

# The Earliest First Nations Accounts of the Formation of the Vancouver Island (or Douglas) Treaties of 1850–54



Neil Vallance

## Oral Histories and Traditions

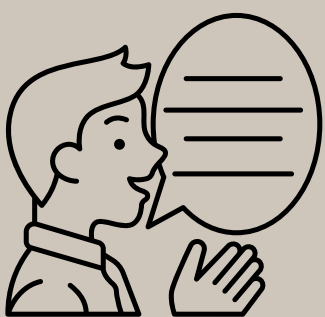
- Oral histories are recognized by First Nations as the stories of the past told by contemporary elders.
- The definition of oral tradition is far more contested and varied.
- For the sake of the essay, Vallance creates two “narrow sub-categories” of oral histories and traditions.
  - He defines oral histories as the earliest first- and second-hand accounts reduced to writing by Indigenous leaders after the treaty meetings.
  - He defines oral traditions as “third-hand and subsequent stories of treaty meetings, passed down from generation to generation to the present day.”

Vallance prioritizes the First Nations oral accounts of treaty meetings in comparison to the written record, proving how wildly different understandings of treaties were between First Nations and the Crown.

## Treaty Categories

- There are three widely recognized categories of treaties in Canada: trade, peace and goodwill, and cessation.
- Trade and peace and goodwill treaties do not entail the cessation of land to the Crown.
- Cessation treaties are the surrender of land. This is how the state understands many treaty agreements, although that view is not shared by First Nations.
- It is argued that the Vancouver Island treaties are trade or peace and goodwill treaties, however, if there is one thing the First Nations accounts prove, they were never intended to be cessation treaties.
- Cessation treaties is how the Vancouver Island treaties are considered by many scholars and Canadian courts.

The accounts that follow showcase the understandings of the First Nations who signed the Vancouver Island, or Douglas, Treaties. This includes the Songhees/Esquimalt Treaty (1850), the North Saanich Treaty (1850), and the Nanaimo Treaty (1854).



- It is crucial to note that some treaties were signed on a blank sheet of paper.
- James Douglas, the governor responsible for the Vancouver Island Treaties, confirms this in a letter: “I attached the signature of the native Chiefs and others who subscribed the deed of purchase to a blank sheet, on which will be copied the contract or Deed of conveyance, as soon as we receive a proper form, which I beg may be sent out by return of Post.”
- There is no evidence that First Nations were given copies of the completed, signed treaties.

## First Nations Accounts

- The accounts of treaty agreements used in this essay were first- or second-hand accounts from First Nations, committed to writing after the agreements. Given that the accounts were not immediate after a given treaty agreement was made, they reflect the understandings of those sharing them at the time committed to writing, not when the agreements were made.
- Most of the accounts were not given in English and were translated from various First Nations languages.
- While all the accounts have their weaknesses, together they provide a “strong denial of the cession or surrender of land in favour of HBC or the Crown.”
- The majority of the accounts provided were published in various newspapers in the early 20th century (1913-1934). Therefore, the reporters and editors are implicated in the reliability of the accounts that they portray. As such, each individual account will be grounded in its historical context.

## Written Histories

- First Nations have raised the matter of unresolved treaty promises on many occasions.
- The differences in understanding between the Crown and First Nations raises the question of whether or not the written treaty documents actually reflect the terms of the oral agreement to which the First Nations agreed.
- Historically, written histories have been prioritized over oral histories.
- There is little documentation or oral history regarding the Vancouver Island treaties. As such, the written record is more highly valued.
- Oral histories and traditions are not highly regarded within the Canadian courts, meaning the testimonies of elders regarding historical treaties have been given little value.
- **Despite the emphasized importance of written treaty documents, Vallance’s essay argues that the written treaty documents “provides little or highly qualified evidence, at best, of how the Native participants understood the agreements.”**

## The Sharing Treaty

- Vallance proposes a new treaty category that better describes the intentions of First Nations who signed the Vancouver Island treaties – sharing treaties, based on the First Nations understanding of treaties as agreements to peaceful coexistence and sharing the land with the settler population.
- Sharing treaties are well established within scholarly literature and they are central to First Nations understanding of the Vancouver Island treaty agreements.
- They are not recognized in the courts of Canada.

## Michael Asch: Two Approaches

- According to scholar Michael Asch, there are two major approaches taken by signatories in historical treaties.
- The approach of the British Crown is an insistence that Indigenous peoples “consented to transfer all authority to the crown, thereby leaving settlers to do as they please with the land.”
- The First Nations approach insists that the Crown asked for permission to share the land, but not to transfer or govern it. Applied to the accounts below of the Vancouver Island treaties, these approaches raise the possibility that there was never a common understanding of treaty terms, **and therefore no treaty and no land surrender.**

## David Latass on the Songhees/Esquimalt Treaty and North Saanich Treaty

- Chief David Latass gave two of the accounts.
- His accounts of the Songhees/Esquimalt treaty agreement were published in the *Victoria Daily Times* in 1934, by reporter Frank Pagett.
- Either Latass himself or his father participated in the Songhees/Esquimalt treaty meetings. Either he or his maternal uncles participated in that of North Saanich.
- His accounts of the North Saanich Treaty are from a statement delivered to Commissioner of Indian Affairs by the last name of Ditchburn -- presumably William Ernest Ditchburn.



