

Robinson – Huron

Treaty Rights

1850 and Today

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Introduction

The history that lead to the signing of the Robinson – Huron Treaty in 1850 is just as important as the exact wording of the agreement. This information provides the background and dictates the lasting impact on the nations, communities and people involved.

Prior to European contact, the First Nations of Turtle Island recognized each other's sovereignty through treaties and various military alliances.

Upon arrival , colonial Nations recognized the sovereignty of the First Nations by establishing similar format agreements. For example, the British Crown created the Royal Proclamation of 1763 to establish mutual understanding and respect using a well-defined treaty process.

Throughout the mid 1800's, a relationship between First Nations and the British Government was formed. This relationship was reflected in the Robinson-Huron Treaty process and the agreement itself. It is important to understand this relationship in order for all of us to realize the promises and fulfill the commitments made by our ancestors.

Chief Shingwakonce:

Stated during the late 1840's

Speaking on Anishinabe authority over the land..

“You wish to know why we all this our land, we think the answer is very plain... The great Spirit placed us on this land long before the Whites crossed the Great Salt Lake. Our ancestors then lived in happiness – there being plenty of animals for food, at that time we had everything we could desire – the animals supplied us with food, the skins were taken from their backs and placed on ours for covering.”

What is a Treaty?

A Treaty is an agreement between two or more sovereign Nations. “A Treaty is not only law, but also a contract between two Nations and must be so construed to give full force and effect to all of its parts.”

The spirit and intent of our treaties was clearly stated by our Chiefs and sanctioned by our creator. This makes our treaties sacred and inviolable. Canada has forgotten and ignored this proper understanding of the treaties. The Government of Canada has restricted Anishinabe rights, limited the spirit and intent of the treaties, denied sovereignty and territorial jurisdictions while undermining the authority of First Nations’ Government.

Under international law, treaties between Nations cannot be amended or changed without the consent of the parties to the treaty. For this reason, it is necessary to enter into a process designed to implement the original spirit and intent of the treaties.

Chief Dokis of Lake Nipissing

Late 1870’s – having attended the negotiation of the treaty stated his understanding of it.

“When Mr. Robinson came to the Indians to make a Treaty for their lands, they were not willing to give up their lands and would not sign a Treaty. He then told them they need not be afraid to give up their rights because Government would never do anything to make them suffer, he said you know yourselves where you have the best lands and there is where you have your Reserves for yourselves and your children and their children ever after. He also said if at any time you have grievance you can go to the Governor and he will see that you get all your rights or whatever you may ask.”

Pre-Treaty

The Anishnabek Nations of the Lake Huron area are descendents from the Nations that entered into the treaties with the British Crown. Our traditional territories cover the entire Lake Huron watershed in what is not the Province of Ontario.

Long before the settler government negotiated a treaty with the Anishnabek Nations of the Great Lakes area, the Crown relied upon them as trusted allies during the land conflict against the United States.

Through the late 1840's, the settler Government tried to make way for white settlement and resource development in Anishinabe territory. However, Aboriginal title to the land was clearly stated by the Chief's of the Anishinabek.

The Government appointed a Commission to travel around the territory in 1849. This Commission found that Native Communities had well established governments and were exercising clear authority over their territories.

The Robinson Treaties were initiated due to repeated protests and appeals of Ojibway governments about white settlement in their territories. Ojibway leaders believed that Ojibways as a whole should benefit from the new sources of wealth – timber and mineral resources – which the Great Spirit had placed on their lands. In June 1849, Sault Ste Marie Chiefs addressed the British Government and made the need for a Treaty very clear.

Treaty: A contract in writing between two or more political authorities (as states or sovereigns) formally signed by representatives duly authorized and usually ratified by the lawmaking authority of the state.
Webster's New Dictionary

Elements of the Treaty:

- **Government to Government relationship:**

the process of negotiating the Treaty established mutual respect and was viewed as an international agreement.

- **Lands set aside for exclusive use of Anishinabe:**

the treaty guaranteed that each community would identify an area suitable for their people, and future generations, to live as they always had. In other words, the economy of First Nations was to be maintained unaffected by the settlement of Europeans.

