

Indigenous and Settler Understandings of the Manitoulin Island Treaties of 1836 (Treaty
45) and 1862

by

Allyshia West
B.A., Hunter College, 2008

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of the Requirements for the Degree of

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Abstract

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This work explores the insights that can be gained from an investigation of the shared terms of the Manitoulin Island treaties of 1836 (Treaty 45) and 1862. I focus specifically on these treaties because I was raised in proximity to this area. This thesis is very much a personal exploration in the sense that I have come to understand myself as implicated in a treaty relationship, and wish to know my obligations under these agreements. In my interpretation of the Manitoulin Island treaties, I employ a strategy developed by Dr. Michael Asch that begins with the Indigenous understandings. Within this strategy, treaties are conceptualized as honourable agreements meant to ensure our legitimate presence on this land. This methodology is unique in the sense that it conceives of our representatives' actions as sincere. This step is necessary because Indigenous peoples believed we were acting honourably during negotiations. In applying this strategy in my reading of the Manitoulin Island treaties, my objective is to discern the treaty relationship that was established, and to state clearly the obligations of both parties under these agreements. Though the primary focus of this thesis is my analysis of the treaties, I briefly discuss in my conclusion the anthropological insights I have gained from this exercise with respect to communication across cultures. Throughout this work, I focus on the concept of sharing as a productive and positive framework for thinking about relationships between cultures.

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INTRODUCTION

This work is a personal reflection on the insights gained from an inquiry into the Manitoulin Island treaties of 1836 (Treaty 45) and 1862. Manitoulin Island is an area close to where I was raised. I write from the perspective of an individual who is grappling with my own place and history in this relationship and is seeking alternatives to a colonial relationship. In learning about historical treaty relations between First Nations and the Crown, I have come to understand myself as implicated in a treaty relationship through which I hold responsibilities and obligations. I wish to know my obligations under the treaties that pertain to my area. This project mobilizes around the notion that, in Sharon Venne's (1997) words: “We are all treaty people,” and thus, have a shared responsibility to each other and to the land. In this sense, the terms of these treaties should be required education for every local resident.

The perspective I bring to bear on these treaties differs from dominant perspectives of historical treaties. Treaties are often regarded as colonial agreements; as evidence of our superior political power to deceive our partners – the Indigenous peoples. In this view, treaties hold little significance. This position, however, is continually contradicted by the Indigenous peoples who assert that the treaties need to be honoured. As I have come to understand it, the reason for this is that these are the agreements we - as newcomers - negotiated to justly live upon their land. Thus, they represent a valuable place to begin the path towards reconciliation. Until the terms of these treaties are honoured, we remain an illegal entity.

This perspective focusing on the shared aspect of the agreement is obscured however, when we start our interpretation with the written text of the treaty, rather than

what transpired during negotiations. In this work, I employ an interpretive method developed by Michael Asch in a yet unpublished book that focuses on how we can most accurately discern the relationship that was established with the treaties. With this as his objective, Asch's method begins with Indigenous statements on the treaty, then looks to corroborate these statements with accounts of the treaty negotiations originating in settler society. It is believed that this method provides a more effective means for describing the actual events of the negotiations, and by implication, both entities' obligations under these treaties. With this strategy, Asch is making a choice to read the historical treaties as the basis for an "honourable relationship."

Though my primary focus with this thesis is the Manitoulin Island treaties, I discuss in my conclusion the implications such a project carries for the anthropological approach often employed in similar analyses, referred to as interpretivism. I discuss the limitations of interpretivism with respect to communication across cultures.

It must be noted that this research is part of a broader project which examines historical treaties between First Nations and Canada for the purposes of illuminating the shared understandings. The research team I am working with sees similar patterns running through all the historical treaties negotiated across Canada in terms of the deal that was offered, the recognition of Indigenous underlying title, and the relationship that was established. We envision a future project in which our individual investigations are put forth as a coherent work. In the following paragraphs, I address this thesis' organizational structure.

In the first chapter, I discuss the interpretive method utilized to analyze the Manitoulin Island treaties. As noted above, this is a strategy developed by Dr. Michael

Asch - it can be used to analyze any of the historical treaties negotiated between First Nations and the Crown. This research method is directly informed by the spirit and intent of the historical treaties. The assertion that treaty is a shared agreement negotiated for the purposes of securing our just presence on the land is taken as a given here. The objective of Asch's methodology is to come as close as possible to describing the treaty, as it was negotiated on a candid level. In order to achieve this, it is stated that the researcher must base the inquiry on the Indigenous understandings of the treaty; reconciling other records – transcripts of the negotiations, written record and third party reports – with these understandings. It is believed that this strategy will yield a more accurate portrayal of the shared agreements. In beginning with the views of the Indigenous peoples as this methodology does, and conceiving of treaties through the lens which they have conveyed to us, our focus is shifted; we begin to see treaty as a place to begin a just relationship..

In Chapter Two, I contextualize the Manitoulin Island treaties of 1836 and 1862 through a discussion of the events that surrounded these treaties; as well as British Policy towards Indigenous peoples at these times. With respect to Treaty 45, I specifically address the “civilization” policy which emerged in 1828. I explain how Manitoulin Island factored into this plan. I discuss the debates that occurred between our representatives, as well as the ideologies that fuelled these debates. As well, I address the establishment and the demise of the Manitoulin Island project. Most significantly, I discuss the state of the treaty relationship between the Indigenous peoples of Manitoulin Island and the Crown in the years following Treaty 45. My discussion of Treaty of 1862 is conducted in a similar way. This treaty is regarded as negotiated under severe threat and coercion, so I discuss the details of this situation. My focus in this chapter is on the nature of the relationship

between the parties involved: the Indigenous peoples, the Crown, and the missionaries.

