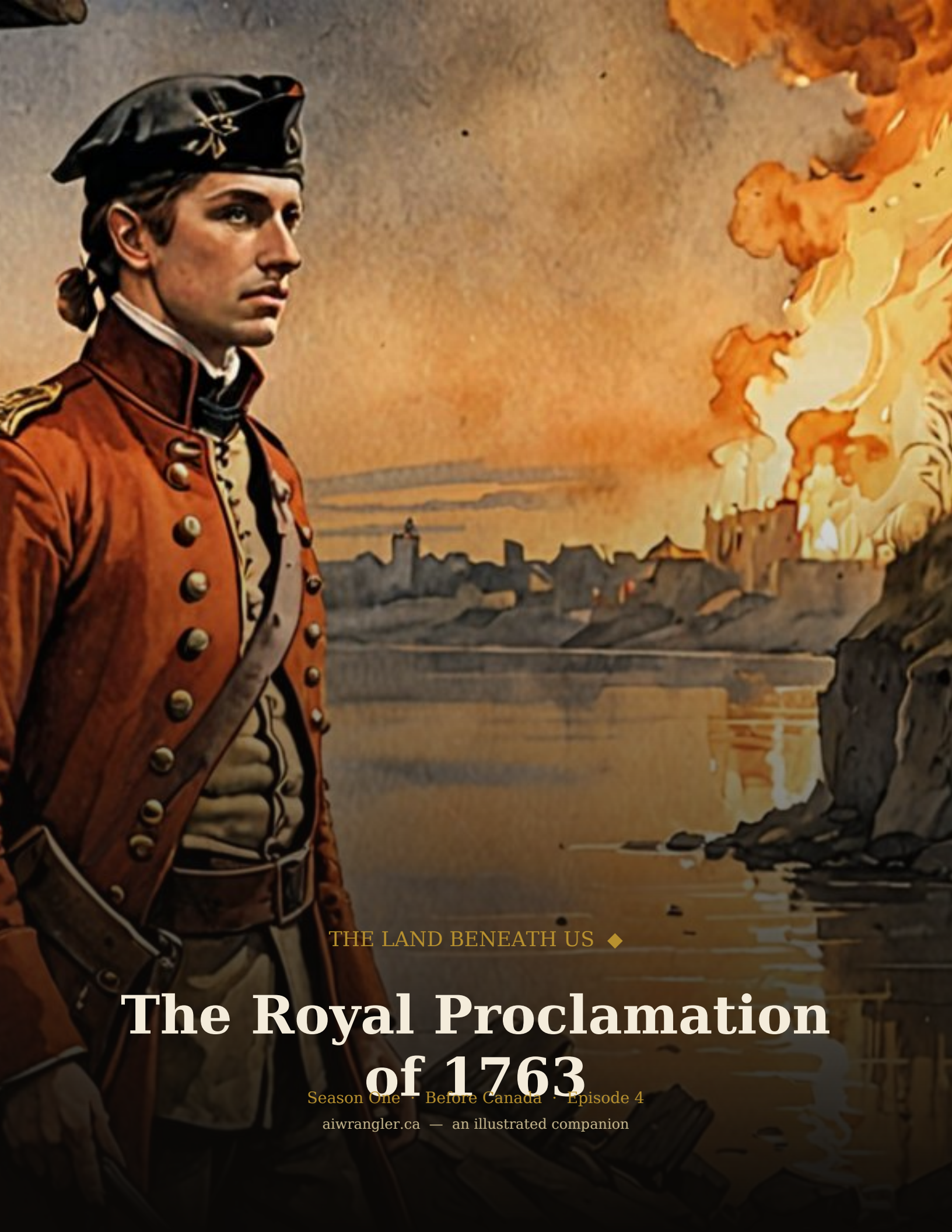




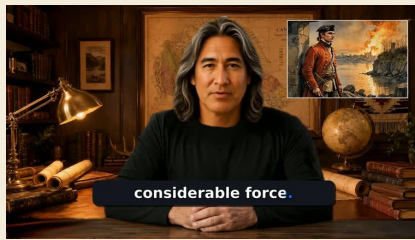
THE LAND BENEATH US ◆

# The Royal Proclamation of 1763

Season One · Before Canada · Episode 4

[aiwrangler.ca](http://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

I'm standing in front of a reproduction case at Library and Archives Canada in Ottawa, looking at a document with King George the Third's name at the top and a royal seal at the bottom — the Royal Proclamation of seventeen sixty-three. It's been called the Indian Magna Carta, the founding promise, the original deal. The question I want to follow today is: what did it actually say, and did the people it was written about understand it the same way the King did?

