

TREATY NO. 6 - 1876

TREATY NO. 7 - 1877

TREATY NO. 8 - 1899

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*“The spirit and intent of Treaty is all of our responsibility.” (late) Veronica Morin*

# The Treaty has Two Parties

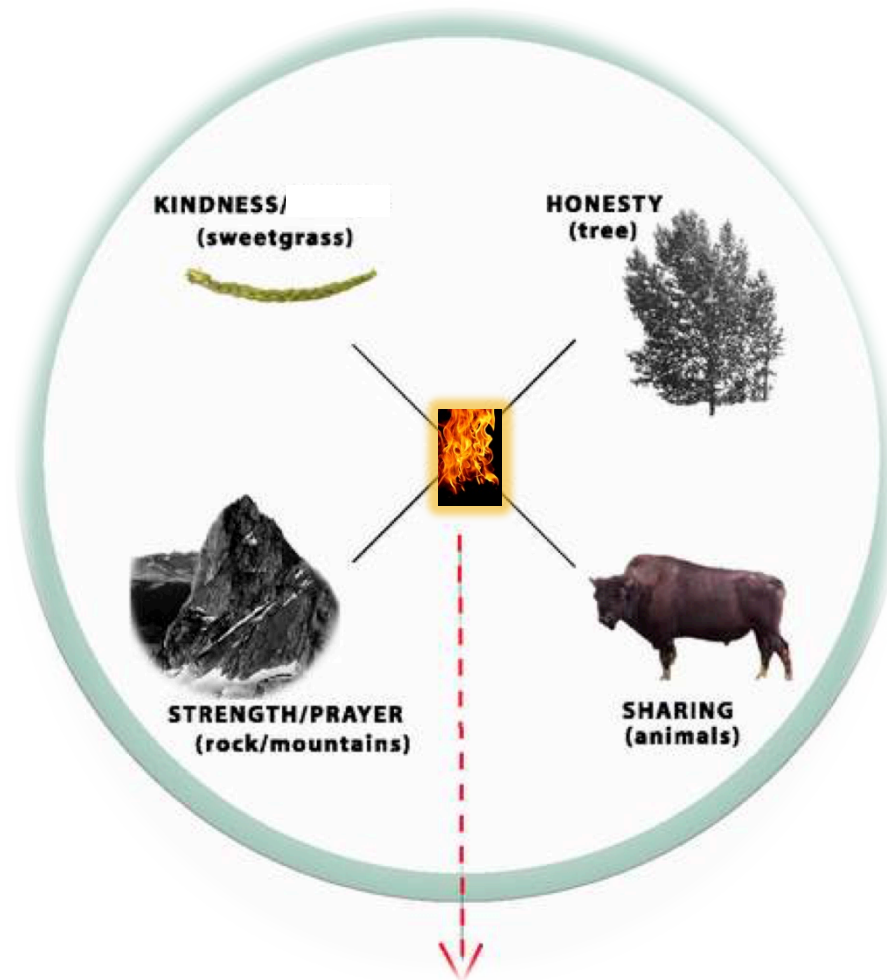
- The day before Treaty
  - Who we are
- The day of Treaty
  - Relationship with the Crown
- The day after Treaty
  - Who the government wants us to become; domesticate







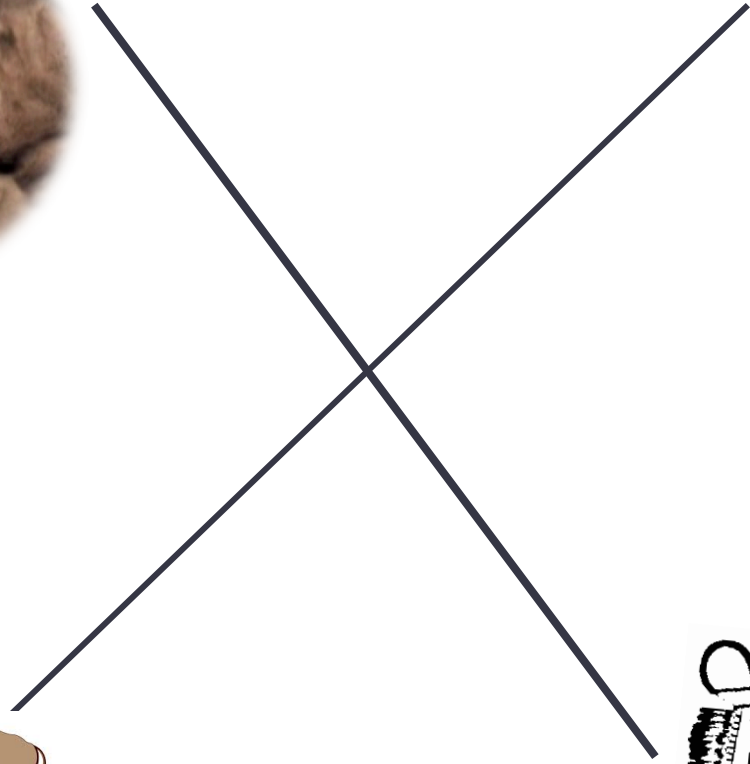
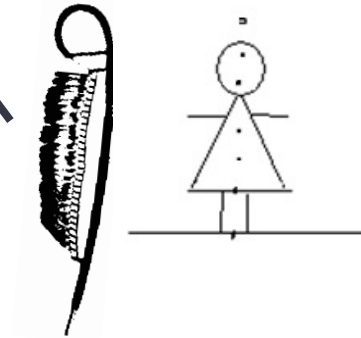
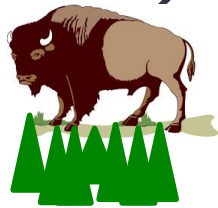
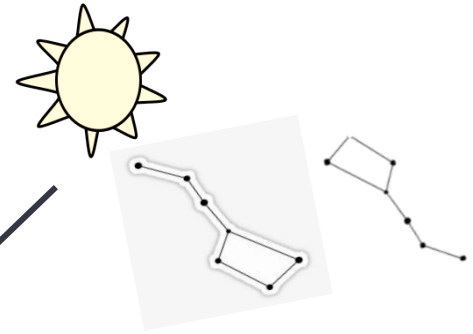
# Natural Law