Chapters Three and Four contain my analyses of the Manitoulin Island Treaty of 1836 (Treaty 45) and 1862 respectively. In accordance with the methodological strategy articulated in Chapter One, I provide a statement on the Indigenous understandings of the treaties, as they are presented in primary and published sources. I seek to reconcile these accounts with other records of the treaty. With respect to Treaty 45, I draw mainly upon the correspondences (located in the British Parliamentary Papers Volume 12) between Sir Francis Bond Head and Lord Glenelg for these purposes. In the case of the Treaty of 1862, I utilize a transcript recorded by the Jesuit Missionary France Chone. I end both analyses with a statement on my understanding of the shared terms of the treaty.

In my conclusion, I reflect upon the implications my investigation of the Manitoulin Island treaties might have for anthropological theory. My concerns are mainly with the interpretivist school. I discuss three assertions that are generated through the interpretivist literature and put them against treaty to see if they hold true. What I conclude is that while interpretivism is useful in terms of learning about the other, it is limited in its ability to imagine the further step of building a relationship. I then suggest other ways of thinking about relationships between cultures through some structuralist thinkers I have been exposed to in graduate school. I put this tradition forward as a place to begin if our objective is towards a more engaged anthropology that works on relationships between cultures.

CHAPTER ONE: Methodology

Introduction

As discussed in my introduction, my motivation for investigating this topic arises from a feeling of responsibility to learn about and bring into realization the shared terms of the Manitoulin Island treaties. To this end, I analyze these treaties for the purposes of discerning the shared agreements. The focus of this chapter is the methodology I employ to achieve this. I discuss the rationale behind this approach, as well as how it differs from some of the other ways treaties are interpreted. I begin with a discussion of the spirit and intent of treaties, as well as some of the history that surrounds our early relations with Indigenous peoples. The methodology I employ for analyzing historical treaties has been developed by Dr. Michael Asch.

Spirit and Intent of Treaty

This approach for treaty interpretation has been directly informed by the spirit and intent of the historical treaties. This spirit and intent can best be described as the formulation of ethical agreements for the purposes of living together on the land peacefully and responsibly (Simpson 2007; Venne 2002). In the traditions of Indigenous peoples, treaty is about composing an agreement which instructs one in responsible living (Cardinal, H. And W. Hilderbrandt 2000; Venne 2002, 2007). It is expressive of a relationship which connects one to the land, the animals, the people, and to other Indigenous nations (Simpson 2007; Venne 2002). At the heart of the treaty relationship is a concern for future generations. Leanne Simpson explains the ethos that underpinned early treaty relations:

Our ancestors knew that maintaining good relationships as individuals, in families, in clans, and in our nation and with other Indigenous nations and confederacies was the basis for lasting peace. This was the foundation of a set of ethics, values, and practices known as Bimaadiziwin or “living the good life.” (32)

In this way, treaty provides a charter for how to live in all relations; it forms the basis of one's ethics and gives rise to a set of “rights and responsibilities” (Simpson: 32). It emerges from a connection to the sacred. Sharon Venne (2007) states: “We have a relationship with our Creator based on a legal system designed to protect and honor the land” (Venne 2007). In this way, treaty is a sacred and enduring contract, binding two parties through mutual obligation.

The tradition of treaty-making is well established in Indigenous societies (Cardinal, H. And Hilderbrandt 2000; Simpson 2007, RCAP 1996; Venne 2002, 2007). Indigenous peoples have long been engaged in a complex political system of treaty relations with other Indigenous nations. When Europeans came to the land, they were treated in a similar manner (RCAP 1996). With our arrival, it was deemed essential to work out contracts which would ensure that Indigenous and non-Indigenous societies could live peacefully together in a responsible manner. Europeans had no land base (Miller 2009: 95). The general feeling communicated to the Indigenous peoples was that we were a people who needed their sympathy and guidance. For example, Indian Affairs William Claus said to the Ojibwa at Port Hope: “You must perceive the number of your Great Father [sic] children about here have no home, & out of pity for them, he wishes to acquire Land to give to them” (34 Ontario Reports (2d) 1818). We were newcomers in another people's land and thus, required their permission to stay. Cree Harold Johnson speaks to this point:

When your ancestors came to this territory, Kiciwamanawak, our law applied. When your ancestors asked to share this territory, it was in accordance with them. It was by the law of the Creator that they had the authority to enter a treaty. Referring to the intersection of families, territory, and treaties, Johnson states: when your family arrived here, Kiciwamanawak, we expected that you would join the families already here, and in time, learn to live like us. No one thought you would try to take everything for yourselves, and that we would have to beg for leftovers. We thought we would live as before, and that you would share your technology with us. We thought that maybe, if you watched how we lived, you might learn how to live in balance in this territory. The treaties that gave your family the right to occupy this territory were also the opportunity for you to learn how to live in this territory. (Simpson 2007: 30)

These words represent a very different understanding of early contact between the two cultures. The relationship articulated here was one of sharing and upholding of differences. We were to learn from each other. We knew our position in the structure of the relationship. We were newcomers who had the responsibility to learn the ways of the world we were stepping into.

In coming to this territory, we recognized Indigenous title to the land (Surtees 1969; RCAP 1996; Miller 2009). Our early relations are testament to this. During this time, we were dependent on the Indigenous peoples for the necessities of military and trade, and thus, took the time to learn their ways and protocol (Leighton 1975; Miller 2009; Surtees 1969). We recognized the necessity of fitting into an already established system of kin networks and trade alliances and learned how to maneuver within their system. The words of John Bridgar of the Hudson's Bay Company illustrate this notion of making ourselves intelligible to the Indigenous peoples. In this quotation in 1682, he is addressing his employees in what direction to take with the Indigenous peoples.