### SAM CARDINAL

To understand why this proclamation existed at all, you have to go back to the year it was written. The Seven Years' War had ended with the Treaty of Paris, and Britain had taken New France — an enormous sweep of territory from the Atlantic nearly to the Mississippi. Suddenly the Crown was responsible for an entire continent full of nations that had not been conquered, had not been defeated, and had no intention of disappearing.



#### **WILLOW BORN WITH A TOOTH**

So Britain had won the war on paper, but on the ground there were hundreds of thousands of people the maps didn't account for.

#### **SAM CARDINAL**

Exactly. And those people were making that point with considerable force. In the spring of seventeen sixty-three — months before the Proclamation — an Anishinaabe war chief named Pontiac led a coalition of nations in a coordinated campaign against British forts across the Great Lakes and the Ohio country. Eight forts fell. The British military was stretched thin and the cost in lives and resources was severe. The King's advisors understood clearly that governing this territory without some form of agreement was not going to be sustainable.



#### **WILLOW BORN WITH A TOOTH**

So the Proclamation didn't come from goodwill alone — it came from crisis. Britain needed to offer something.

#### **SAM CARDINAL**

It came from both at once, and it is worth holding that honestly. On the seventh of October, seventeen sixty-three, King George issued what became the Royal Proclamation. It drew a line along the Appalachian Mountains and declared that everything west of it was — in the document's own words — "lands reserved to the Indians." Private subjects of the Crown were forbidden from purchasing land in that territory. No settlers, no land speculators, no traders could negotiate directly with Indigenous nations. Only the Crown itself could do so, and only through public assemblies — open, witnessed gatherings where nations could formally agree to any transfer.



#### **WILLOW BORN WITH A TOOTH**

Wait — "public assemblies." The Crown is writing into law that land can only change hands through an open, witnessed process?

#### **SAM CARDINAL**

That is precisely what the language says. The Proclamation was making a procedural demand: any movement of land from Indigenous hands had to be formal, supervised by the Crown, and conducted in a public setting where witnesses could attest to what was agreed. The Crown's motivation was partly principled and partly practical — if a private buyer purchased land directly from a nation, the Crown's own title to that territory was undermined. The rule protected the process and protected the Crown's authority over the process at the same time.



#### **WILLOW BORN WITH A TOOTH**

And there were three very different ways to read what this document meant, weren't there?

#### **SAM CARDINAL**

There were, and laying them side by side is the only honest way to understand what the Proclamation set in motion. Here is what the written document said: a boundary line, a reservation of lands, a prohibition on private purchase, and a required process for any formal surrender. Here is what the Crown's own officials and advisors understood they were doing: managing a crisis. Frontier war was expensive, westward expansion was seen as inevitable, and the Proclamation was meant to slow things down until orderly settlement could proceed through proper channels. And here is what many of the nations who heard this document described understood: the King — the great father across the water — had put his name and seal to a recognition. Their lands were their lands. No one could take them without their consent. The King himself had said so.



#### **WILLOW BORN WITH A TOOTH**

That is not a small difference. The Crown thought it was building a gate it could open later. The nations thought the gate was proof the land was theirs to begin with.

#### **SAM CARDINAL**

And both of those readings are genuinely supported by the words on the page — which is what makes the Proclamation so remarkable. "Lands reserved to the Indians" is a phrase that can carry two meanings depending on who holds it. Is the Crown acknowledging that Indigenous title already exists and must be respected? Or is the Crown declaring which territories it is choosing to set aside for now, as a matter of policy? Depending on who drafted the sentence and who remembered it, the answer was entirely different.



#### **WILLOW BORN WITH A TOOTH**

So what happened to the line?

#### **SAM CARDINAL**

The line held for roughly a generation, and then it did not. The American colonies rejected the Proclamation almost immediately — it was among the grievances that fed the revolution of seventeen seventy-six, because settlers had no intention of stopping at the Appalachians. North of that eventual border, in the territories that would become Upper Canada, the pressure came more gradually but came all the same. The Crown began negotiating land surrenders using the treaty process the Proclamation had required — which meant, in one sense, the Proclamation had worked, because those surrenders at least had to go through a formal and witnessed procedure. Whether that procedure was truly understood the same way on both sides of the table is a question that runs through this entire series.



#### **WILLOW BORN WITH A TOOTH**

The document didn't disappear when the line did, though.

#### **SAM CARDINAL**

No. The Royal Proclamation of seventeen sixty-three is one of the most studied documents in Canadian constitutional history. When Canada patriated its constitution in nineteen eighty-two, Section thirty-five of the Constitution Act recognized and affirmed existing Aboriginal and treaty rights — and the courts have consistently held that the Proclamation is part of that legal foundation. First Nations, Métis, and Inuit peoples have cited it in land claims for more than two hundred and fifty years. It is, in a very real sense, the oldest unresolved promise in Canadian public life.

