 1986, 83-115; reprinted in J.R. Miller, ed., *Sweet Promises: A Reader on Indian-White Relations*, 19-42

Brandão, Jose and William A. Starna, “The Treaties of 1701: A Triumph of Iroquois Diplomacy,” *Ethnohistory* 43, no. 2, spring 1996, 209-44. For the background to this, see J.A. Brandão, ‘*Your fyre shall burn no more*’: *Iroquois Policy toward New France and Its Native Allies to 1701*.

Havard, Gilles, *The Great Peace of Montreal of 1701: French-Native Diplomacy in the Seventeenth Century*

Merrell, James H., ed., *The Lancaster Treaty of 1744 with Related Documents*, especially editor’s introduction

Williams, Robert A. *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800*

Time permitting, sample the first two volumes of the ‘Covenant Chain Trilogy’ by Francis Jennings: *The Invasion of America: Indians, Colonialism, and the Cant of Conquest*; *The Ambiguous Iroquois Empire: The Covenant Chain Confederation of Indian Tribes with English Colonies from Its Beginnings to the Lancaster Treaty of 1744*; and *Empire of Fortune: Crowns, Colonies, and Tribes in the Seven Years’ War*.

Royal Commission on Aboriginal Peoples [RCAP], *Final Report. I: Looking Forward, Looking Back* [*Looking Forward, Looking Back*], chap. 5, 99-136

Jennings, Francis, ed., *The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League*

19 January

Eighteenth-century colonial Maritime Treaties

**Primary Sources for Discussion**

Treaty of Boston 1725, Mascarene’s Treaty, and Treaty of 1752, Peter A. Cumming and Neil H. Mickenberg, eds., *Native Rights in Canada* 2<sup>nd</sup> ed.. 300-4. 307-8

Coates, Ken, *The Marshall Decision*, chaps. 1-2.; and 220-1, Appendix I, Treaty of 1760

Henderson, James Youngblood Sakéj, *The Mikmaq Concordat*

Dickason, Olive P., “Amerindians Between French and English in Nova Scotia, 1713-1763,” *American Indian Culture and Research Journal*, 10, no. 4, 1986; reprinted in J.R. Miller, ed., *Sweet Promises*, 45-67

Patterson, Stephen E., “Indian-White Relations in Nova Scotia, 1749-61: A Study in Political Interaction,” *Acadiensis*, 23, no. 1, autumn 1993, 23-59

----- “Eighteenth-Century Treaties: The Mi’kmaq, Maliseet, and Passamaquoddy Experience,” *Native Studies Review*, 18, no. 1, 2009, 25-52

Wicken, William C., *Mi’kmaq Treaties on Trial: History, Land, and Donald Marshall Junior*

Reid, John G. “*Pax Britannica* or *Pax Indigena*? Planter Nova Scotia (1760-1782) and Competing Strategies of Pacification,” *Canadian Historical Review*, 85, 4, Dec. 2004, 669-92

Cumming, Peter A. and Neil H. Mickenberg, eds., *Native Rights in Canada* 2<sup>nd</sup> ed., 300-2, Treaty of Boston (1725); and 302-4, Mascarene’s Treaty

Vaugeois, Denis, *The Last French and Indian War* [Murray Treaty]

RCAP, *Looking Forward, Looking Back*, chap. 5, espec. 119-32

26 January

Royal Proclamation of 1763 and the Upper Canadian Treaties (to 1812)

**Primary source for discussion**

Charles S. Brigham, *British Royal Proclamations Relating to America. Transactions and Collections of the American Antiquarian Society*, Royal Proclamation of 1763, 212-18;

*Compact, Contract, Covenant*, chap. 3

Brigham, Charles S. *British Royal Proclamations Relating to America. Transactions and Collections of the American Antiquarian Society*, 212-18; **or**

<http://www.johnco.com/native1/pro1763.html> full text of Royal Proclamation

Borrows, John, "Wampum at Niagara: The Royal Proclamation, Canadian Legal History, and Self-Government," Michael Asch, ed., *Aboriginal and Treaty Rights in Canada: Essays on Law, Equity, and Respect for Difference*, 155-72

Stagg, Jack. *Anglo-Indian Relations in North America to 1763 and an Analysis of the Royal Proclamation of 7 October 1763: Executive Summary* (Gov Pubs CA1 IA :1981A57) The full study by Stagg is *Anglo-Indian Relations in North America to 1763 and an analysis of the Royal Proclamation of 7 October 1763* (Gov Pubs CA1 IA :1981A56). See especially pp 355-75, 389-90, and 393-400.