There is another thing which we thinke of greate Moment and therefore recommend to your particular care and that is that you

Endeavor to make such Contracts with the Natives for the River in & above Port Nelson as may in future times ascertain to us a right & property therein and the Sole Liberty of trade & Commerce there, and to make Leagues of friendship & peaceable Cohabitation with such Ceremonies as you shall finde tobee most Sacred and Obligatory amongst them. (E.E. Rich 1948)

The following description of Crown representative Sir William Johnson is also illustrative of our ability to grasp the ways of the Indigenous peoples: “[H]e was adept at couching British policy in terms attractive to the Iroquois” (Miller 2009: 42). Johnson was skilled in lavish oratory, gift giving, and wampum deployment in both his commercial dealings and his diplomacy. Cadwallader Colden, lieutenant-governor of New York, stated the following of Johnson with respect to a 1747 council:

Johnson was defatigable among the Mohawks; he dressed himself after the Indian Manner, made frequent Dances, according to their Custom when they incite to War, and used all the means he could think of, at a Considerable Expence...in order to engage them heartily in War against Canada. The skills exercised by men such as...Johnson in their dealings with First Nations illustrated that success in forest diplomacy required adaptation to Aboriginal rituals and behaviour. (Colden 1727: 163)

The relationship established during this period is often termed the “fundamental relationship” (Scott, D.C. 1914; Surtees 1966). In many ways, this is a remarkable period in our history. It was a treaty relationship in the sense that it was a mutually beneficial relationship between two sovereigns. We recognized that our well-being hinged upon our knowledge of and participation in the Indigenous system, and we took the time to learn and understand their ways. This was an acknowledgment of Indigenous underlying title to the land (Miller 2009; RCAP 1996;).

The Treaty of Niagara/The Royal Proclamation

In congruence with our recognition of Indigenous underlying title, we established laws for ourselves which ensured our just and fair settlement (Surtees 1966; RCAP 1996; Miller 2009; Borrows 1997). We entered agreements and signed treaties with Indigenous peoples for this purpose. The Royal Proclamation/Treaty of Niagara of 1763 is regarded as one of the most significant of these agreements because it set the precedent for subsequent treaties (Borrows 1997; RCAP 1996). It was drafted to ensure peaceful relations upon the conclusion of the Seven Years War of 1756-1763. (Borrows 1997). Negotiations commenced at a meeting held between First Nations and Crown representatives. Indigenous peoples traveled large distances from across the Great Lakes and surrounding region to attend. The treaty vowed to protect Indigenous lands from settler encroachment; asserting that First Nations lands and resources were not to be interfered with without approval (Borrows 1997; RCAP 1996). J.R. Miller (2009) explains:

Britain regulated access to First Nations lands by recognizing that First Nations who associated with Britain had some form of territorial rights, and prohibiting anyone but the Crown and its representatives from negotiating with First Nations to their land. The proclamation declared that only the Crown could negotiate for the access to First Nations' lands, and its representatives had to do so at public meetings called for that purpose. Britain was attempting to prevent the fraudulent taking of land. In this way, the Royal Proclamation established just protocol for negotiating with First Nations on land issues. (70)

Though the Royal Proclamation is often considered by the British Crown to be the official treaty, it is often noted that this representation does not capture the agreement as it was negotiated (Borrows 1994: 38-65; 1997). Many Indigenous peoples and settlers

regard the Treaty of Niagara, completed in 1763, and best described as the oral understandings of the Royal Proclamation, to be more representative of the relationship established. A focus on this agreement yields a more accurate depiction of the shared terms because it attends to the symbolic and oral forms through which the treaty was also recorded and expressed (Borrows 1994; 1997). For example, the relationship envisioned at the Treaty of Niagara was captured in the wampum belt which was exchanged there. This belt acted as a symbolic communicator of the distinction of Indigenous and settler societies and their relationship of peaceful coexistence through non-interference (Borrows 1997: 164). The belt shows two separate rows representing two canoes going down a river. One canoe is for the Indigenous people and one is for the non-Indigenous. The two canoes are “travelling” down the same river, but each in accordance with its own ways. As Robert A. Williams Jr, an Indigenous legal scholar, states:

These two rows will symbolize two paths or two vessels, travelling down the same river together. One, a birch bark canoe, will be for the Indian people, their laws, their customs and their ways. The other, a ship, will be for the white people and their laws, their customs and their ways. We shall each travel the river together, side by side, but in our own boat. Neither of us will try to steer the other's vessel. (Williams 1986: 291)

The story of the wampum – as it was evoked in the Royal Proclamation – reveals an imperative placed by colonial officials on putting the treaty terms in the Indigenous peoples' cultural logics. It is a concrete demonstration of cultural commensurability. On this point, our negotiator, Sir William Johnson asserted:

..[A]t this treaty...we should tie them down (in the Peace) according to their own forms of which they take the most notice, for example, by exchanging a very large belt with some remarkable and intelligible figures thereon. Expressive of the occasion which should always be shown to remind them of their promises. (Flick 1925: 328)

In this sense, our negotiator was striving to make the British intelligible to the Indigenous peoples. The wampum belt reveals a relationship of mutual obligation and responsibility. Upon exchange of the wampum, the words were uttered: “If you should ever require my assistance, send this Belt, and my hand will be immediately stretched forth to assist you” (Borrows 1997: 164). This statement stands as proof of the Crown's obligations in its future relations with First Nations, as the Crown placed itself in a position of ensuring their welfare. We assumed the responsibility of taking care of them.