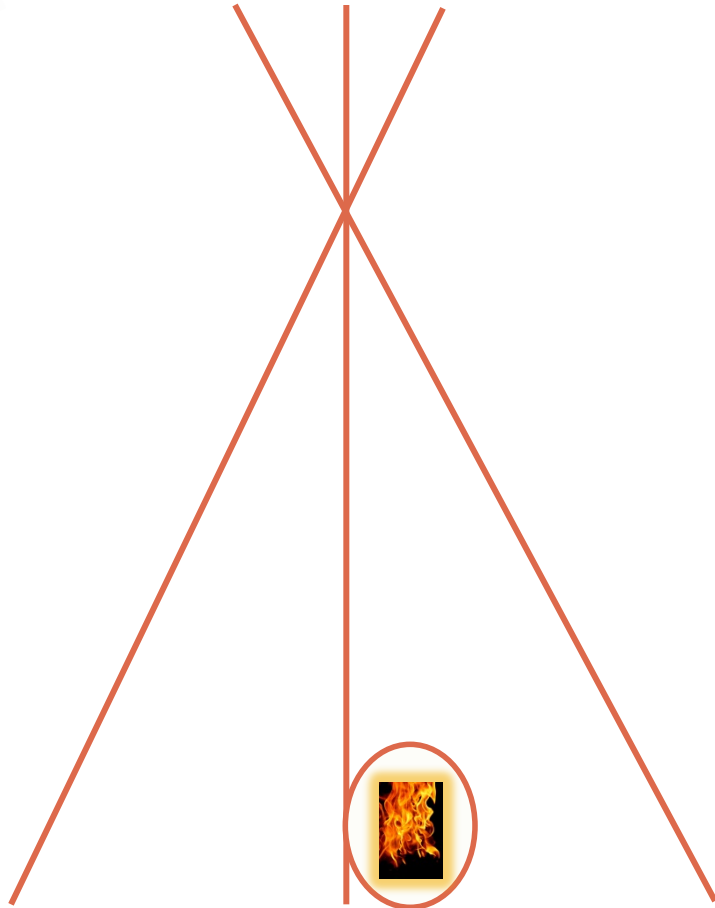
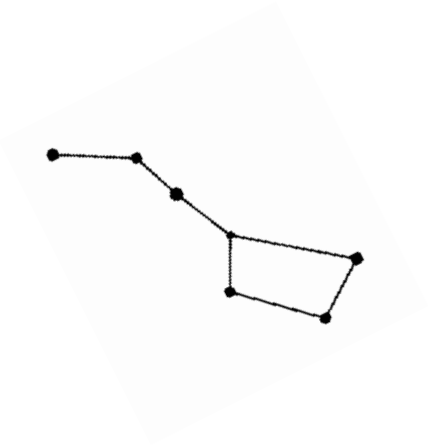


# Homefire: mīkiwāhp



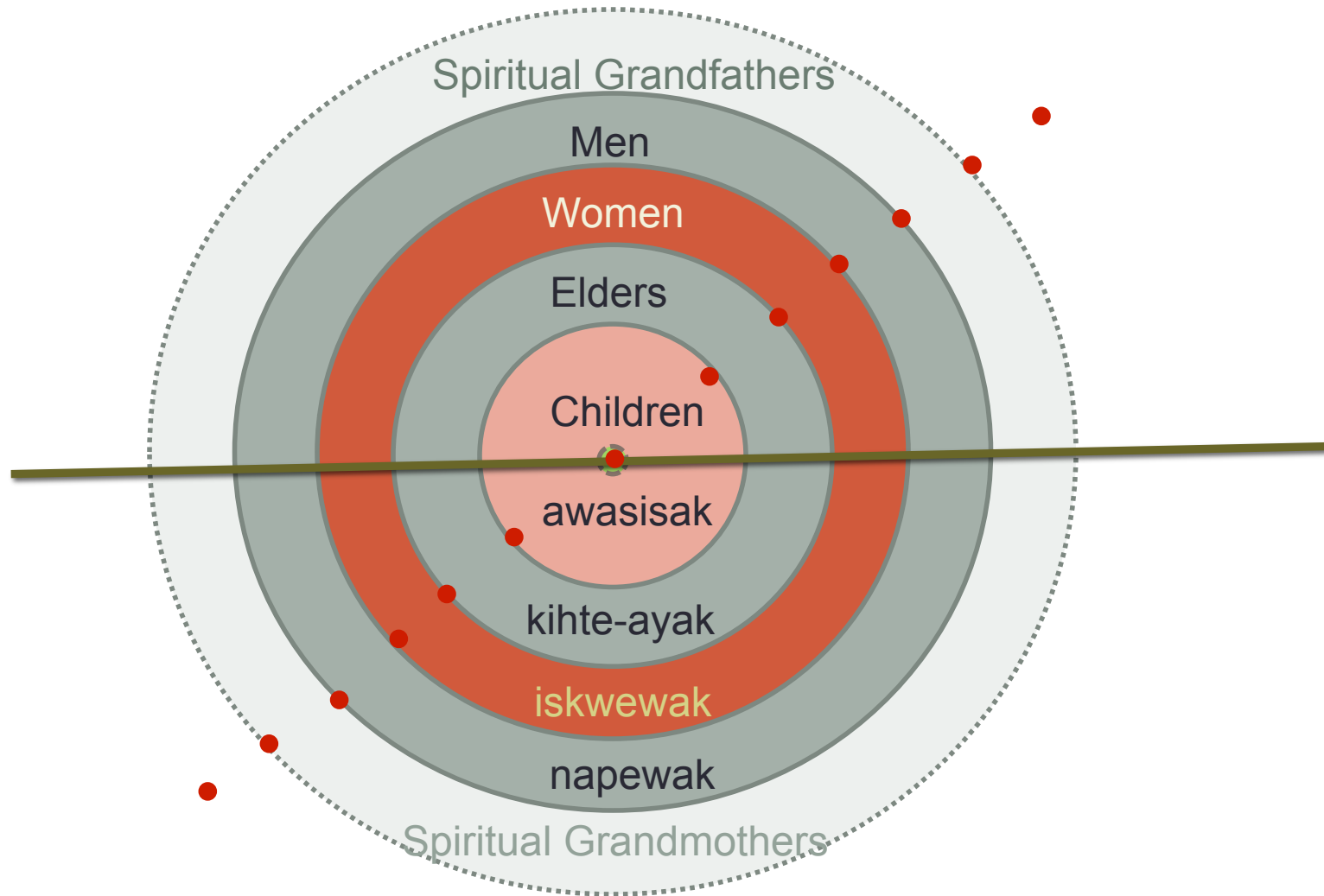
- Everything comes from our home and everything is connected.
- The home is to provide us the knowledge that was passed on - the teachings, future; guidance, prevention, protection: these are the connection, the energy.
- All of us work for the home. We work for the children for something that you can have for your future.
- **The four directions at the door line up with the fire which is what the treaties are based on: grass, sun, waters.**
- **It is for those homes that we have Treaties. It will continue from generation to generation.**







