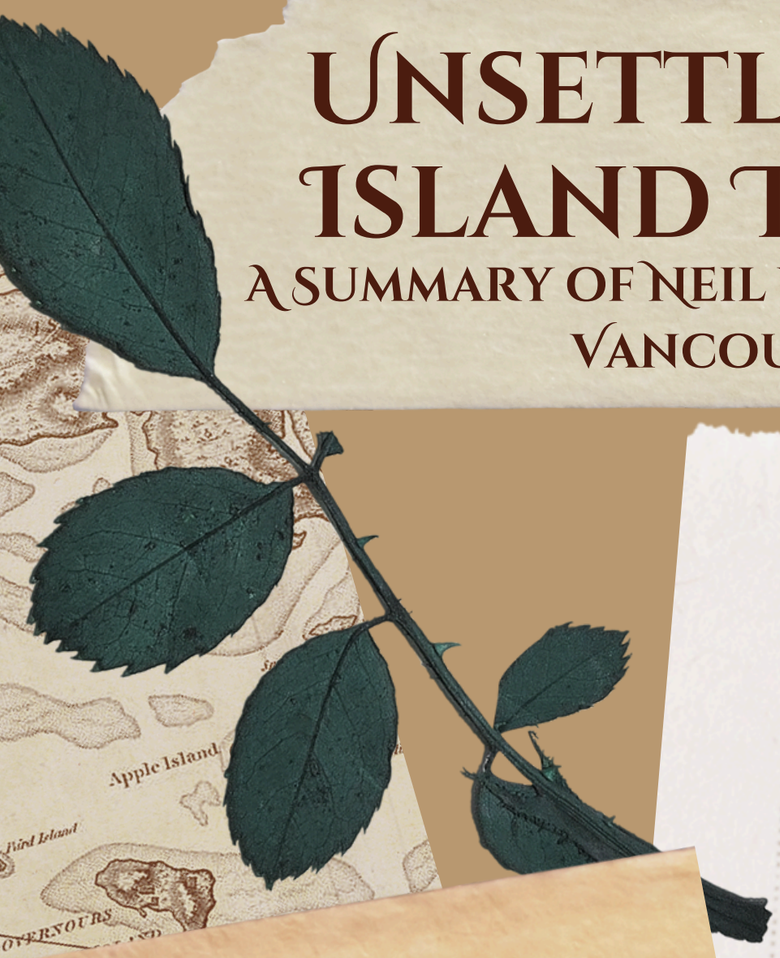
Unsettling the Vancouver Island Treaties

A summary of Neil Vallance's "The earliest First Nations accounts of the Vancouver Island (or Douglas) treaties of 1850–54"



Glossary

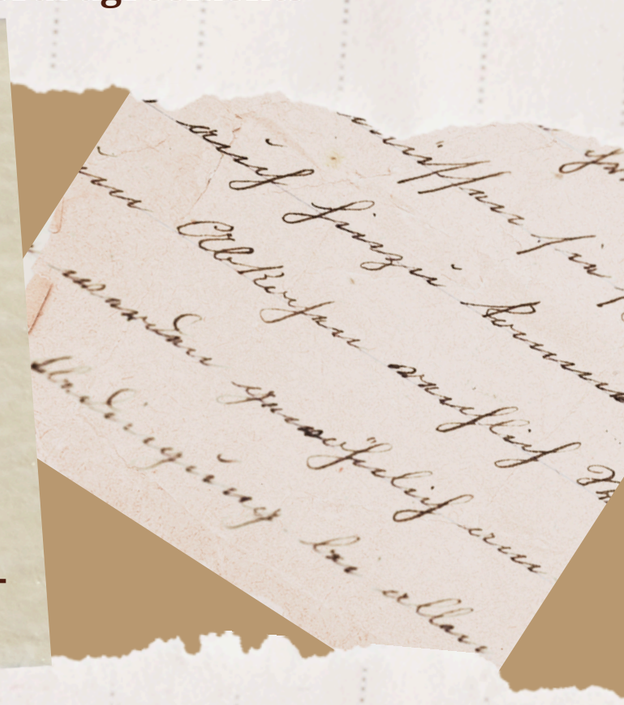
Douglas Forms: The written versions of the treaties, often contested by Indigenous oral traditions

Sharing Treaty: Agreements emphasizing coexistence and shared use of land/resources, rather than land cession

Oral Treaties: Verbal agreements preserved through storytelling and testimony, representing the authentic terms of the treaties

What are they?