When read together, the Royal Proclamation and Treaty of Niagara stand as unequivocal evidence of First Nations sovereignty. Gift giving, kinship terminology, ceremony, and other “diplomatic customs” (Borrows 1994: 44) intimated to the Indigenous peoples, in their own language, that this was an enduring agreement that was to secure, for both parties, a peaceful means for living together on the land. Our own negotiator strongly asserted that the treaty did not, in any way, “bring First Nations under subjection or subordination” (Borrows 1994: 64). Johnson stated:

...I am well convinced...that they can not be brought under our laws, for some Centuries, neither have they any word which can convey the most distant idea of subjection, and it should be fully explained to them, and the nature of subordination punishment ettc ;sic;, defined, it might produce infinite harm... (C. Flick 1925, in Borrows 1994: 58)

Thus, recognition of Indigenous sovereignty was an underlying principle of the agreement. Our own negotiator emphasized this.

Treaty As Our Charter

From an elucidation of the spirit and intent of the Treaty of Niagara and subsequent historic treaties, it is clear that our legitimate presence upon the land depends

upon the permission of the Indigenous peoples (Asch, N.d; Royal Commission on Aboriginal Peoples 1996). The words of the Indigenous peoples are expressive of this statement. For example, in speaking to us about Nishnaabeg's expectations in treaties with the Crown, Leanne Simpson (2009) states:

According to our prophecies, the Nishnaabeg knew a “light-skinned” race was coming to their territory. They expected to have to share their territory. They expected Gdoo-naaganiaa would be taken care of so that their way of life could continue for the generations to come. They expected respect for their government, their sovereignty, and their nation. They expected a relationship of peace, mutual respect, and mutual benefit, and these were the same expectations the Nishnaabeg carried with them into the colonial period. Indeed, these are the expectations we carry with us into meetings with settler governments today. (38)

Along a similar vein, Chief Albert Levi emphasizes our implication in a treaty relationship. He states: “This is our land as promised by your laws. Treaties are the law” (RCAP 1996: Vol 2). In this sense, treaty is a shared agreement. It revolves around a common project of caring for the land and maintaining peaceful relations. Treaties were not agreements of assimilation; rather, they articulated a common project wherein both parties preserved control over their own lives while maintaining peaceful and respectful relations. The notion of land cession is obsolete in this definition; historical treaties were about sharing the land (Asch, N.d.; RCAP).

All subsequent historic treaties were negotiated in a manner consistent with the Royal Proclamation (Borrows 1997, Miller 2009). This was our policy; the laws we set for ourselves. Whenever the Treaty of Niagara and associated wampum belt were evoked, the relationship of two sovereign societies was given expression. It was therefore a central factor in the oral understandings of the treaties (Borrows 1997). In this regard it must also be stated that although our commissioners may not have always embodied the

frame of mind of the Treaty of Niagara, insofar as we conceived of Indigenous peoples as sovereign entities holding underlying title, we articulated a policy that was consistent with this view (Asch N.d.). In this way, our presentation of the treaty to the Indigenous peoples was in the spirit of the Treaty of Niagara. The importance of this emphasis on the presentation of the treaty to the Indigenous peoples will be made clear soon.

The understanding of treaty as an honourable agreement meant to ensure our legitimate presence is the mindset which is brought into the methodology I will employ in my interpretation of the Manitoulin Island treaties. Before discussing the logistics of this method, I explore the main principles for interpreting treaties set out by Canadian law. Michael Asch's methodology builds upon these principles.

Court Interpretation

First and foremost, our courts assert that the Crown's honour is always at stake in any reading of the historical treaties (RCAP 1966: Vol 2). Therefore, we must give the treaties a fair reading that attends to contextual factors and avoids a strict legal reading. As a statement from *R v. Taylor and Williams* (1982) puts it: “In approaching the terms of a treaty...the honour of the Crown is always involved and no appearance of 'sharp dealing' should be sanctioned.” This position is echoed in *Nowegijick* (1983): “...[T]reaties and statues relating to Indians should be liberally construed and doubtful expressions resolved in favour of the Indians.” Thus, the treaties must be interpreted in the manner they would have been presumed to be understood by the Indigenous peoples at that time. It is clear from reading Indigenous statements on the treaties that First Nations believed they were treating with honest people who would adhere to the

agreement. Therefore, we need to assume that our commissioners were always acting truthfully, as this was the environment in which the agreements were negotiated (Asch N.d.).

Consistent with this principle of a “broad and liberal” interpretation, our authorities agree that we must attend to cultural and language differences, as well as context (RCAP 1996: Vol 2). Relying solely upon the written text of the treaty in our interpretation is recognized as inept for the following two reasons. Firstly, the inaccuracy of the written text is widely documented (RCAP). Secondly, the written text is recognized as “one piece of evidence to be considered with others” (RCAP). Overwhelmingly, our courts accept that the agreement was that which occurred orally.

This is conveyed in a statement from the Royal Commission on Aboriginal Peoples:

Looked at from a purely commonsense perspective, for the Indian parties who did not have the ability to read and write, the real treaty was very likely the oral agreement. The paper document may have been perceived as having the same importance of the Crown's representations as the ceremonial exchanges of wampum and the smoking of tobacco (to signify the solemnity and finality of the agreement) had to the Indian parties; but the legal document could not have been considered the agreement itself. (Vol 2)

In other words, the position our courts take is that if we are to commit to a “broad, liberal interpretation,” we cannot rely upon the written document (RCAP: Vol 2). This does not mean that the written text does not contain accuracies, or is solely representative of the Crown's position; rather, it means that it cannot be understood as a complete account of the treaty. Therefore, in our interpretive strategies, we must look to other accounts of the treaty in order to attain a complete picture. These are often found in the Indigenous understandings of the treaty, transcripts of the negotiations, colonial correspondences and accounts from third parties.