# Layers of Protection



# Inherent Education

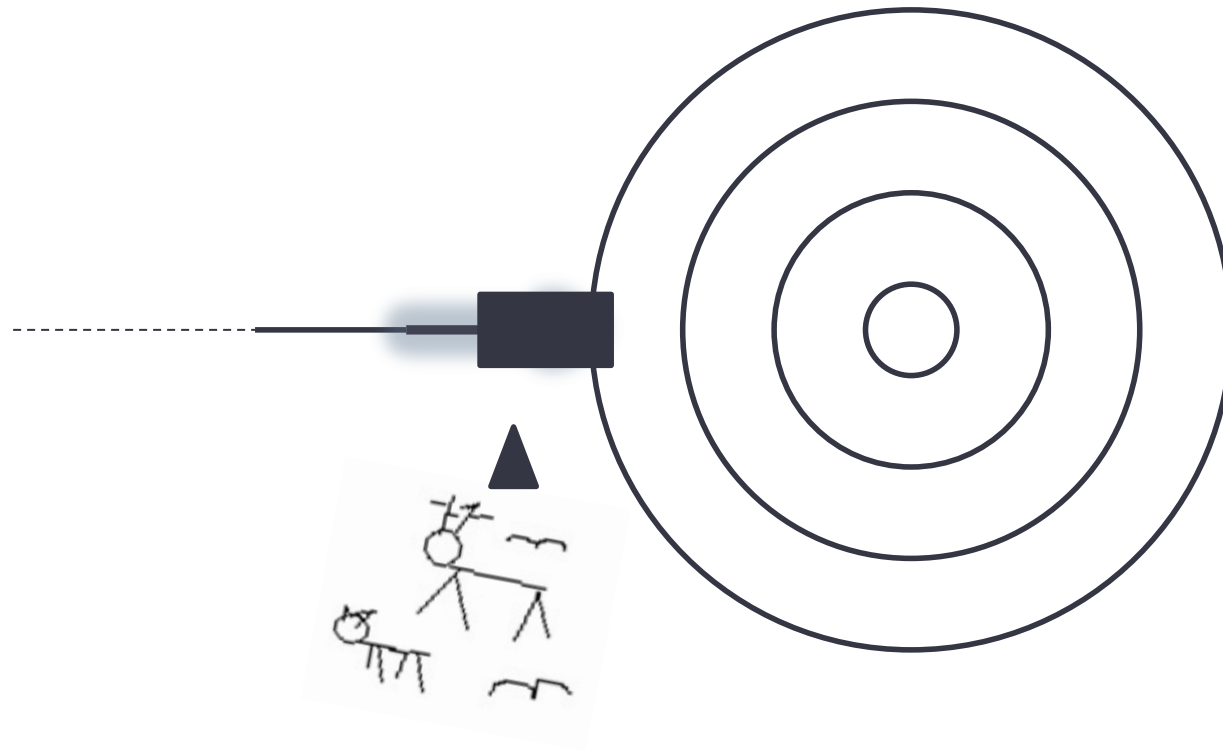


opihikinawāsowin

# wāhkōhtowin

- ▣ Kinship, extended family
- ▣ Sacred order of Creator's universe
  - Includes, plants, animals, land, water, sky
- ▣ kisewātotatowin all life is sacred & treated with loving kindness
- ▣ Older brother, wīсахкесāhk
  - iyiniwak – the People, descendants of the first people, nistamameyikanak - clans



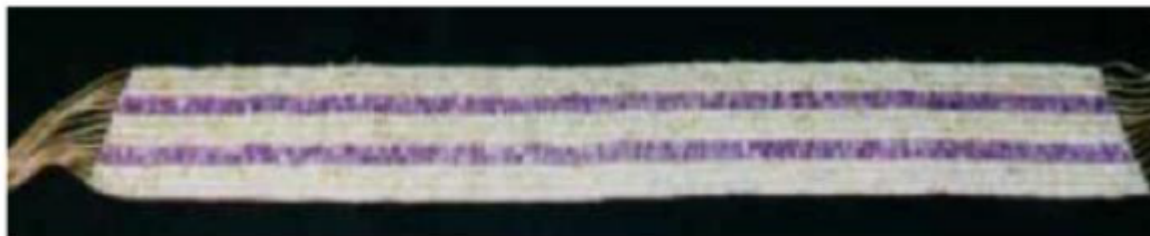


# Royal Proclamation 1763 and 1764

- Issued after the wars; England's coffers depleted for military
- King George III recognized and identified in plain English, Aboriginal title to all lands - de facto; thereby the notion of terra nullius and the [Doctrine of Discovery](#) has no application to Turtle Island - North America
  - Sets out a treaty process to allow for settlement and immigration
  - No subjects are allowed to enter Indian titled lands until a treaty was concluded
  - Only the Crown's authorized representative may conclude treaties with Indian Nations and tribes
  - Treaties were for peace and friendship
    - treaties were not intended to be land sales, why? Because the King could not afford to purchase lands after expending money on the 7 years war
  - \$1/acre of land in the treaty territory was to be set aside for Indians for the use of their lands; Crown established Indian Trusts

