



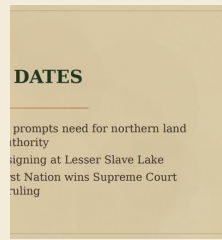
THE LAND BENEATH US ◆

The Great North Treaty

Season One · Before Canada · Episode 27

aiwrangler.ca — an illustrated companion

Every date, term, and quotation in this series is drawn from the historical record. This companion is the full episode narration, illustrated.



From the episode

WILLOW BORN WITH A TOOTH

Standing at the edge of Lesser Slave Lake in northern Alberta, watching the light move across the water, you could be forgiven for thinking this place has always been quiet and far from the world's attention. But in eighteen ninety-nine, something was happening far to the northwest that would send a treaty commission all the way out here — and I want to know what deal was made on this shore.



SAM CARDINAL

The people of this country — the Dene, the Woods Cree, the nations of the boreal forest and the Peace and Athabasca drainage — had lived in this landscape for thousands of years before eighteen ninety-nine. Their economy was the land itself: hunting moose and caribou, fishing the lakes and rivers, trapping through the long winters. This was not a region the Crown had paid much attention to. It was distant, difficult to reach, and for the purposes of the young Dominion of Canada, it seemed to hold nothing of immediate urgency.

DUTY TO CONSULT

Crown must consult Treaty Eight nations before approving
development on traditional lands

WILLOW BORN WITH A TOOTH

So what changed everything? In eighteen ninety-six, gold was found in the Klondike, in what is now Yukon — and tens of thousands of people were suddenly looking for routes north.



SAM CARDINAL

The Klondike transformed how the government looked at the north almost overnight. Some of the routes that prospectors were using ran straight through the Peace River and Athabasca country — through lands where the Crown had never made any treaty, where the Dene and Cree had never agreed to any arrangement with Canada. The government understood that if a rush of outsiders was going to move through these territories, Canada needed legal authority there, and quickly. This treaty was not driven by a desire to do right by the people already living there — it was driven by the need to clear the legal ground before the miners arrived.

THREE RECORDS

WRITTEN TREATY COMMISSIONERS' REPORT ORAL TRADITION

Nations cede all rights and titles; hunting subject to government regulation

Oral assurances: no forced reserves, hunting and fishing would not be interfered with

Agreement to share land and keep peace — not a permanent transfer of territory

WILLOW BORN WITH A TOOTH

So in the spring of eighteen ninety-nine, a commission set out. Who led it?



SAM CARDINAL

The chief commissioner was David Laird, who had served as Lieutenant-Governor of the Northwest Territories and had been part of earlier treaty negotiations in the west. He was joined by J.A.J. McKenna and James Ross. They came with the standard equipment of the numbered-treaty era — a text drafted in advance in Ottawa, medals, a Union Jack, the ceremony of the Crown. They arrived at Lesser Slave Lake in June of eighteen ninety-nine, and this is the moment where we need to hold three separate records side by side, because they tell very different stories about what happened next.

KEY DATES

1896 — Klondike gold rush prompts need for northern land authority

June 21, 1899 — First signing at Lesser Slave Lake

2005 — Mikisew Cree First Nation wins Supreme Court ruling

WILLOW BORN WITH A TOOTH

Three records. Let's lay them out one at a time. What does the written treaty actually say?



SAM CARDINAL

The written text of Treaty Eight uses the same surrender language found across the numbered treaties. The nations were said to — and I am reading now from the document — "cede, release, surrender and yield up" all their rights and titles to the lands within the treaty boundaries. That territory was enormous: what is now northern Alberta, northeastern British Columbia, northwestern Saskatchewan, and a portion of the southern Northwest Territories — the largest area covered by a single treaty instrument in Canadian history. In exchange, the Crown promised annual payments of eight dollars per person, twenty-five dollars per chief, and fifteen dollars per headman, and it guaranteed the right to hunt, fish, and trap on unoccupied Crown lands — subject to such regulations as the government might from time to time make.