“Cross-cultural Process of Treaty”

Treaty is seen as similar to a contract by our courts in that it requires the “consent” or “meeting of minds” of both parties in order to be considered legitimate (RCAP 1996: Vol 2). For our courts, this has presented a problem. It seems as though the “cross-cultural process of treaty” is perceived as an obstacle to the formation of a shared agreement. This argument is expressed below.

If the Indian treaties were contracts, conventional legal analysis might indicate that many of them are void because of the absence of *consensus ad idem*....The basic question we posed still lingers: what if there was no agreement at all? One party thought it was purchasing land; the other thought it was agreeing to share its territory. This goes beyond the limits of legal analysis and into the grey area of contract between two alien societies entering treaty, signifying something very important to both of them, but perhaps something very different to each of them. (RCAP 1996)

In my understanding, this perspective is an infringement upon the historic treaties.

Historic treaties are clear examples of cultural commensurability. They demonstrate that despite cultural differences – which are seen as unbridgeable in the above depiction – we worked hard to work out an agreement that was understood by both parties. The argument that “culture” prevents understanding is a dangerous one (Asch, N.d.). Its effect is to render the historical treaties null. If shared understandings never occurred, we could not have had a treaty.

Methodological Approach Employed in the Analyses of the Manitoulin Island

Treaties

In the strategy I employ for interpreting the Manitoulin Island treaties of 1836 (Treaty 45) and 1862, cultural commensurability - best described as the existence of

shared understandings - is taken to be a given. In line with Asch's methodology, I strive to provide an interpretation of the treaty that comes as close as possible to describing the agreement, as it was negotiated. I aim to discern the “common intention.”

In the methodology developed by Michael Asch, the Indigenous understandings of the treaty are placed at the fore. Written statements from settler society cannot be relied upon as representative of the shared terms for reasons discussed above regarding their partiality and inaccuracies. Therefore, for a more accurate depiction of the relationship established, we must rely upon authoritative statements from the Indigenous peoples. In the specific case of my research on Treaty 45, I compose a statement based upon a documentary created by the Ojibwe Cultural Foundation. I also draw from two overlapping pieces from John Borrows: “Negotiating Treaties and Land Claims: The Impact of Diversity Within First Nations Property Interests” (1992); and “Negotiating the Law: Treaties and Traditions in Manitoulin Island” (1994). As well, I rely upon a piece by historian Cecil King (1996) entitled “The Anishnabek Go Home.” With respect to the Treaty of 1862, I draw upon protests and statements written by the Indigenous communities following the treaty in my statement on the Indigenous understandings.

The Indigenous understandings are used as the foundation to begin interpretation. The next step is to look for confirmation of the Indigenous understandings in materials originating in settler society. This is a necessary step because we cannot rely solely upon the oral understandings. There were two parties involved in the treaty process, so we must consider both. Additionally, while the Indigenous understandings reveal the shared intent of the treaty, they do not always provide a means for evaluating the details of the agreement. The written terms are useful for this purpose. In the case of Treaty 45,

confirmation of the Indigenous claims is sought in the written text of the treaty, as well as in correspondences between our Commissioner Sir Francis Bond Head and his superior Lord Glenelg. These correspondences are found in the *British Parliamentary Papers, volume 12, Correspondences, Returns and other Papers relating to Canada and to the Indian Problem Therein, 1839*. With respect to the Treaty of 1862, I draw from a transcript of the treaty negotiations recorded by Jesuit missionary France Chrone located in a collection entitled *Letters from Manitoulin*, as well as the written terms.

As Michael Asch (N.d.) points out, another significant factor that figures into this methodology that we must attend to is the breakdown of our representation. It must be noted that there were two entities representing the Crown. One was the Commissioner who engaged in actual conversation with the Indigenous peoples, and the other was the Crown who served as a figurehead and was absent for the negotiations. Our commissioners represent themselves as extensions of the Crown; as carrying their wishes, and acting in their behalf. Based on this distinction, the understanding follows that we may find discrepancies between the treaty; as it was negotiated on a candid level between the Commissioner and the Indigenous peoples, and the account that was relayed from the Commissioner to his authority in England. From this distinction, Asch concludes that the exchange between the Commissioner and the Indigenous peoples will be better representative of the shared agreement, because it involved direct communication with the Indigenous peoples. Therefore, in my interpretation, this exchange is given more weight in terms of representing the shared terms.

To conclude, the methodology I employ begins with the Indigenous accounts of the treaty. In this sense, it parallels our courts' commitment to a "broad and liberal

interpretation.” It is believed that this strategy – through its emphasis on the direct exchanges between the Indigenous peoples and the Crown - will yield a more accurate picture of the shared understandings inherent in the historical treaties.

How This Interpretive Methodology Differs From Others

The interpretation of treaties put forward by Michael Asch (N.d.) differs greatly from other interpretations in that it conceives of our representatives' conduct as honourable. This position seems to run counter to logic given our subsequent actions of lying and breaking promises. Crown policy towards Indigenous peoples demonstrates that we had ulterior motives (Surtees 1966); our representatives' chief objective was not to establish an honourable relationship, but to obtain legal consent in gaining access to lands. This position also seems illogical given that when we negotiated these treaties, we often presupposed the assimilation of Indigenous peoples into “Canada.” Treaties, in this framework, are thus read as evidence of our superiority; as shameful instances in our history, and as “land surrender agreements” (RCAP 1996: Vol 12). However, as Asch explains, and I will show here, what we wrote down and how we acted most frequently differed greatly from what we promised when the treaties were negotiated. Therefore, to privilege our actions over our word is to delegitimize the terms upon which we were granted permission to settle. In choosing to employ this interpretive strategy, we are choosing to view the historical treaties as the basis for a just relationship.