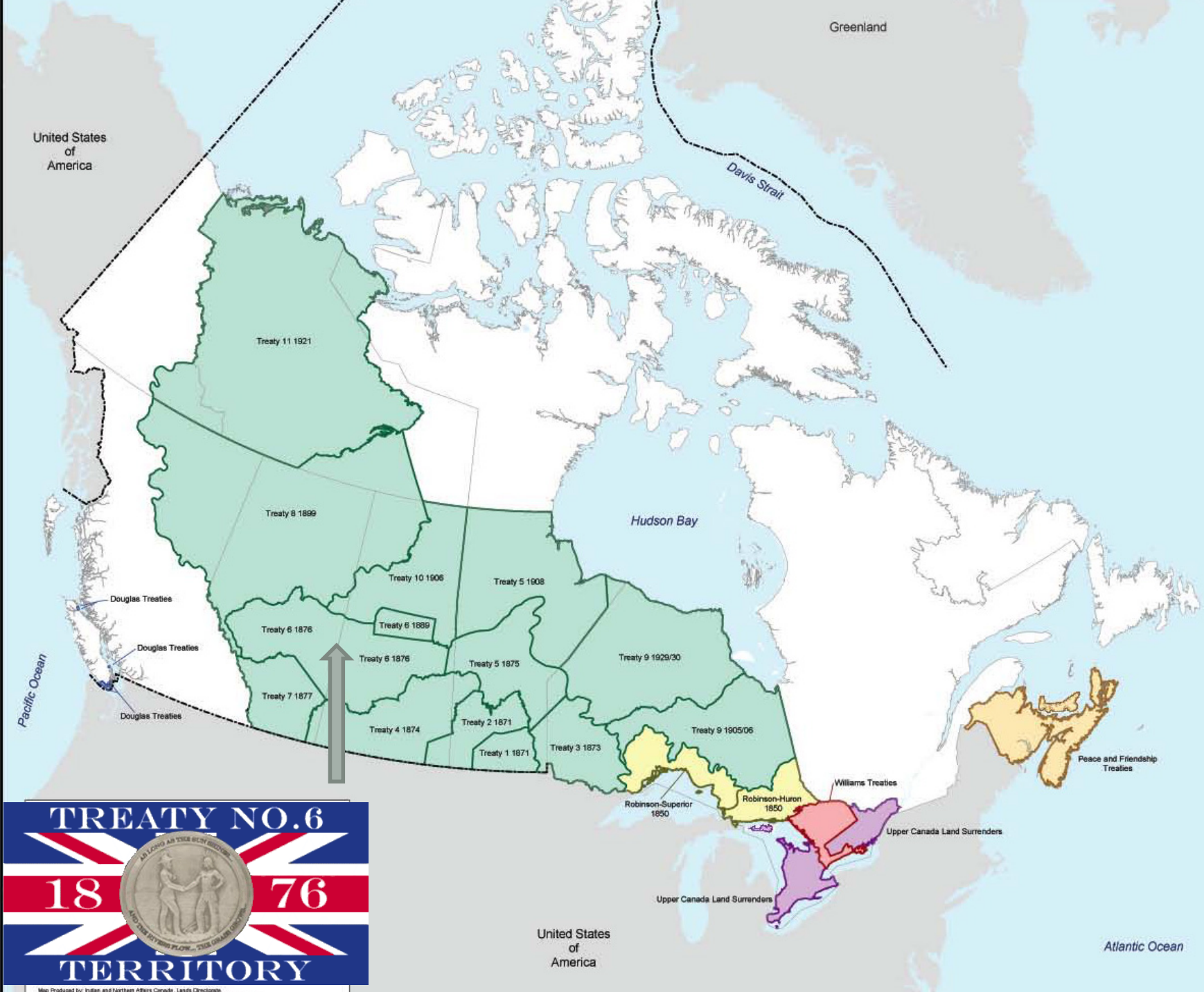
# Treaty of Fort Niagara 1764 (Aug.1)

- Reinstatement of the Two Row Wampum ‘Guswentha’ of 1613 and the Covenant Chain of Friendship
- Agreed upon by 24 Nations and tribes of Indigenous Peoples with the Crown’s Governor General; lit the King’s fire to symbolize peace and friendship



- **“Two-Row Wampum”--Guswentha**
  - Treaty between Haudenosaunee and Dutch 1613
  - Residence and exchange as equals
    - Non-interference agreement
  - Dutch version discovered in 1968
    - Emphasis on exclusivity of trade relationship





**TREATY NO. 6**

**1876**

**TERRITORY**

Map Produced by: Indian and Northern Affairs Canada, Lands Directorate  
Information Sources: US Colonies, National Geographic Canada, Lands Services Division

# Creator



**Sacred/Solemn**

**Sacred/ Solemn**

**Spirit and Intent**

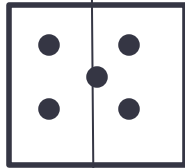
**Honor of the Crown**

**Inherent Responsibilities**

**Royal Proclamation 1763**

- governance
- lands
- language
- peoples
- culture
- hunting/fishing
- health
- education
- ceremonies

**Governor General**



**Informed Consent**

**Obligations:**

- Medicine Chest
- School house
- no tax
- etc. etc.