TREATY EIGHT TERRITORY

1899 PROMISE

Hunting, fishing, and trapping on unoccupied Crown lands would not be interfered with

PRESENT REALITY

One of the world's largest petroleum deposits sits within Treaty Eight territory

WILLOW BORN WITH A TOOTH

That phrase — "subject to such regulations as the government might make" — is carrying a great deal of weight quietly in that sentence. But let's move to the second record. What did the commissioners themselves report back to Ottawa?



SAM CARDINAL

This is where the document trail becomes remarkable, because David Laird's own written report to the Department of Indian Affairs describes, plainly, that the nations were frightened. Frightened of being confined to reserves, frightened of losing access to the lands and waters they lived from, frightened that their whole way of being in the world was about to be ended by signature. And the commissioners' report tells you exactly what they said in response: that the people would not be forced onto reserves, that they could take land in severalty if they wished or continue living on the land as before, and — most critically — that the government only wanted to open the country for settlement, and that hunting, fishing, and trapping would not be interfered with. Those assurances appear in the commissioners' own hand, in the official record they sent back to Ottawa.



WILLOW BORN WITH A TOOTH

So the Crown's own representatives put it in writing — in their report — that the way of life would continue. Now the third record: what did the nations of this country understand they had agreed to?



SAM CARDINAL

The oral tradition that has come down through the Dene and Cree communities of the Peace-Athabasca country is consistent on this: they agreed to share the land with newcomers, and they agreed to peaceful relations with the Crown. They did not agree to give the land away permanently. The idea of transferring territory out of their hands forever — as a piece of property that then belonged to someone else — was not a concept present in their understanding of a treaty. A treaty, in their understanding, was a living relationship between peoples, not a one-time transaction. And the oral promise that hunting, fishing, and trapping would go on undisturbed — that was not background reassurance. That was the condition on which many of the chiefs were willing to touch the pen.



WILLOW BORN WITH A TOOTH

And they didn't all sign at the same time. Lesser Slave Lake was only the beginning.



SAM CARDINAL

The first signing was on the twenty-first of June, eighteen ninety-nine, here at Lesser Slave Lake. But the country was immense, and the commission traveled onward — to Fort Vermilion, to Fort St. John in the Peace River country, to Fort Chipewyan on Lake Athabasca, to Fond du Lac, and to other communities over the following months and into the following year. Each time the commissioners arrived, they gave the same oral assurances: the hunting and fishing would not be touched, reserves would not be imposed. Those spoken words never found their way into the printed treaty text that the chiefs touched the pen to. They lived in the spoken record, in the commissioners' written reports, and in the memory of the people who heard them.



WILLOW BORN WITH A TOOTH

And after the signings were done and the commission went home — what happened to that promise?

SAM CARDINAL

The gap opened slowly, and then it opened wide. The written phrase "subject to such regulations as may from time to time be made" turned out to be the hinge the whole agreement swung on. In the decades that followed, game regulations and fishing laws began to restrict what Treaty Eight nations could hunt and where and when, even on lands that were, by any honest reckoning, unoccupied Crown territory. As agriculture pushed north, and then the oil industry, the landscape the commissioners had promised would not be interfered with was changed in ways that could not be undone. And the assurance David Laird had put in his report to Ottawa was nearly impossible to enforce in court, because for generations the legal system simply did not credit oral testimony the way it credited a printed text.

WILLOW BORN WITH A TOOTH

And today, this part of northern Alberta — this Treaty Eight territory — is also where you find the Athabasca oil sands.

SAM CARDINAL

One of the largest petroleum deposits in the world sits squarely within Treaty Eight territory. The Mikisew Cree, the Athabasca Chipewyan, the Dene Tha', and others who are Treaty Eight nations have watched industrial development transform the boreal country that the commissioners in eighteen ninety-nine gave their word would not be interfered with. In two thousand and five, the Mikisew Cree First Nation brought a case to the Supreme Court of Canada, and the Court ruled that the Crown had a duty to consult with them before approving a road through their traditional territory. That was Treaty Eight, one hundred and six years old, being enforced in a courtroom — a living agreement, not a closed chapter.