Interpretive methods that focus on the colonial accounts of the treaties (RCAP: Vol 12), diminish their spirit and intent. For example, if we begin with the written terms, we are left with the impression that First Nations surrendered their land and became

subjects of the Crown. Clearly, this is an affront to the relationship established with the treaties. Our partners – the Indigenous peoples – did not agree to this. They continually contend that the treaties were about sharing the land and living responsibly; that they were the means through which we legitimated our presence. This view however, is concealed when we begin our interpretation with accounts of the treaty coming from colonial society (Asch, N.d).

An additional way in which privileging of the written record diminishes the spirit of the intent of the historical treaties is that it encourages the researcher to view the agreement as constituted by two different understandings: Indigenous and non-Indigenous (RCAP: Vol 12). This is predominantly because the shared terms are not reflected in the written accounts. Here, cultural difference is envisioned as an impasse to reaching shared understandings. Miscommunication and mistranslation are to blame for our inability to honour our treaty obligations, not our political power to evade our responsibility (Asch, N.d.). If there were no shared understandings, there could not have been an agreement. As in the situation above, the treaty is erased.

The interpretive strategy proposed by Michael Asch (N.d.) takes a different perspective in that it understands these treaties as shared agreements that were negotiated honourably. It is evident from oral statements that the Indigenous peoples viewed our representatives' actions as honourable. In signing these agreements, they believed all obligations would be fulfilled. This is the way it was understood at the time of negotiation. We need to take this perspective. If we do not, we deny the treaty relationship.

As noted above, this interpretive strategy assumes that our representatives acted

honourably; that we understood the obligations made during the negotiations, intended to fulfill them, and recognized Indigenous peoples as sovereigns (Asch, N.d.). If we take this position, we create the possibility for moving out of a colonial relationship. If we believe that we came to a common understanding during these treaties, we are locked into our obligations. This puts us in the best position for drawing upon treaties as a foundation for ethical relations in our contemporary relations. It thwarts the view that treaties were instruments in taking First Nations' lands, in that it takes as a given our intent of sharing the land and recognizing Indigenous underlying title. Treaties, when read in this light, are inspirational. We recognized First Nations as sovereigns and worked together on an agreement which enabled us to live together. This however, is not the end of our story. Our next step is to fulfill the obligations made during the treaties (Asch, N.d.). Such is the objective of this thesis; to discern the obligations we made in one particular region – Manitoulin Island – for the purposes of bringing these terms into our contemporary relations.

CHAPTER TWO – CROWN POLICY AND HISTORY

This chapter covers Crown policy and history surrounding the treaties of 1836 (Treaty 45) and 1862. I begin with an explanation of Crown motivation for seeking Treaty 45. I discuss the “civilization” policy introduced in 1828; the ideologies that supported it, as well as how its supporters imagined it would take hold. I then discuss how the location of Manitoulin Island factored into the policy. Following this, I turn to an elucidation of Treaty 45 and Treaty 45 ½. I cover Commissioner Sir Francis Bond Head's ideology and official policy, as well as the events that surrounded negotiations. I then discuss the Treaty of 1862. I address the events of the negotiations, as well as the reaction that the treaty sparked. I end with a brief summary of the terms of the treaty.

Crown Policy – Treaty 45

Impetus for the Manitoulin Island Treaty of 1836 (Treaty 45) emerged from a new direction in British Indian policy. Up to the early part of the 19th Century, British relations with First Nations had been dictated by the benefits wrought from military and trade alliances (Surtees 1996; Bleasdale 1974; Miller 2009). In order to function in the Indigenous peoples' territory and gain their allegiance, we needed to fit into their system of relations. To trade with them, we needed to know their territories and the protocol they followed for engaging in political relations. The same was true of military alliances. We learned the existing alliances and “rivalries” between First Nations (Miller 2009: 34); and we came to understand the importance of gift giving as a means for expressing appreciation of military partnerships, sealing trade agreements, and establishing links of peace and good spirit (Borrows 1992; Miller 2009; White 1982).

This period of mutually beneficial relations began to change in 1828 (Surtees 1966). At this time, a new direction was imagined which can best be defined as “acculturation and assimilation” (Patterson, 1972: 89). It was a benevolent policy undergirded by the ideological argument that the Indigenous peoples were “savages,” who needed our help in progressing towards “civilization” (Surtees 1966: 87). Reasons for pursuing this new policy are outlined here.

Firstly, First Nations were no longer needed as military allies - at least not to the extent that they once were (Surtees 1966: 89). Sir James Kempt expresses this argument:

..It appears to me that the course which had hitherto been taken in dealing with these people, has had reference to the advantage which might be derived from their friendship in times of war, rather *than to any settled purpose of gradually reclaiming them from a state of barbarism and of introducing amongst them the industrious and peaceful habits of civilized life.* (P.A.C. R.G. 10, vol 116. Murray to Kempt Jan 25, 1830 in Surtees)

Secondly, the Crown wished to decrease expenses through the annihilation of expensive practices tied to early relations for a more “permanent” relationship of “Benefit and Utility” (Scott 1914). The portion of the funds once allocated to presents was to be channeled towards expenses tied to the “civilization project” (Scott 1914, Surtees 1966).