# Treaty Medal



# The Day of Treaty - The Crown's Permissions

- The Queen needed lawful permission to be here. She knew that you had alliances and that you were strong.
- Annuities exchanged were permissions. Her Majesty wants secondary entry level permission; first level of constitutional basis is the Treaties granting that entry. She says, 'I am going to ask these people to allow my people to come in and use'.
- In the Treaty text, it states: "*The desire of her Majesty to open up for settlement a tract of country*" and then sets out the boundaries. She is asking the Nations, whose country she is in, 'Here is where I would like to have permissions'. Each Treaty created another boundary for her Majesty to walk in.
- \$5 gift from the Queen annually



# The Cree, Dene, etc. Nations in Treaty

- You are at the top. This is forever, left to you by your ancestors. Treaties say you are right there – fully entitled and fully deserving. They are International Treaties. The Treaty was to create a stronger relationship for settlement to occur.
- Sovereignty is a precursor to entering into an International Treaty.
  - Land, Peoples, Language, Culture, and Governance
- From the mountains in the west through to the east coast.
- Reserved out lands that you have not given permissions. These places are completely in your control and you have to give permission for any of the Crown's subjects to enter. Those Reserve boundaries were boundaries for her Majesty, places she and her people were not to enter.

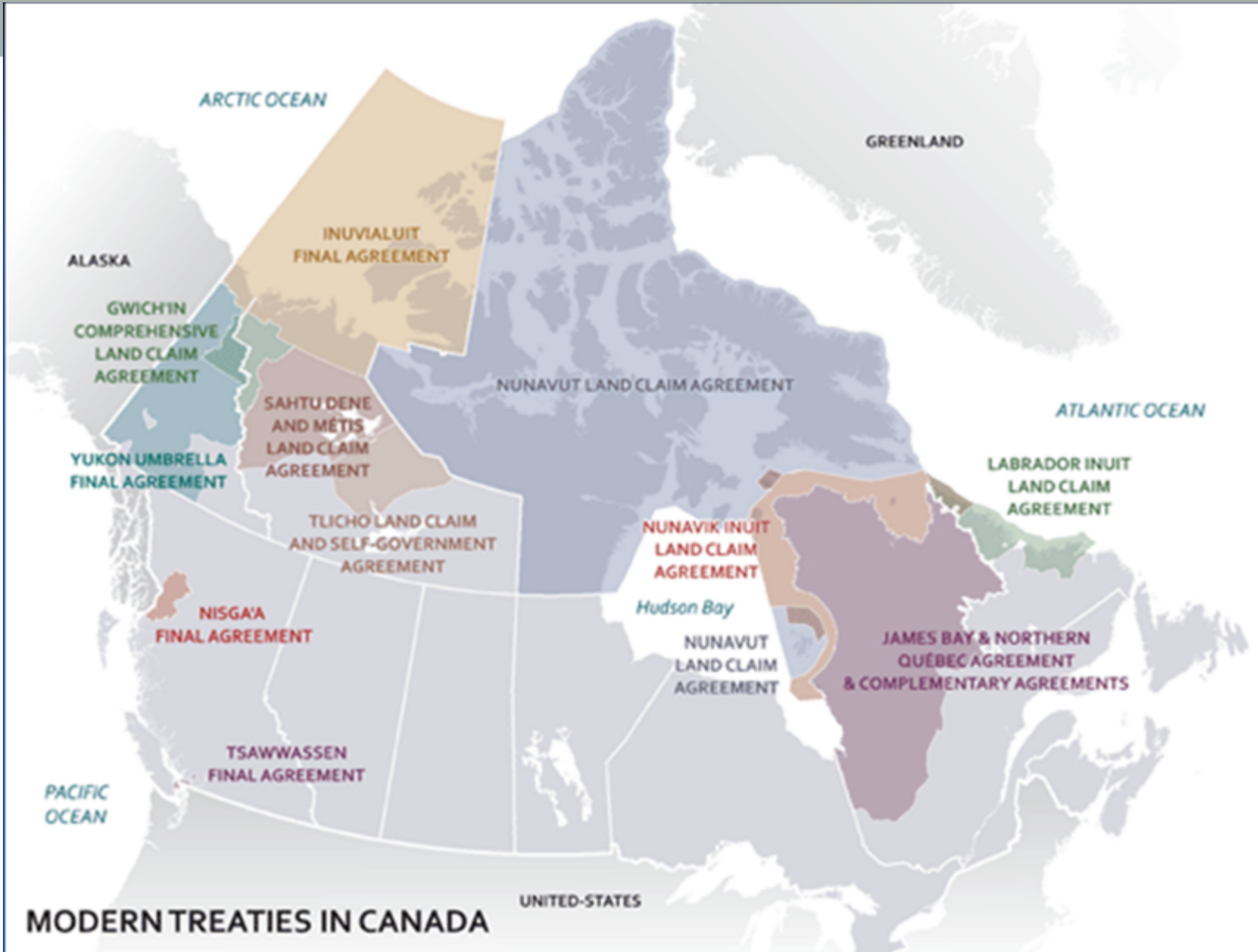
# IT IS BECAUSE OF THE NATIONS THAT ENTERED INTO TREATIES WITH THE CROWN THAT CANADA EXISTS

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The highest level of Law are the Indian Treaties.  
Treaties are the Crown's reason for being here.

“Treaties Trump Canadian Law”

**Canada cannot produce any documents to prove they have title to  
lands** aside from those acquired by  
Modern Treaties – Comprehensive Land Claims



## Comprehensive Claims Settlements

# Debunking Funding of First Nations

**“Canada vehemently denies that it has stated or implied that Indian Money as defined by the *Indian Act* are public funds or public tax revenues.”**

*(2015) C-27 First Nations Financial Transparency Act*

- This statement is on record in Canada’s Statement of Defense.
  - In this same court case, Canada’s Privacy laws do not apply to ‘Indians’ (First Nations).
- In 2014-2015, Treasury Board voted 8.7 billion to Indians
  - 19% goes to the INAC to operate and 21% goes to ‘other’
  - INAC keeps 40% that never even gets to the approximately 600 First Nations.
  - Approx. 40% of First Nations live off reserve; subject to provincial and/or federal jurisdictions
- **No taxpayer money is used to pay for Treaty First Nations and First Nations for over 150 years; First Nations have used some interest earned on their own money**
  - the myth of the ‘lazy Indian’, read as ‘free loader’, perpetuated by state sanctioned organizations to vilify FNs as a burden on society is debunked.
- **Indian Trust funds** are said to be estimated at **\$2 trillion (2 thousand billion)** earning an annual interest rate of **\$120 billion**
  - All moneys transferred to reserves for capital, general administration, ‘essential services’ is drawn from the interest of those trusts as is the entire INAC budget for their operations

# Indian Trust Funds

- Started in 1750 by the Crown and held by the British Army's Department of Indian Affairs located in England.
- 50 per cent of the natural resources that came out of British North America went into these Indian Trusts.
- In 1850, the British people of the Dominion of Canada petitioned the Crown to bring the Indian Trusts and the office of the Bureau of Indian Affairs to Canada.
- These Indian Trusts were alive and well until 1913.
  - Created Canada's Consolidated Revenue Fund

NB: The Indian Trust Fund is subject to debate.