- The Vancouver Island Treaties, commonly called the Douglas Treaties after James Douglas, the second Governor of Vancouver Island, are a series of **fourteen agreements** made between the Colony of Vancouver Island and Indigenous peoples in the 1850s
  - In addition to being governor, **Douglas was also head of the Hudson's Bay Company** (HBC), a resource extraction and trading company active on the Island
- Most courts and scholars present the treaties as land cessions: Indigenous peoples are said to have relinquished their territories for financial payments and goods, like blankets
  - This interpretation stems from written records maintained in the colonial government's "Register of Land Purchases from Indians"
- **These records were drafted by the colonial government, and all follow a similar format:**
  - Various nations cede control of their territories in exchange for limited tracts of land, as well as hunting and fishing rights
- However, there is little evidence that many Indigenous participants were aware of these terms, as **these written records were crafted after the actual treaty proceedings**
  - Indigenous chiefs were asked to sign blank sheets, which were later attached to written treaty documents
  - **It is unlikely that many First Nations parties were even aware of the existence of these written records**
    - Many accounts of these meetings from Indigenous participants contradict these written versions
    - Vallance argues that these "written" copies are better understood as the "**Douglas Forms**" rather than treaties; **the treaties are, in fact, oral agreements**



Oral and Written Treaties

- Treaties are commonly identified as having two forms: written and oral
  - **Oral** treaties take place through verbal negotiation and are subsequently articulated through accounts
  - **Written** treaties refer to the written text of a treaty agreement
- In the case of the Vancouver Island Treaties, our earliest oral accounts are based on retellings of negotiations in newspapers and sworn testimonies
  - As a result, Vallance suggests a new subcategory of oral treaty: "**the earliest first- and second-hand accounts reduced to writing after the treaty meetings**"

Songhees/Esquimalt Treaty (1850)

- Chief **David Latass** of the Tsartlip First Nation recounted the oral version of this treaty, which was subsequently published in a 1934 newspaper article
  - Vallance says Latass or Latass's father participated in these proceedings
- According to Latass, settler activity in the Esquimalt area was initially viewed positively because there were relatively few settlers and lots of land
  - Their presence allowed for the exchange of goods
    - **Settlers were limited to use of certain areas in exchange for an annual payment of goods, such as blankets**
- On May 24th, 1850, a celebration was held to celebrate Queen Victoria's birthday; the Songhees, Saanich and Cowichan, among others, were invited to this event
  - Douglas took this opportunity to announce a white settlement and expressed a desire to maintain friendships with Indigenous peoples in the area
  - The reasons for this settlement were narrow, with Douglas assuring Chiefs that **settlers were only interested in limited space for agriculture and trade**
- Lattas's account makes **no mention of land cession or transfer** and **challenges claims to the contrary: "[the Songhees, Saanich, and Cowichan]…would not have had any idea of letting the whites use their land from year to year unless some equivalent trade or gifts be made each year"**

THE SAANICH TREATY (1852)

- This account was also given by Latass for the same 1934 article
- Company men collecting timber at Cordova Bay inadvertently started a fire, attracting the attention of local First Nations
  - Chiefs Hotutstun and Whutsaymullet (of Salt Spring and Saanich, respectively) came to the coast to investigate, where they met with Douglas
  - An agreement was reached that the settlers would pay for the damage they caused and the timber that belonged to the local Indigenous peoples
    - **Douglas then gave each Chief a bale of blankets**
- A second meeting took place between Douglas and Hotutstun concerning the allotment of lands to the Hudson's Bay Company
  - Hotutstun, his sub-Chiefs, and Douglas came to an understanding that lands not used or needed by First Nations may be occupied by settlers under certain conditions
    - In exchange for occupancy, settlers would pay First Nations a yearly fee in the form of blankets and other goods, **and no land was to be ceded**
  - Latass asserts that no Chiefs nor sub-Chiefs signed anything; he interpreted the events as a powwow for the receiving of trade goods
- Latass went on to explain how land **sharing/occupancy** would work in practice
  - Specifically, sharing would:
    - **(1)** include "meadowlands and open prairie tracts… suitable for cultivation";
    - **(2)** be governed by terms to be set by the Saanich First Nation;
    - **(3)** and incorporate an annual renewal system