A third reason for this change in policy was that Indigenous peoples were beginning to be regarded as hindrances to progress. Surtees (1966) explains this argument:

As the settler moved into the wilderness he did not look upon the Indian as a potential ally, nor did he require Indian support. More often he considered the Indians as a retarding influence and a nuisance for they seldom used their land – often good arable land – for agriculture, but continued to live by hunting and fishing. (88)

On a theoretical level, this common attitude was underscored by the belief – stemming

from Enlightenment philosophy – that land belonged only to agriculturalists. In the *Law of Nations*, Vattel stated of Indigenous peoples:

Their unsettled habitation in those immense regions, cannot be accounted a true and legal possession, and the people of Europe...finding land of which the Savages stood in no particular need and of which they made no actual and constant use, were lawfully entitled to take possession of it...” (Vattel in “Report of the Affairs of the Indians in Canada, J.L.A.C. 1844-45, Appendix E.E.E., Section 1. “History of the Relations between the Government and the Indians”).

A final influence on this policy change came from humanitarian groups, such as the Aboriginal Protection's Society (an organization to which I will return later), who perceived of Indigenous peoples as “noble savages' who should be saved”; rather than “warlike barbarian[s] or social nuisance[s]” (Surtees 1966: 90). This was a position first sparked by missionaries. Individuals in this tradition advocated for the humane treatment of Indigenous peoples and believed in their capacity to “progress.” Clearly, this conception fit closely with the ideology of “civilization.”

The main proponents of the “civilization” policy were Sir George Murray (Lieutenant Governor in 1815) , Sir James Kempt (secretary of state) and Sir John Colborne (Scott 1914; Surtees 1966). The translation of this policy into specific practice is articulated in the following quotation by Kempt:

- 1st. To collect the Indians in considerable numbers, and settle them in villages with a due portion of land for their cultivation and support.
- 2nd. To make such provision for their religious improvement, education, and instruction in husbandry as circumstances may from time to time require.
- 3rd. To afford them such assistance in building houses; rations; and in procuring such seed and their agricultural implements as may be necessary, commuting when practicable a portion of their presents for the latter (P.A.C. R.G. 10, vol. 5. Kempt to Colbourne, May 16,

1829)

Settlement projects were to commence in accordance with this policy.

The first realization of this policy was a settlement on Credit River. At this location, “[t]wo hundred people were in residence ; twenty-seven houses had been built, with a church and a house for the-missionary ; cattle and horses had been acquired” (Scott 1914: 2). The settlement was intended for the Mississauga Indians. It was followed by similar projects at “Coldwater and the Narrows of Lake Simcoe, on the River Thames, and on Lake St Clair” (Scott 1914: 2). The Indigenous peoples would be instructed in agriculture, industry and English education. They would learn the benefits of a “settled, civilized, Christian life” (Surtees 1966: 93). It must be noted that this official policy of “civilization” was merely the view of the Crown. Indigenous peoples did not agree that this was the objective of these settlement projects. As is shown in speeches from our representatives to the Indigenous peoples, these projects were presented as voluntary, as an opportunity to learn the ways of the settlers. This perspective of sharing and learning from each other is hidden in most portrayals of the “civilization” policy. In this sense, when we consider the perspectives of both partners, this was not a policy of assimilation.

Overseers of these projects - most notably Sir John Colborne - remarked upon their effectiveness; and plans were drawn to set up a similar project on Manitoulin Island with the purpose of organizing the settlement of those Indigenous peoples in the region of Lake Huron (Surtees 1966: 93-94). Colborne's vision for Manitoulin Island is conveyed in the following letter to Lord Glenelg:

The Manitoulin, an Island on the North Side of Lake Huron, in Extent about 100 Miles by Thirty, appears to be the most suitable for the Purpose. Its immediate Vicinity to the present Lands of the

Indians will induce them to make the Change without Difficulty. The Land is good, it is well watered by Rivers and interior Lakes, and its numerous Bays abound in Fish. All these are important Considerations, for the Indians cannot be expected all at once to change his Habits of Life. This must, with every Nation, be a lingering Operation. We can easily conceive how long a Time it would take White Man to change his Mode of Life to that of the Indian, to acquire the Arts of Canoe and Wigwam Building, to fish and hunt, and above all to put up with the Abstinence from Food to which the Hunter is continually exposed. The Indian has, if possible, greater Difficulty to contend with. He had formerly only to walk out of his Wigwam to obtain his Food; as a Farmer he must bestow great Labour in cultivating the Ground and sowing his Seed, and has then Six Months to wait for the Produce. His Civilization must therefore be gradual, and fishing must be continued for a few Years. On this Account the Situation is an important one. (No. 30 Sir J. Colborne to Lord Glenelg, 22d Jan, 1836)

Thus, Indigenous peoples were to be separated and protected from settlers; taught the white ways gently and gradually, until they were ready to join settler society. In line with the attitude of benevolence professed by humanitarian organizations, this was not to be an enforced policy.

To the Indigenous peoples, the policy was conveyed in the following speech spoken by Lieutenant-Colonel Mackey who was being directed by Colborne. The Indigenous peoples were addressed as the Great Father's children.

I am aware that you cannot all change your present mode of life immediately, but some of you have it in your power, and others will, in a short time, find it to their interest to join the settlement. You are all, without exception, invited. The Ottawas have a large island (the Great Maniyon), near Penetanguishene, on which the land is good, and where there is abundance of fish. Should they wish to join the new settlement, their Father would be happy to hear of their occupying and settling themselves on it . (July 1829 from Mackey, In Scott 1917: 3)

It is important to note that there is nothing in this speech that suggests a plan to replace

Indigenous ways of life with settlement. Rather, this was an invitation or offer that some might find appealing. In other parts of the speech, Mackey promised to provide the Indigenous peoples with agricultural supplies, livestock, houses and education. If they chose to inhabit the island, they would be well taken care of by their “Great Father.”