## The Worth and Value of .... Treaty No. 8 Lands

Spans into four provincial borders:  
840,000 square miles

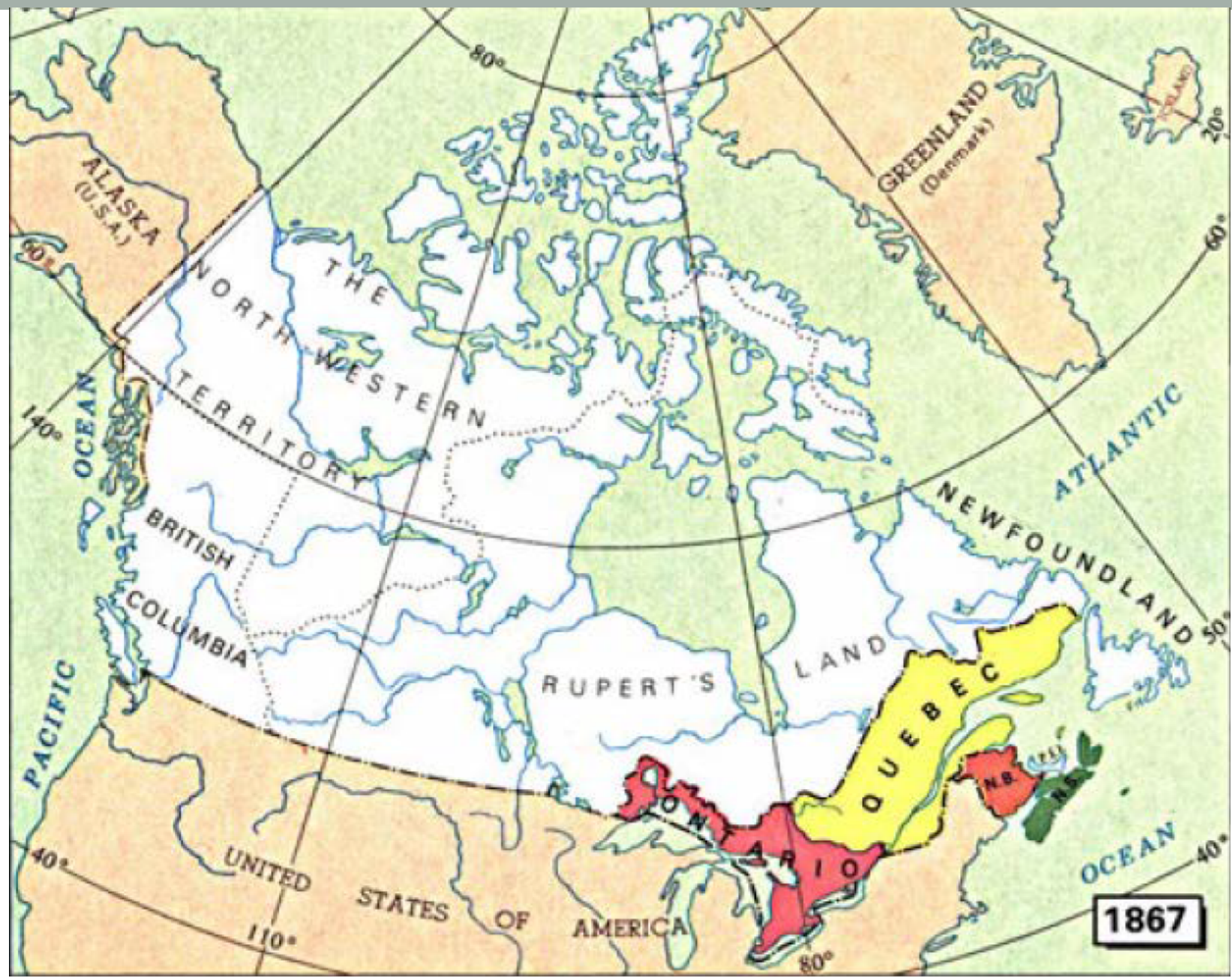
## ....Treaty No. 6 Lands

136,006 square miles  
spanning three provincial borders



# 1867 BNA Act

- Passed in British Parliament created the Dominion of Canada – a British Colony
- Section 91(24) “in relation to” Indians and lands reserved for Indians
  - **91.** It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces;



# International Treaty

- An 1897 SCC decision settled a dispute in Ontario over which governments were the beneficiaries of First Nations resources:
- "We contend that these Treaties are governed by international rather than municipal law. They were made with tribes under the authority of the sovereign, and the faith of the Nation was pledged in dealing with those annuities. The crown is a trustee in those matters, and occupies a special relationship in dealing with those Indians and is bound to watch over their interests and enforce their rights....."
- Source: Archival Research Documents (PAC RG10 vol. 3067 file 254, 017-1) from research by Rarihokwats, commissioned by Confederacy of Treaty Six in 1996 entitled "Historical Background: Regarding The Treaty No. 6 Medicine Chest"

# Free Prior and Informed Consent

- ▣ **Free** – absence of coercion or outside pressure (ex: monetary and divide/ conquer tactics)
- ▣ **Prior** - sufficient lead time to allow the information-gathering and -sharing process to take place
- ▣ **Informed** - having all relevant information, access to all views and positions including the input of traditional elders, spiritual leaders...
- ▣ **Consent** - demonstration of clear and compelling agreement, using a mechanism to reach agreement
  - Source: “UN Expert Seminar on Indigenous Peoples’ Permanent Sovereignty over Natural Resources and their Relationship to Land” (2006)
- ▣ **Essentially means**, we have the right to say no, thank you.