DAVE ELLIOT'S ACCOUNT OF THE SAANICH TREATY

- A further retelling of the Saanich Treaty was given by Elder **Dave Elliot** of the Tsartlip Nation
  - While he was born in 1910, the account was passed down to him through the oral tradition
- As Elliot describes, the timber dispute was compounded by another incident: an Indigenous boy was killed after crossing into Douglas's property
- At the meeting where the blankets were gifted, participants were asked to write X's on a blank sheet, in addition to their names being requested
  - Elliot says these X's were interpreted as the sign of the cross—**meaning Douglas and his men were seeking peace**
    - **These X's were those subsequently included in the Douglas Forms**

THE NANAIMO TREATY (1854)

- One account of the Nanaimo Treaty was given by **Dick Whoakum**, a member of the *Snuneymuxw* First Nation and signatory of the agreement, to the 1912 McKenna-McBride Commission
- Whoakum identifies himself as one of the first to discover coal in the area
  - Douglas was made aware of this finding and expressed a desire to buy the coal
    - It was understood that settlers were merely obtaining that resource, with Douglas acknowledging that Indigenous peoples were fully entitled to their land—including occupancy of all seasonal habitations
      - **In other words, the agreement was about coal and nothing more**

- A second-hand account of the Treaty was given by **Bobby Yaklam**, a son of one of the signatories, and also published in a newspaper article
  - Yaklam recounts that Company men got wind of the area's "rich seams of coal" and met with *Snuneymuxw* Chief Zok-leston (Bobby Yaklam's father)
  - There, the Company men expressed their desire to be friends and use the resource
    - They then dispensed gifts: blankets, shirts, and tobacco
  - Though the arrangement initially worked out, the *Snuneymuxw* were later ordered to clear the area on account of their land having been transferred to the Hudson's Bay Company—"paid" for with the aforementioned gifts

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- A further third account was published in the *Victoria Daily Colonist* from *Snuneymuxw* Elder **Quen-Es-Then (Joe Wyse)** and his wife, **Tsatass-Aya (Jennie)**, in 1933
  - Again, Company men expressed an interest in coal and friendship, distributing blankets, shirts and tobacco with the promise that **"the Queen" would further compensate them**
    - Tsatass-Aya added that "there was some sort of mistake" in that the promised financial compensation never came

THE SHARING TREATY

- Vallance proposes that the Vancouver Island Treaties are best understood as **sharing treaties**
  - Rather than a surrender or cession of land, Indigenous leaders—through the Songhees/Esquimalt, North Saanich, and Nanaimo treaties—allowed settlers to **share the land with Indigenous peoples**
- Therefore, the Vancouver Island Treaties, properly understood as sharing treaties, have **three** specific provisions:
  - **Compensation** for previously occupied lands and used resources;
    - E.g., Company men would compensate First Nations for timber chopped down without their consent
  - **Continuation** of this compensation arrangement for future use of land and resources;
  - And an **agreement to negotiate** any further settlement or resource use