- **Hunting and Fishing Guaranteed**

the traditional resource harvesting activities were guaranteed. All Anishinabe members of the Treaty area, were to have unrestricted access to hunt and fish as they always had.

- **Treaty Annuities**

to compensate for loss of land due to European settlement, each Anishinabe family was guaranteed an annual payment to offset living expenses.

Sault Ste. Marie Chiefs

June 1849 – clearly stating the need for a treaty

Can you lay claim to our land? If so, by what right? Have you conquered if from us? You have not; for when you first came among us your children were few and weak, and the war cry of the Ojibway struck terror to the heart of the pale face. But you came not as an enemy, you visited us in the character of a friend. Have you purchased if from us, or have we surrendered it to you? If so, when? And how? And where are the treaties?

Issues of Concern:

Research on the Treaty has raised significant questions about a number of important issues emerge:

- representation – some communities have claimed that appropriate Chiefs were not in attendance.
- ratification – community endorsement would traditionally have been required – whether this was obtained by Anishinabe governments is unclear.
- negotiating tactics and decision-making – Robinson’s tactics at the end of the meeting seemed to have involved particular threats, coercion, and the imposition of majority-rules decision-making. Robinson isolated the Chiefs with the strongest objections.

The contents of the Treaty raise questions of interpretation. The major areas of disagreement are:

- territorial boundaries – in particular the northeast boundary of Huron Territory
- augmentation clause – according to Chiefs present, a share of resource revenues throughout the territory would be realized by their future generations. On the other hand, Ontario deemed that their own costs mitigated the obligation to share revenues.
- reserve boundaries – many issues arose over the manner and method of surveying. Importantly, there was disagreement regarding the unit of measure.
- Islands – Anishinabe interpretation reveals that the concept of lands does not include islands – the Government assumed that islands were included in the surrender of lands included in the Treaty.

The Robinson – Huron Treaty – 1850

This agreement made and entered unto the ninth day of September in the year of Our Lord one thousand eight hundred and fifty, at Sault Ste. Marie in the Province of Canada, between the Honorable William Benjamin Robinson, of one part, on behalf of Her Majesty the Queen and Shinguacouse Nebenaigoching, Keokouse, Mishequonga, Tagawini, Shabokishick, Dokis, Poneeosh, Windawegowinni, Shawenakeshick, Namassin, Noaquagaba, Wabakeshik, Kitchepossigun by papasainse, Wagemaki, PameQuonaisheung, Chiefs: and John Bell, Paqwatchini, Masheky-Ash, Idowekeesis, Waquacomick, Ocheeek, Metigomin, Watachewana, Mirrwawapenase, Shenoquom, Onigeguini, Pamaissy, Papasainse, Ashewasega, Kageshewawetung, Shawonebin: and also Chief Maisquaso (also Chiefs Mishoquet, and Mekis), and Mishoquetto, and Asa Wadwanay and Parwiss, principal men of the Ojibwe Indians, inhabiting and claiming the Eastern and Northern shores of Lake Huron, from Penetanguishine to Sault Ste. Marie, and thence to Batchewananung Bay, on the northern shore of Lake Superior, together with the islands in the said lakes, opposite the shores thereof, and inland to the height of land which separates the territory covered by the charter of the Honorable Hudson Bay Company from Canada, as well as all unceded lands within the limits of Canada West to which they have any just claim of the other part witnesseth:

That for and in consideration of the sum of two thousand pounds of good and lawful money of Upper Canada, to them in hand paid: and for the further perpetual annuity of six hundred pounds of like money, the same to be paid and delivered to the said Chiefs and their Tribes at a convenient season of year, of which due notice will be given, at such places as may be appointed for that purpose, the the said Chiefs and Principal Men, on behalf of their respective Tribes and Bands, do freely, fully and voluntarily surrender, cede grant and convey unto Her Majesty, Her heirs and successors forever, all their right, title, and interest to and in the whole of the territory above described, save and except the reservations set forth in the schedule hereunto annexed: which reservations shall be held and occupied by the said Chiefs and their Tribes in common, for their own use and benefit.