# Role of Governor General

- This is from a confidential dispatch from one Governor General to an incoming Governor General:
- "As the Indians are unrepresented in Parliament it is the special duty of the Queen's Representative (GG) to protect their interests, and therefore when the time comes for considering the recommendations and the arrangements of the Commission, I would ask you to scrutinize them carefully..."
- Source: Archival Research Documents (PAC RG10 vol. 3067 file 254, 017-1) from research by Rarihokwats, commissioned by Confederacy of Treaty Six in 1996 entitled "Historical Background: Regarding The Treaty No. 6 Medicine Chest"

# Role of Governor General (cont.)

- Acting on behalf of the Queen, the Governor General has the power to Summons, Dissolve and Prorogue parliament, provides Royal Assent on legislation, and Delivers the Throne Speech
- The GG Must provide **Royal Consent** on bills:
  - Responsible for ensuring legislation does not conflict with:
    - lands reserved for Indians
    - Military
    - National Parks
- This was not done after second reading of Bill C-27
- Withholding Trust monies derived from lands i.e. Royalty, is a direct breach of the Honour of the Crown
  - Must obtain Legal opinion
  - Must Consult with Treaty people impacted

# Understanding 'Root' Title

In 2000, Indigenous legal scholar John Borrows published, on the Law Commission of Canada's website, under the Treaty Forum section, a paper titled "*Questioning Canada's Title To Land*". This paper carefully detailed how Canada's *Indian Act* violates the Canadian Constitution, international law, and the concept of "the rule of law". Borrows also demonstrated that the Canadian state did not have legal title to land, nor legal sovereignty within the borders of the territory known as Canada.

'Original Peoples' hold in law, root title to lands and resources, with consequential jurisdiction over said lands and resources.

## Understanding Treaties and The Treaty Relationship

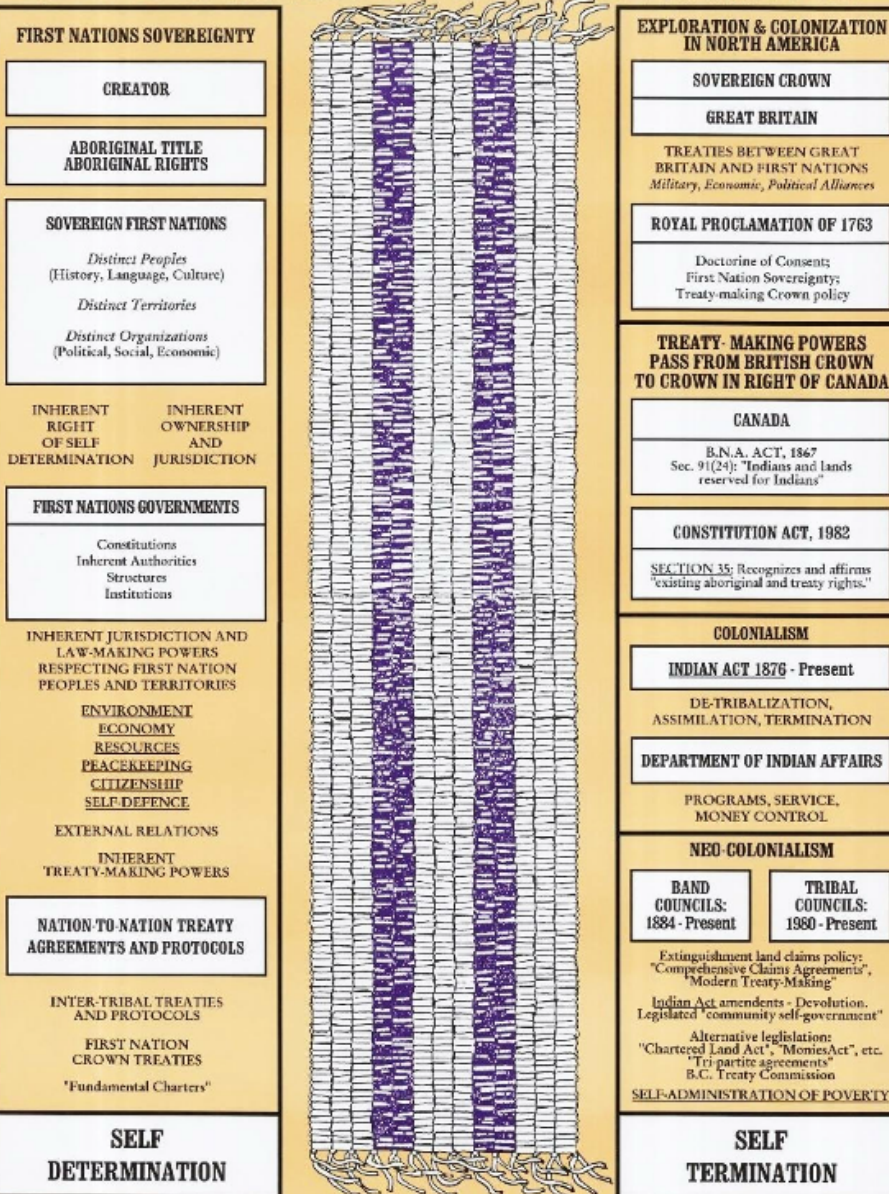
- ▣ Prior to (re)patriation of the Constitution Act in 1982, Lord Denning wrote on Jan 28, 1982:
  - “There is nothing, so far as I can see, to warrant any distrust by the Indians of the Government of Canada. But, in case there should be, the discussion in this case will be to strengthen their hand so as to enable them to withstand any onslaught. They will be able to say that their rights and freedoms have been guaranteed to them by the Crown, originally by the Crown in respect of the United Kingdom, now by the Crown in respect of Canada, but, in any case, by the Crown. **No Parliament shall do anything to lessen the worth of these agreements. They should be honoured by the Crown in respect of Canada “as long as the sun rises and rivers flow. The promise must never be broken”.**
  - **No Parliament or legislature can change the Treaties**
  - **The Treaties are as good today as the day they were made.**
  
- ▣ Source: *Queen v. Secretary of State for Foreign and Commonwealth Affairs, ex parte: The Indian Association of Alberta, Union of New Brunswick Indians, Union of Nova Scotia Indians* [1981] 4. C.N.L.R. 86



# Western Sahara Case 1975

- **International Court of Justice**
- Significance: Identifies the Doctrine of Discovery as non-applicable to Indigenous lands and a racist document
- Non-Indigenous people cannot enter onto the lands/ territories of Indigenous peoples without a treaty.

