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Intergovernmental Affairs

A History of Treaty Making

In 1763, the territory we now know as Canada was lost by the French to the conquering British. Along with the new regime, came a new way of dealing with First Nations throughout Canada. In the Royal Proclamation Act of 1763, it was stated "it is just and reasonable and essential to the security of our colonies that the several Nations or tribes...not be disturbed in possession...of territories, not ceded to and purchased by us are reserved to them."

So what did this Proclamation mean for First Nations? The British had just finished fighting a long and very expensive war with France and was now the sole European power in North America; they wanted peace between themselves, the settlers and the First Nations as they couldn't afford to keep fighting. This statement was meant to be an assurance by the British to First Nations that there wouldn't be any expansion into their territory without their approval.

Unfortunately, that wasn't what happened. The American colonies began their war of Independence in 1775, successfully beating the British by 1781. An influx of British loyalists and First Nation supporters flooded into the remaining British territory of Canada and needed land to settle on. As Canada grew, the British began negotiating and signing treaties with various First Nations.

Many of the treaties which were signed in Ontario happened during a new phase of First Nation and European relations; First Nations were no longer valued trading partners and with the defeat of the United States in the War of 1812, they were no longer valued military allies. These new dynamics left First Nations competing with the newcomers for what had always been theirs; they were now holding back chances for increasing development.

When First Nations began to negotiate and sign treaties, they had lost many of their negotiating tools. The promise that had been given to Tecumseh of a First Nations homeland was lost with his death and hope of meaningful assistance from the British, and later Canada, soon turned to disillusionment. Those who had signed treaties in hopes of improving and securing their situation often found that later on they were worse off than before. First Nations became discouraged, poor and clashed with their non Native neighbours and leaders.

The fate of First Nations people has not changed in any drastic way since the signing of the treaties centuries ago. The majorities of First Nations are still discouraged, poor and clash regularly with the government. The climate of the First Nations is beginning to shift, however, bringing hope of the respect and entitlement deserved. The Constitution Act of 1982 was an early signpost to this shift; section thirty five recognized and affirmed aboriginal and treaty rights. This paved the way for some critical decisions by the Supreme Court of Canada, including Marshall, where fishing rights of First Nations were

challenged but upheld as treaty rights.

With the various decisions of the Supreme Court of Canada, there are increasing opportunities for First Nations in Ontario to have the treaties they signed with Britain enforced to a greater degree than has been given them through history. Those opportunities include resource benefit sharing, enhancing the understanding of treaties in the general population and settling land claims with greater efficiency. There is still a long way to go but the journey to continued progress is well underway.