And should the said Chiefs and their respective tribes at any time desire to dispose of any mineral or other valuable productions upon the said reservations the same will be at their request sold by order of the Superintendent General of the Indian Department for the time being, for their sole use and benefit and to the best advantage.

And the said William Benjamin Robinson for the first part, on behalf of Her Majesty and the Government of this Province, hereby promises and agrees to make the payments as before mentioned: and further, to allow the said Chiefs and their tribes the full and free privilege to hunt over the territory now ceded by them and to fish in the waters thereof as they have heretofore been in the habit of doing, saving and excepting only such portions of the said territory as may from time to time be sold or leased to individuals or companies of individuals and occupied by them with the consent of the Provincial Government.

The parties of the second part further promise and agree that they will not sell, lease, or otherwise dispose of any portion of their reservations without the consent of the Superintendent General of Indian Affairs being first had and obtained: nor will they at any time hinder or prevent persons from exploring or searching for minerals or other valuable productions as any part of the territory hereby ceded to Her Majesty as before mentioned. The parties of the second part also agree that in case or bargained to sell any mining locations or other property on the portions of the territory hereby reserved for their use and benefit, then and in that case such sale or promise of sale shall be perfected if the parties interested desire it, by the Government, and the amount occurring therefrom shall be paid to the tribe whom the reservation belongs.

The Said William Benjamin Robinson, on behalf of Her Majesty, who desires to deal liberally and justly with all Her subjects, further promises and agrees that in case the territory hereby ceded by the parties of the second part shall at any future period produce an amount which will enable the Government of this Province, without incurring loss, to increase the annuity hereby secured to them, then and in that case the same shall be augmented from time to time, provided that the amount paid to each individual shall not exceed the sum of one pound of Provincial currency in any one year, or such further sum as Her Majesty may be graciously pleased to order, and provided further, that the number of Indians entitled to the benefit of this Treaty shall amount to two-thirds of their present number (which is fourteen hundred and twenty-two), to entitle them to claim the full benefit thereof, and should their numbers at any future period not amount to two-thirds of fourteen hundred and twenty-two, the annuity shall be diminished in proportion to their actual numbers.

The said William Benjamin Robinson of the first part further agrees, on the part of Her Majesty and the Government of the Province, that in consequence of the Indians inhabiting French River and the Lake Nipissing having become parties to his Treaty the further sum of one hundred and sixty pounds Provincial Currency shall be paid in addition to the two pounds above mentioned.

Post-Treaty

The implementation of the Treaty became difficult because of different interpretations – The Government took the Treaty to mean very little. For example, as early as 1851, Native fisherman urged the Government to take action against non-Native fisherman trespassing in their fishing territories with no result. In 1870, several Chiefs petitioned regarding the augmentation clause and the fact that annuities had not increased. This resulted in an increase to \$4.00 in 1874. However, the Government removed names from the annuity payment lists (in particular, half-breeds and people living over the U.S. border).

By 1875, the Federal government clearly demonstrated its unwillingness to uphold the treaty commitments. At that time, the Government issued a statement that: “Indians enjoy no special liberty as regards the place, times or methods of fishing. They are entitled only to the same freedom as “White men”. This position critically affected several communities. In 1888 the Chief of Spanish River protested the fisherman from his community had had their boats seized while laying in their supply of fish for the winter. **“Now we have nothing to eat...”**

Ojibway Chiefs from Sault Ste Marie

Including Shingwakonce and Nebenagoching during a visit to the Governor-General in Montreal – June, 1849

“Listen, Father, to the voice of a people who are now but a remnant of a nation once numerous and powerful...of a nation which, in times past, England’s sovereign sought as allies. You have hunted us from every place as with a wand, you have swept away all our pleasant land, and like some giant foe you tell us “willing and unwilling” you must now go from amid these rocks and wastes.”