# SELF-DETERMINATION OF SELF-TERMINATION



IROQUOIS TWO ROW WAMPUM - GUSWENTHA (1613)

*"The Grandfather of Treaties"*

*"We will not be like father and son, but like brothers. These two rows will symbolize canoes, travelling down the same river together. One will be for the Original People, their laws, their customs, and the other for the European people and their laws and customs. We will each travel the river together, but each in our own boat. And neither of us will try to steer the other's canoe."*

Reading of Two Row Wampum from Akwesasne Notes

# 1969 Trudeau's Liberal Government

- White Paper of 1969 attempt to create a 'Just Society'
  - Unilaterally, terminate the Indian treaties
  - Dissolve the Indian Affairs Department
  - One service provider for all (provincial programs and services)
  - No such thing as, "Citizen's Plus" as noted in the Hawthorne Report
  - Minister Jean Chretien, Indian and Northern Affairs
- Shelved in 1970 as a result of push back from Indians organized across Canada:
  - George Manuel (BC), Harold Cardinal (IAA), Walter Dieter (FSIN), David Courchene Sr (Manitoba Chiefs), Monture (Quebec), Nicholas (New Brunswick) with full support of grassroots Elders and women.

# Constitution Act 1982

- Section 52

# International Covenant on Civil and Political Rights: articles 1 & 27

## ***Article 1 (Sovereignty Path)***

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## ***Article 27 (Minority Path)***

- In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

# International Domestication

- With UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and WCIP it is now the idea of new international law.
  - Article 46 defends the colonial state's "Territorial integrity".
- This, the Aboriginal Rights Doctrine and the UN instruments, are all about rewriting history and making lawful retroactively what was not lawful.
- **“International law will state that you have become *de jure* (concerning law) rather than *de facto* (concerning fact - who you say you are)”** (J.A. Switlo, 2014).

# Reconciliation

- **“The number one priority of this government is reconciliation between us and First Nations”** J. Trudeau
- ...guided by Principles respecting the Government of Canada’s Relationship with Indigenous peoples. These Principles are rooted in section 35, guided by the UN Declaration, and informed by the Report of the Royal Commission on Aboriginal Peoples (RCAP) and the Truth and Reconciliation Commission (TRC)’s Calls to Action. Principles:
  - 2. Reconciliation is a fundamental purpose of section 35 of the *Constitution Act, 1982*.
  - 5. Treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.

# Creator



**Sacred/Solemn**

**Spirit and Intent**

**Inherent Responsibilities**

- Lands
- Peoples
- Language
- Governance
- Culture
- ceremonies
- hunt, fishing, gather
- health
- education

**Legal Obligations:**

- Medicine Chest
- School house
- no tax
- etc. etc.

**Sacred/ Solemn**

Honor of the Crown  
Royal Proclamation  
1763

Governor General

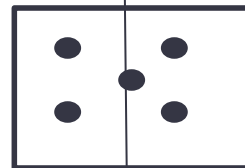
BNA 1867 s. 91(24)

Indian Act 1876

Constitution 1982  
s. 35 / 25 1 and 2

**Manufactured Consent:**  
PTOs

- Tribal Councils
- Comprehensive Land Claims
- Recognition of Rights
- Tables Memorandum to Cabinet(s)



**Informed Consent**



<b>WHO WE ARE</b>	<b>WHO WE ARE NOT</b>
<b>Cree Nations (iyiniwak/ nehiyawak); Dene Nations; Anishnaabe Nations + all our relations are extended family.</b>	Aboriginals / First Nations – Sec 35 Doctrine of Aboriginal Law; Indigenous Peoples–UNDRIP Reconciliation; Co-opted
<b>Sovereign Nations with Economic Sovereignty</b>	Controlled by Indian Act and section 91(24)
<b>Treaty Parties with the Crown (Her Majesty) and Creator</b>	Conquered, Colonized, Doctrine of Discovery-nonhuman
<b>Our country is all the Treaties with lines demarcated, an intact whole bundle; lands, waters, resources, air, etc.</b>	Traditional territory – domestic treaty term
	Rights – co-opted Doctrine of Aboriginal Law
<b>Highest law of the land</b>	Secondary laws of Crown’s Subjects - Canada
<b>Our Consent is required</b>	Consultations – domestic minority terminology
<b>Entered into International Treaties</b>	Court cases – domestic ethnic strategy
<b>International Pre-emptory Norm: a nation cannot make laws intended to apply to another nation.</b>	Legislation – C-27 First Nations Financial Accountability and Transparency Act 2014

# There is no Exit Provision in Treaty

- Reaffirm to the world
  - “This is us. At different times over the past we gave permission to her Majesty; we retain Nationhood and economic sovereignty”
- Think as Nations
  - Repair our own house
  - Transfer:
    - knowledge to the people, language, governance, culture, and keep the Treaties 1-11 lands intact



The stronger, Treaty path is over-grown. Standing on the Treaty Path ensures that the future generations are sustained as fully entitled and fully deserving.

Using incentives and co-opting terminology, the ethnic minority assimilation strategy is a path that looks like a super highway. This super highway has no future.

It is our choice: by words and deeds, which path are you standing on?



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# kitatamiskâtinâwâw

nimiyweyihten ka-wâpamitâkok kahkiyaw  
niwâhkômâkanitik