

OVERHEAD



Considering Treaties: The Courts

The Supreme Court has said courts must consider:

- context of Treaties
- oral promises
- how the words would have been understood by First Nations
- that Treaties were intended to evolve over time

R. v. Simon [1985] 2 S.C.R. 387

The Supreme Court found that the Treaty right to hunt “as usual” evolved over time to include hunting with a rifle even though rifles were not used when the Treaty was signed.

R. v. Sundown [1999] 1 S.C.R. 393

The Supreme Court ruled that the traditional right to hunt, by using temporary shelters for expeditions, had evolved to allow the building of small log cabins for this purpose.

R. v. Marshall [1999] 3 S.C.R. 533

The Supreme Court found that the obligations of both the Crown and the First Nations had evolved over time. They found that the Crown did not have to continue with the trading post system that existed when the Treaty was signed.