Modern Problems

Are treaties are with the British Crown. The Crown is represented in Canada today by the Governor General. We have been told that the Crown in right of Canada has inherited the responsibility to honor the spirit and intent of our treaties. Canada has not yet demonstrated that it respects the terms of the treaty or that it has assumed the obligations and responsibilities in their entirety.

The Government of Canada does not honor our treaties in the spirit they were entered into and refuses to protect our rights from encroachment. Our Reserves have been surveyed in an arbitrary fashion often providing less land than was agreed to under the treaty for exclusive jurisdiction of the Ojibway Nations of Lake Huron. Our jurisdiction and the authority of our governments is undermined by unilateral Crown and government action. Our rights to hunt and fish are restricted by legislation without our consent and in direct violation of the intent of the treaties. Our annuities have not increased to reflect the resource development on our traditional lands which is a violation of the sharing intentions of the treaty and a violation of the terms of the agreement.

Many services we currently receive have come to be regarded by Canada as gifts of a social welfare policy. These services are the right of our people deriving from the spirit and intent of the treaties, of political alliance and of the resource revenue sharing provisions of the treaties.

Section 35 of the Canadian Constitution recognizes and affirms our aboriginal and treaty rights. It is the understanding of the Ojibway Nations of Lake Huron that the rights protected in Section 35 includes all of our rights as understood by our Chiefs when they signed the treaties. This includes the right to self-determination, the right to self-government, the right to hunt, fish, trap and gather without restriction, the right to share in the natural resource wealth of the region, the right to territorial sovereignty and the many rights that accrue from our treaties of alliance.

Conclusion

The Robinson-Huron Treaty is very important to all members of the territory. The Treaty is a government-to-government document that was signed between First Nation leaders and the British Crown. The Treaty was to establish a relationship between First Nations and the Europeans on the basis of respect for one another.

Included in the Treaty was an understanding that the British Crown would not interfere with the economy or activities of First Nations and that the two Nations would live side-by-side. The agreement was intended to make room for European settlement but First Nations would retain the right to use the land for hunting and fishing in accordance with their traditions. In addition, the Treaty stated that money made from resource development such as mining or forestry would be shared with the First Nations.

In many ways the Treaty demonstrates that jurisdiction and authority of First Nations throughout their traditional territory. This government-to-government relationship also served to later establish the tax immunity for First Nations from the British Crown and the Canadian governments because one government cannot tax another.

Today, there are many outstanding issues related to the Treaty. Most importantly, the Government of Canada have not respected the government-to-government relationship and have often imposed their laws and policies on First Nations. In addition, First Nation authority has been limited in many ways including resource development within the traditional territories of First Nations.

Other matters remain unresolved because of a lack of mutual understanding regarding the Treaty and its contents. These the territorial and community boundaries, the inclusion of islands, annuity payments, and expropriation of lands.

Over the years, the Anishinabe of the Robinson-Huron territory have been scattered and divided by Government policies and legislation. As a result, many members of the Treaty have not had the opportunity to learn the Anishinabe language and understand the Anishinabe way of life. In addition, many have not had the chance to learn about the Treaty, and the promises made by and to our ancestors. Taking the time to learn about the responsibilities and rights of the Robinson-Huron is essential if we are to re-assert our relationship with the Government of Canada.

Every member of the Treaty must understand this agreement made by our ancestors. If we all learn about the Treaty, then we can ensure that we move towards fully realizing the agreement and living by its terms. Only in this way will the Anishinabek Nation thrive and grow into the future.

Chief Shingwakonce

August, 1848 – on the promise of compensation if Anishinabe lands were ever wanted for settlement

“The English promised our Fathers that they would never take any land from them without purchasing it – we believed their words – and have not as yet been deceived – whenever the English have required any of our lands, they have held councils and purchased such lands as they required from us – for those reasons we consider the land to be ours and were not a little astonished to find that the money (mineral) on our lands has been taken possession of by the White Children of our Great Mother, without consulting us. We rested on the belief that it was only a preparatory step taken by the Governor to fix a value on it and then purchase it from us.”