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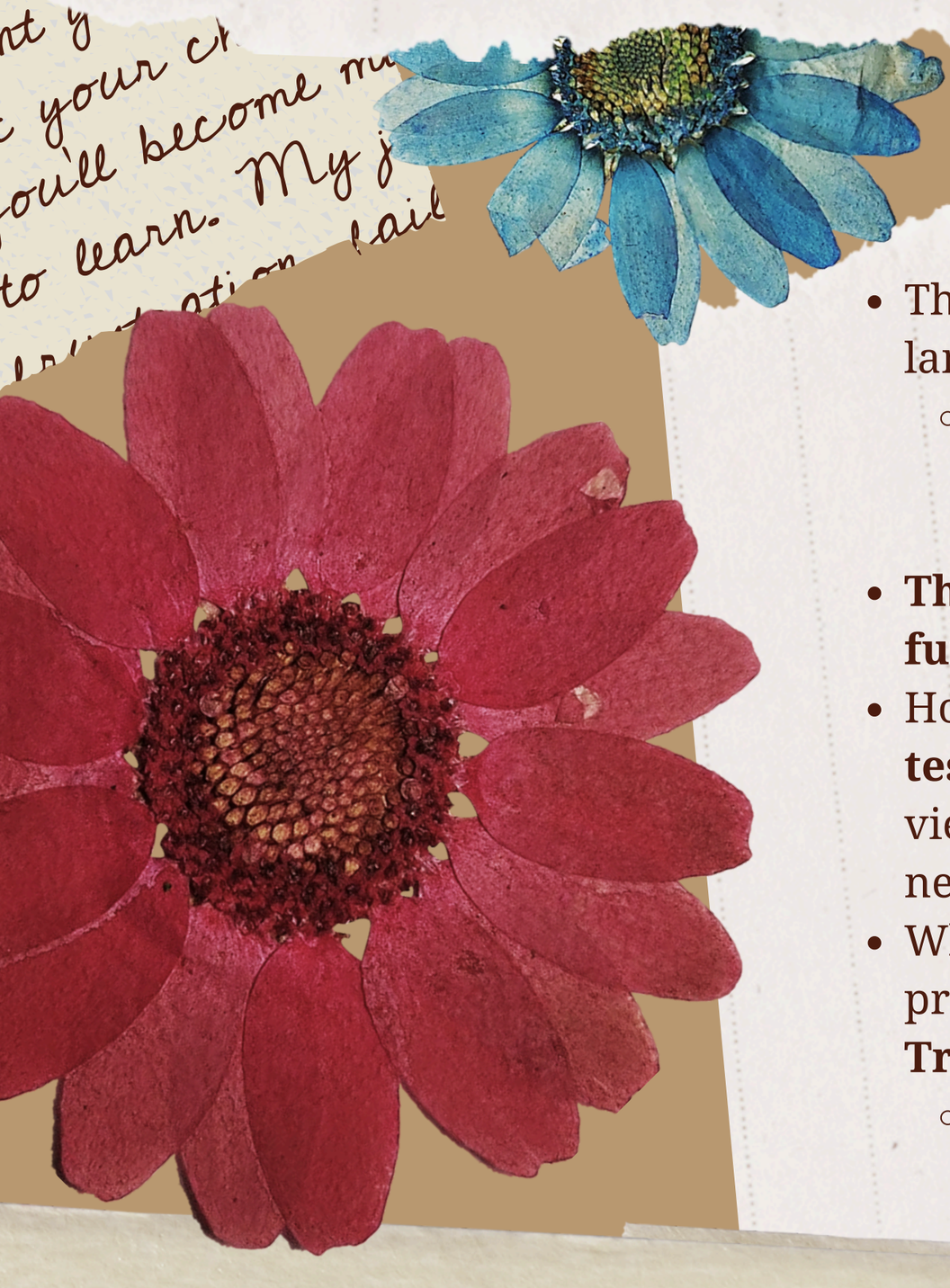
- Another way to understand the concept of a sharing treaty comes from Anishinaabe Elder Victor Courchene, who recounted the following about Treaty 1 in Ontario:
  - *"One old man, much older than me, said his grandfather told him about the Treaty and how it was supposed to work. He said it is like a plate and the resources were on that plate. The white man was invited to come and eat from that plate together with the Anishinabe. This is how he understood the Treaty. They never gave up anything."*
- The Vancouver Island Treaties, in their true oral forms, while concerned with issues of land and resources, **are not cession treaties**
  - Each account—Latass, Whoakam, Yaklam, Elliot and Wyse—makes it clear that no such cessions of land as reported in the Douglas Forms were agreed to
    - **In fact, numerous assurances were made to the contrary—from Douglas himself and other Company men**



SIGNIFICANCE

- The Vancouver Island Treaties are often incorrectly interpreted as land cessions
  - This misunderstanding stems mostly from the Douglas Forms—written documents that many Indigenous participants never saw nor were made aware of
- **The failure to understand the treaties as oral agreements was furthered by a failure to consider Indigenous oral accounts**
- However, as Vallance illustrates, **there are many such testimonials**, though they are "usually rejected by historians" in view of them being translated and editorialized somewhat in newspapers
- While imperfect, these various accounts, viewed collectively, present a clear and consistent picture: **the Vancouver Island Treaties were agreements to share land**
  - As philosopher James Tully argues, "Canada is founded on an act of sharing that is almost unimaginable in its generosity"

BIBLIOGRAPHY

Vallance, Neil. "The Earliest First Nations Accounts of the Formation of the Vancouver Island (or Douglas) Treaties of 1850–54. In *To Share, Not Surrender: Indigenous and Settler Visions of Treaty Making in the Colonies of Vancouver Island and British Columbia*, 123–54. University of British Columbia Press, 2021.