## Songhees/Esquimalt Treaty, 1850

- Around 1850, the presence of white men was relatively welcome due to the rich trade opportunities they provided for First Nations. There were limited designated areas for the use of white settlers and white colonists and fur traders were expected to pay dues in the form of blankets and other trade goods.
- During Queen Victoria's birthday celebration in Beacon Hill Park on May 24th, 1850, Douglas stressed his desire for friendship with First Nations, claiming that his only reasons for settlement were trade and agriculture.
- There was a later meeting the same day, which doubled as a public celebration of the Queen's birthday and a confirmation of the existing terms of coexistence between First Nations and settlers.

## North Saanich Treaty, 1850



- The accounts of the North Saanich treaty meeting come from Chief David Latass and "the chiefs and councillors of the Saanich tribes."
- Despite previously denying the treaty's existence, in his statement on April 4th, 1932 for William Ditchburn, Latass acknowledges a settlement of a dispute, meaning a peace treaty.
- A lumber dispute took place when HBC workers started a fire at Cordova Bay in order to collect wood, which was not authorized by First Nations. There are also reports of a First Nations child having been shot and killed on Douglas' property.
- Local chiefs called the meeting to settle the dispute and Douglas paid each of the two chiefs present a bale of blankets and \$200. When signing for the blankets and money, the tribesmen signed Xs, which they interpreted as crosses -- a sign of Douglas' sincerity and goodwill.
- In a second meeting on the same day, terms of coexistence were reiterated and confirmed.
  - Latass' account gives insight into the terms in ways other accounts do not: lands not needed by First Nations could be occupied by whites, leaving "choice" camping sites reserved for First Nations as well as full hunting and fishing privileges, with certain waters being reserved specifically for the tribes.
- A group of "chiefs and councillors" gave a further statement to Ditchburn on the same day, confirming Latass' account.

## Context of Nanaimo Treaty (1854) Accounts

- David Whoakum was a Snuneymuxw band member.
- He gave his account of the Nanaimo Treaty agreement in a formal testimony before the Royal Commission on Indian Affairs for BC in 1912.
- His is the only account from a signatory.
- The two interpreters that translated Whoakum's account were formally sworn in and Whoakum himself was under oath.
- The purpose of the hearing was "to settle all differences between the governments of the dominion and the province respecting Indian lands and Indian affairs generally in the province of British Columbia" (limited to increasing/decreasing the size of reserves).
- The Snuneymuxw nation sought their land (Nanaimo) back or a monetary settlement for it.
- Bobby Yacklum was the son of a signatory chief, Chief Zok-Leston.
- His account was recorded for the Vancouver Sun in 1922 by Chief Buffalo Child Long Lance (a pen name).
- Long Lance was proven to be an unreliable source of information on his own past but there is no indication that the stories from Yacklum are tampered with.
- Joe Wyse was the son of another signatory chief, Chief Sugnuston.
- 1933 interview of Ques-Es-Then (Joe Wyse) and his wife Tstass-Aya (Jennie Wyse) was conducted by Beryl Cryer for a series featured in the *Victoria Daily Colonist*.
- The collection was edited by Chris Arnett, who examined thoroughly the reliability of all accounts Crier obtained.
- Joe and Jennie Wyse both spoke English, but Joe's statement was translated by his wife for a clearer, more detailed account.

## Nanaimo Treaty, 1854

- The Nanaimo treaty is unique as the only Vancouver Island Treaty that do not have Douglas Forms -- the additional formal documents that would accompany the sheet of signatures. Instead, there is a slip of paper pinned to the signatures, which describes the land outlined in the treaty agreement.
- The three accounts paint a very similar picture: James Douglas sought to buy coal from the nations around Nanaimo.
  - He affirmed that the land belonged to the First Nations; "[a]ll these three places where you live at different times are yours," which was also a rare colonial acknowledgment that village sites were not limited to winter villages, but all seasonally occupied sites.
  - Douglas offered gifts of blankets, shirts, and tobacco. The First Nations accepted this as the first of recurring payments to be made for resources.
- While the accounts differ slightly (such as Yacklam's claim that it was the captain of a HBC explorer ship that made the agreement and not Douglas) they all contain similar elements.
- All accounts boil down to the same conclusion: the Nanaimo Treaty of 1854 was an agreement regarding the sale of coal.
- When the Snuneymuxw were later pushed off their land and had their fishing and hunting rights restricted, HBC claimed that the blankets were payment for the land and it was the property of Hudson's Bay Company.

## Why This Work Matters

The importance of this work lies in its prioritization of oral histories and traditions to understand the First Nations perspective of the Vancouver Island treaties. Oral histories and traditions are not widely recognized by the state as legitimate historical record, but they shed light on events that the written documents do not reflect. These oral accounts in particular reflect the differences in understanding between First Nations and the Crown when the Vancouver Island treaties were formed. Most importantly, they reflect that there was little to no common understanding when the treaties were formed, meaning First Nations never agreed to a land surrender.

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