Surtees, Robert J., "Land Cessions, 1763-1830," Edward S. Rogers and Donald B. Smith, *Aboriginal Ontario: Historical Perspectives on the First Nations*, 92-121

----- "Indian Land Cessions in Upper Canada, 1815-1830," I.A.L. Getty and A.S. Lussier, eds., *As Long As the Sun Shines and Water Flows*, 65-84

2 February Upper Canadian Treaties (to 1862)

**Primary source for discussion**

Shingwaukonse's petition, 1846; LAC,  
RG 10, vol. 612, 115-19

*Compact, Contract, Covenant*, chap. 4

Morris, Alexander, *The Treaties of Canada with the Indians*, chaps 2-3

Telford, Rhonda. "Aboriginal Resistance in the Mid-Nineteenth Century: The Anishinabe, Their Allies, and the Closing of the Mining Operations at Mica Bay and Michipicoten Island," Bruce W. Hodgins, Ute Lischke, and David T. McNab, eds. *Blockades and Resistance: Studies in Actions of Peace and the Temagami Blockades of 1988-89*, 71-84, 241-7

Chute, Janet, "Moving On Up: The Rationale for, and Consequences of, the Escalator Clause in the Robinson Treaties," *Native Studies Review*, 18, no. 1, 2009, 53-66

*Looking Forward, Looking Back*, chap. 5

[For all the major treaties from Robinson on, specialized research reports are available, either as studies done for Indian and Northern Affairs Canada, or as

RCAP studies. Citations for these specialized works are to be found in the endnotes of *Looking Forward, Looking Back*, and in the Bibliography of A.J. Ray, Jim Miller, and Frank Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties*. They are also on INAC's website.]

9 February                      The numbered treaties of the West, 1871-77: motives and expectations  
**[historiographical papers due]**

**Primary sources for discussion**

Sweet Grass et al petition, Morris, *Treaties of Canada*, 170-1

Peter Erasmus, *Buffalo Days and Nights*, 241-50

*Compact, Contract, Covenant*, chaps 5 and 6

St. Germain, Jill, *Indian Treaty-Making Policy in the United States and Canada, 1867-1877*

Venne, Sharon, "Understanding Treaty 6: An Indigenous Perspective," Michael Asch, ed., *Aboriginal and Treaty Rights in Canada: Essays on Law, Equity, and Respect for Difference*, 173-207

Miller, J.R., "'I will accept the Queen's hand': First Nations Leaders and the Image of the Crown in the Prairie Treaties," J.R. Miller, *Reflections on Native-Newcomer Relations: A Selection*, 242-66

Erasmus, Peter, *Buffalo Days and Nights*, espec. 241-50

Stevenson, Allyson, "'Men of their own blood': Metis Intermediaries and the Numbered Treaties," *Native Studies Review*, 18, no. 1, 2009, 67-90

Cardinal, Harold and Walter Hildebrandt, *Treaty Elders of Saskatchewan: Our Dream Is That Our Peoples Will One Day Be Clearly Recognized as First Nations*

Sliwa, Stephen, "Treaty Day for the Willow Cree," *Saskatchewan History*, 47, no. 1, 1995, 3-12

Friesen, Jean, "Magnificent Gifts: the Treaties of Canada with the Indians of the Northwest 1869-1876," *Transactions of the Royal Society of Canada*, Series 5, volume 1, 1986. 41-51

Milloy, John, “‘Our Country’: The Significance of the Buffalo Resource for a Plains Cree Sense of Territory,” Kerry Abel and Jean Friesen, eds., *Aboriginal Resource Use in Canada: Historical and Legal Aspects*, 51-70

Price, Richard A., ed., *The Spirit of the Alberta Indian Treaties*, 2<sup>nd</sup> ed. (espec. essays by Taylor and Foster)

Taylor, John L., “Canada’s North-West Indian Policy in the 1870s: Traditional Premises and Necessary Innovations,” J.R. Miller, ed., *Sweet Promises*, 207-11

Morris, *The Treaties of Canada with the Indians*, chaps 4-10

Treaty 7 Elders and Tribal Council, with Walter Hildebrandt, Dorothy First Rider, and Sarah Carter, *The True Spirit and Original Intent of Treaty 7*

16 February

The numbered treaties of the West: contents and implications

**Primary source for discussion**

Morris, *Treaties of Canada*, 77-125

Morris, *The Treaties of Canada with the Indians*, chaps 4-12

Tobias, John L., “The Subjugation of the Plains Cree, 1879-1885,” *Canadian Historical Review*, 64, no. 4, Dec. 1983, 519-48; in J.R. Miller, ed., *Sweet Promises*, 212-40

DeMallie, Raymond J. “Touching the Pen: Plains Indian Treaty Councils in Ethnohistorical Perspective,” Frederick C. Luebke, ed. *Ethnicity on the Great Plains*, 38-53

Milloy, John S., “Tipahamotowin or Treaty 4: Speculations on Alternate Texts,” *Native Studies Review*, 18, no. 1, 2009, 91-111

Kelly, Brendan, “Three Uses of Christian Culture in the Numbered Treaties,” *Prairie Forum*, 33, no. 2, fall 2008, 357-84

[For the situation in British Columbia, see:

Fisher, Robin A., *Contact and Conflict*, pp 66-8 and chaps 7-8

Foster, Hamar, “‘We want a strong promise’: The Opposition to Indian

Treaties in British Columbia, 1850-1990,” *Native Studies Review*, 18, no. 1, 2009, 113-37

Tennant, Paul, *Aboriginal Peoples and Politics: The Indian Land Question in British Columbia, 1849-1989*, chaps 1-4]

