



Upholding the Honour of Treaties: The Crown

Treaty rights are part of the law of Canada. The Treaties created enforceable obligations. The Crown, having made solemn, sacred promises and having received benefits under the Treaties, is obliged to uphold its honour by fulfilling the promises made to the First Nations. The

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lasting and binding nature of the Treaty promises was reinforced when these rights were made part of the Constitution of Canada. The Constitution is the highest law of the land.

In 1991 a Royal Commission on Aboriginal Peoples was established by the federal government. This Commission looked at a broad range of issues concerning the relationship between Aboriginal peoples, governments and other Canadian citizens with a focus on the question: What are the foundations of a fair and honourable relationship

between the Aboriginal and non-Aboriginal people of Canada? In their final report they recognized the Treaties

as fundamental to that foundation. They noted that the Treaties are promises and the importance of keeping promises is “deeply ingrained in all of us, and indeed is common to all cultures and legal systems.” And that the fact that Treaties were entered into represents “...a profound commitment by both parties to the idea of peaceful relations between people.” Canada would not be the Canada we know today if both the First Nations and those representing the British and later Canadian governments had not been committed to the Treaties as peaceful means of deciding how they were going to live together.

Just as Canada gained certain rights under the Treaties with First Nations, Canada also has certain obligations to the First Nations that entered into Treaties. The Supreme Court of Canada, when considering a First Nation Treaty entered into in 1752, stated “the Treaty was an exchange of solemn promises between the Micmacs and the King’s representative entered into to achieve and guarantee peace... it is an enforceable obligation between the Indians and the white man...”

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As early as 1895 the Supreme Court of Canada described the fulfillment of Treaty promises as a matter involving the “faith and honour of the Crown.” One hundred years later the Supreme Court still stressed that “the honour of the Crown is always at stake in its dealing with Indian people” and that “it is always assumed that the Crown intends to fulfill its promises.”

Former National Chief of the Assembly of First Nations Phil Fontaine has noted that Treaties are sometimes seen as “...ancient, obsolete relics of marginal historical interest.” However, at the time that Treaties were originally entered into, the Crown’s chief negotiator stated that the Treaty promises were “...not for to-day but for to-morrow, not only for you but for your children born and unborn, and the promises we make will be carried out as long as the sun shines above and the water flows in the ocean.”

Just as the Canadian government over the years continues to rely on its Treaty right to the land, the Treaties continue to give rights to First Nations.