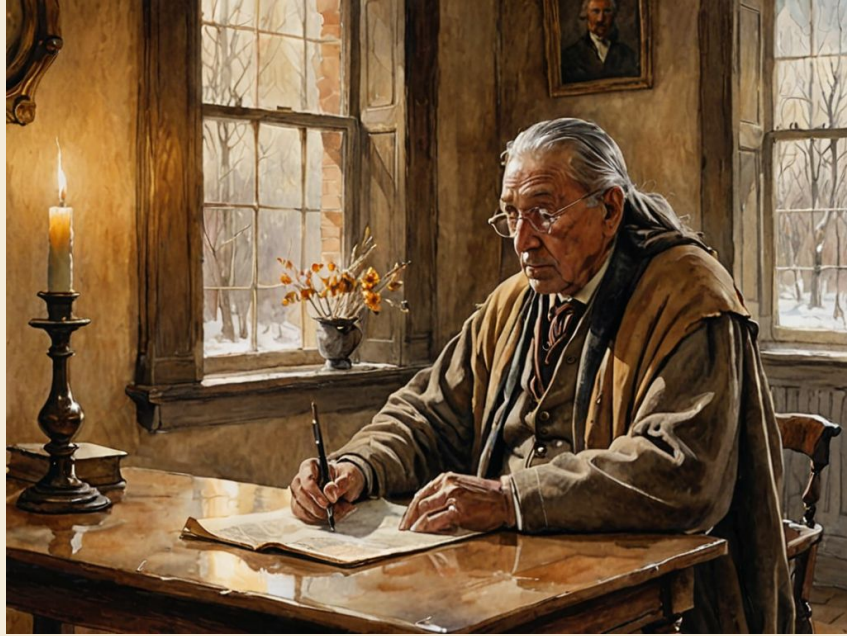


#### **WILLOW BORN WITH A TOOTH**

Two hundred and fifty years, and still being argued in court.

#### **SAM CARDINAL**

What stays with me, and I have spent a long time with this document, is that it was written by a King who had never set foot on this continent, in response to a war he understood through reports and maps, about peoples he had never met. And yet for the nations who heard it described or heard it read, it carried the weight of the highest promise the Crown could make — a king's word, his seal, his recognition, in writing. Whether that promise was honored is a different and harder question. But that it was made, and that it was remembered, matters enormously to everything that came after.



**WILLOW BORN WITH A TOOTH**

Because you cannot honor a promise you deny having made.

**SAM CARDINAL**

That is the whole thing, yes. A promise denied is a different kind of injury than a promise broken. What the Proclamation did — whatever its authors intended in the moment — was establish a standard. It said that land moves between peoples through consent, through a witnessed and formal process. Every time the Crown fell short of that standard, and it did fall short, many times, in many ways, the Proclamation was still there in the written record, stating what the standard was supposed to be. The nations never forgot it. In the long run, neither did the law. I'm Sam Cardinal.

**WILLOW BORN WITH A TOOTH**

This is The Land Beneath Us. The Royal Proclamation of seventeen sixty-three is not history in the sense of something finished and shelved. It is alive right now, cited in courtrooms and communities, still being read and interpreted and argued over, still mattering to families whose territories it was written about by a king who never saw them. The land beneath every Canadian city was shaped in part by this document — by what it promised, by how differently those promises were understood, and by the distance between the two. We'll keep following that distance. Thanks for being with us.

## 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 heart of this episode — that “lands reserved to the Indians” can be read either as the Crown recognizing pre-existing Indigenous title or as the Crown setting aside lands as a matter of its own policy — is a genuine and consequential debate in Canadian constitutional law, not a rhetorical device. The Proclamation’s standing today rests on that ambiguity: it is treated as part of the constitutional foundation the courts draw on under section 35, while its precise legal force remains contested.

### References & further reading

The Royal Proclamation of 1763 (7 October 1763), full text — Library and Archives Canada; Canadiana / the Avalon Project. The operative phrase reserves lands “not having been ceded to or purchased by Us ... to them [the several Nations].”

“Royal Proclamation of 1763.” The Canadian Encyclopedia.

Constitution Act, 1982, s. 35 (recognition and affirmation of existing Aboriginal and treaty rights) and s. 25 (which expressly references the Royal Proclamation of 1763).

Pontiac’s War, spring 1763 — a coalition led by the Odawa war chief Pontiac captured or destroyed a string of British Great Lakes and Ohio-country forts; the Treaty of Paris (February 1763) transferred New France to Britain.

John Borrows. “Wampum at Niagara: The Royal Proclamation, Canadian Legal History, and Self-Government,” in *Aboriginal and Treaty Rights in Canada*, ed. Michael Asch (Vancouver: UBC Press, 1997).