2 March                      The northern numbered treaties: motives, contents, and implications

**Primary source for discussion**

D.C. Scott, “The Last of the Indian Treaties,”  
*Scribner’s Magazine*, vol. 40, no. 5, Nov.  
1906, 573-83

*Compact, Contract, Covenant*, chap. 7

Fumoleau, René, *As Long as This Land Shall Last: A History of Treaty 8 and Treaty 11, 1870-1939*

Abel, Kerry, *Drum Songs: Glimpses of Dene History*, chap. 8

Ray, A.J., “Treaty 8: A British Columbian Anomaly,” *BC Studies*, no. 123, autumn 1999, 5-68

Titley, E. Brian, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*, chap. 4 [Treaty 9]

Long, John S., “‘No Basis for Agreement’? The signing of Treaty Nine in Northern Ontario, 1905-1906,” *Native Studies Review*, 5, no. 2, 1989, 19-54

----- *Treaty No. 9: The Indian Petitions*

----- *Treaty No. 9: The Negotiations*

Chief William Apesis, Peter Dodson, and the Elders of Birch Narrows, Buffalo River, Canoe Lake, and English River, In *Their Own Land: Treaty Ten and the Canoe Lake, Clear Lake, and English River Bands*

Gulig, Anthony G., “Yesterday’s Promises: The Negotiation of Treaty Ten,” *Saskatchewan History*, 50, no. 1, spring 1998, 25-39

9 March Resumption of 'treaty'-making: the James Bay and Northern Quebec Agreement, 1975

**Primary source for discussion**

**Billy Diamond**, "Aboriginal Rights: The James Bay Experience," Menno Boldt et al, eds., *The Quest for Justice*, 265-85

*Compact, Contract, Covenant*, chaps 8 and 9

Richardson, Boyce, *Strangers Devour the Land*

Diamond, Billy. "Aboriginal Rights: The James Bay Experience," Menno Boldt, J. Anthony Long, and Leroy Little Bear, *The Quest for Justice: Aboriginal Peoples and Aboriginal Rights*

16 March Comprehensive claims settlements as modern-day treaties

**Primary source for discussion**

*Living Treaties: Lasting Agreements*  
[Coolican Report], i-vii and 1-22

[www.inac.gc.ca](http://www.inac.gc.ca)

*Compact, Contract, Covenant*, chap. 9

Daniel, R.C., *A History of Indian Claims Processes in Canada, 1867-1979*

Indian and Northern Affairs Canada, *In All Fairness: A Native Claims Policy – Comprehensive Claims* (1981)

----- *Outstanding Business: A Native Claims Policy – Specific Claims* (1982)

----- [The Coolican Report] *Living Treaties: Lasting Agreements. Report of the Task Force to Review Comprehensive Claims Policy* (1985)

----- *Comprehensive Land Claims Policy* (1987)

23 March Treaty-making in the 1990s: Nunavut and Nisga'a

**Primary source for discussion**

Thomas Molloy, *The World Is Our Witness*, chaps 1-5

Duffy, R. Quinn, *The Road to Nunavut: The Progress of the Eastern Arctic Inuit Since the Second World War*

Jull, Peter, "Building Nunavut: A Story of Inuit Self-Government," *Northern Review*, 1, summer 1988, 59-72

Molloy, Thomas, *The World Is Our Witness: The Historic Journey of the Nisga'a Into Canada*

Foster, Hamar, "'Honouring the Queen's Flag': A Legal and Historical Perspective on the Nisga'a Treaty," *BC Studies*, no. 120, winter 1998-9, 11-35

Price, Richard A., "The British Columbia Treaty Process: An Evolving Institution," *Native Studies Review*, 18, no. 1, 2009, 139-69

30 March Treaty interpretation and treaty-making in the twenty-first century  
[research papers due]

**Primary source for discussion**

Office of the Treaty Commissioner,  
*Treaty Implementation: Fulfilling the  
Covenant*

*Compact, Contract, Covenant*, chap. 10

Coates, Ken, *The Marshall Decision*, chaps 1 and 8

Office of the Treaty Commissioner, Saskatchewan, *Treaties as a Bridge to the Future*

Arnot, David M., *Treaties as a Bridge to the Future: The Saskatchewan Model*.  
Twenty-Third Viscount Bennett Memorial Lecture, UNB, 2000

British Columbia Treaty Commission, *Looking Back, Looking Forward: A Review of the BC Treaty Process* (2001)

Brown, George and Ron Maguire, *Indian Treaties in Historical Perspective*

6 April Wrap up

**Please be aware that I am required to provide the following information in the syllabus as the result of a *diktat* of the office of the Associate Dean, College of Graduate Studies and Research**

“This course will conform to the academic requirements and standards for graduate courses, including the rules of *Student Appeals in Academic Matters*:

See [http://www.usask.ca/university\\_council/reports/12-06-99.shtml](http://www.usask.ca/university_council/reports/12-06-99.shtml)

and academic honesty:

See <http://www.usask.ca/honesty/> “

Finally, the following information sheet, “Writing it Right” must be included with the syllabus.