WILLOW BORN WITH A TOOTH

The treaty the Crown signed as a surrender of land is now being read by the courts as a guarantee of a way of life. That is quite a distance for one document to travel.

SAM CARDINAL

It is. And what the courts have increasingly recognized — what becomes unavoidable if you hold all three records together and read them honestly — is that the oral promises and the written text cannot be reconciled simply by ignoring one of them. The commissioners went into the boreal forest in eighteen ninety-nine and told the Dene and Cree nations, in plain spoken words, that their world would not be ended. That promise was the price of the signature — Laird himself wrote as much. Holding Canada to it is not a matter of rewriting the past. It is a matter of reading all of it. I'm Sam Cardinal.

WILLOW BORN WITH A TOOTH

And I'm Willow Born With a Tooth. Lesser Slave Lake is still here. The rivers still run into it. The question the commission left open when they packed up their printed treaty and headed south in eighteen ninety-nine — what exactly was promised on this shore, and to whom does Canada owe the keeping of it — is still being worked out, in courtrooms and in communities and on the land itself. The land beneath us holds the record. We're just learning to read it.

Sources & Notes

The Land Beneath Us is built on the historical and documentary record. Where that record is contested, we say so.

A note on the record

The annuity figure of \$8 per person is incorrect. The printed text of Treaty Eight specifies \$5 per person per annum (with \$25 for chiefs and \$15 for headmen). The \$5 figure appears in the official treaty document and is consistently cited in the scholarly literature on the numbered treaties.

The script names the third commissioner as 'James Ross.' His full name was James Hamilton Ross, a Northwest Territories councillor and later Commissioner of the Yukon Territory — not to be confused with other men named James Ross. The shortening is not seriously misleading, but some scholarly sources distinguish him from contemporaries by insisting on 'J.H. Ross.'

References & further reading

Treaty No. 8, Made June 21, 1899. Department of Indian Affairs, Government of Canada, 1899. (Primary text of the treaty, including annuity schedules and hunting/fishing guarantees.)

Laird, David, J.A.J. McKenna, and J.H. Ross. Report of Commissioners for Treaty No. 8. Ottawa: Department of Indian Affairs, 1899. (Official commissioners' report describing Indigenous concerns about reserves and the oral assurances given.)

Fumoleau, René. As Long as This Land Shall Last: A History of Treaty 8 and Treaty 11, 1870–1939. Toronto: McClelland and Stewart, 1975. (Foundational account drawing on oral testimony and archival records; documents the gap between oral promises and written text.)

Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage), 2005 SCC 69. Supreme Court of Canada, November 24, 2005. (Unanimous ruling that the Crown breached its duty to consult the Mikisew Cree before approving a winter road through Wood Buffalo National Park, within Treaty Eight territory.)

Price, Richard T., ed. The Spirit of the Alberta Indian Treaties. 3rd ed. Edmonton: University of Alberta Press, 1999. (Collection of essays and primary sources covering Treaty Eight negotiations, Indigenous oral accounts, and post-treaty implementation.)

Miller, J.R. Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada. Toronto: University of Toronto Press, 2009. (Comparative overview of numbered treaty negotiations, including analysis of how oral promises related to the written texts.)

Asch, Michael. On Being Here to Stay: Treaties and Aboriginal Rights in Canada. Toronto: University of Toronto Press, 2014. (Philosophical and historical argument that treaties established ongoing relationships rather than one-time land transfers, directly relevant to the oral-tradition framing in the episode.)

Berton, Pierre. Klondike: The Last Great Gold Rush, 1896–1899. Toronto: McClelland and Stewart, 1958. (Narrative history of the 1896 Klondike discovery and the rush of prospectors, supporting the episode's account of the political impetus for Treaty Eight.)