Despite the enthusiasm of the “civilization” policy's proponents, there was notable opposition among a portion of the settler community. Sir Francis Bond Head (Colborne's successor) believed that this endeavour was a tremendous misuse of Crown funds (No. 32. Sir F. B. Head to Lord Glenelg 20th Nov. 1836). He believed that contact between the British and the Indigenous peoples would always be antagonistic and ultimately damaging to First Nations. Indigenous peoples, he claimed, were simply incapable of progress. This argument was formulated during a tour of Upper Canada of which the purpose was to become familiar with the “conditions under which the Indians were living” (Scott 1917: 4-5). Based on these experiences, Bond Head composed a memorandum which was sent to his superior Lord Glenelg (No. 32. Sir F.B. Head to Lord Glenelg, 20th Nov. 1836). He related his pessimism regarding the feasibility and projected success of a project which would seek to replace the traditional lifestyle of the Indigenous peoples in the area with agricultural activity. He outlined three reasons why such a policy would fail:

1. That an Attempt to make Farmers of the Red Men had been, generally speaking, a complete Failure;
2. That congregating them for the Purpose of Civilization has implanted many 'more Vices than it has eradicated ; and, consequently,
3. That the greatest Kindness we can perform toward these intelligent, simple-minded People, is to remove and fortify them as much as possible from all communication with the Whites.

Also conveyed in the words of Bond Head was a position of hopelessness with respect to the possibility of a healthy relationship between settlers and First Nations. As he states in later parts of the memorandum:

So long as we were obtaining Possession of their Country by open Violence, the fatal Result of the unequal Contest was but too easily understood ; but now that we have succeeded in exterminating their Race from vast Regions of Land, where nothing in the present Day remains of the poor Indian but the unnoticed Bones of his Ancestors, it seems inexplicable how it should happen, that even where the Race barely lingers in existence, it should still continue to wither, droop, and vanish before us like Grass in 'the Progress of the Forest in Flames. 'The Red Men,' lately exclaimed a celebrated Miami Cacique, 'are melting like Snow before the Sun.'

Whenever and Wherever the Two Races come into contact with each other it is sure to prove fatal to the Red Man...if we attempt to christianize the Indians, and for that sacred Object congregate them in Villages of substantial Log-houses, lovely and beautiful as such a Theory appears, it is an undeniable Fact, to which unhesitatingly I add my humble Testimony, that as soon as the Hunting Season commences, the Men (from warm Clothes and warm housing having lost their Hardihood) perish...In short, our Philanthropy, like our Friendship, has failed in its Professions ; producing Deaths by Consumption, it has more than decimated its Followers ; and under the pretence of eradicating from the Female Heart the Errors of a Pagan's Creed, it has implanted in their Stead the Germs of Christian Guilt.

Thus, Bond Head recommended that First Nations be allocated land where they could “continue their traditional pursuits and lifestyle.” In some senses, Bond Head's scheme can be interpreted as carrying humanitarian motives, as he acknowledged the negative impact of settler encroachment. However, his rationale for negotiating the land arrangements suited the political purpose of opening up land for European settlement (Surtees 1986). In the same memorandum mentioned above, Bond Head intimates this

position: “We have only to bear patiently with them for a short Time, and with a few Exceptions, principally Half-castes, their unhappy Race, beyond our Power of Redemption, will be extinct.”

Manitoulin Island was to become the realization of this ideological position of isolation (Surtees 1966; Surtees 1986; Wightman 1982). Bond Head envisioned a place where all Indigenous peoples could go and live, isolated from settler contact. Manitoulin Island was conceived of as an optimal location for this purpose because its rocky landscape was undesirable for the agricultural pursuits of whites (Surtees 1986). To make possible his plan, Bond Head needed to negotiate with the Indigenous communities who held title to the island – the Ottawas and Chippewas, also referred to as the Ojibwe. To this end, he moved the expected annual gift distribution to Manitoulin Island for the purposes of discussing with the Ottawas and Chippewas of Manitoulin Island, as well as the Ojibwas (Sauking's) of the Saugeen Peninsula, the making of a treaty (Surtees 1986). This treaty was two parted and would become known officially as Treaty 45 and Treaty 45 ½. The terms of these treaties will be discussed briefly below. Treaty 45 will be explored in detail in the next chapter.

During negotiations of Treaty 45, it was proposed that the Ottawas and Chippewas relinquish title to the Manitoulin Island chain to allow for the migration of the Indigenous peoples of Upper Canada and the northern United States (Surtees 1986). It set up the island as a “refuge” in which the Indians of Upper Canada were expected to come and settle. This treaty was unique in the sense that it was not about working out an arrangement for settlers to move onto the land. To the contrary, it excluded settler activity (Borrows 1992, Surtees 1986).

Treaty 45 ½ (also referred to as the “Saugeen Surrender”) implicated the Ojibwa of the Saugeen Peninsula. This treaty was similar to Treaty 45 in that it established the peninsula in the area north of Owen Sound as Ojibwa land, to the exclusion of settlers (Surtees 1986). The Crown promised to build houses and provide agricultural supplies and instruction. The written account of the treaty stated also that “your Great Father engages for ever to protect for you from the Encroachments of the Whites” (No. 31, Sir F. B. Head to Lord Glenelg, 20th August 1836). Ojibwa title to the peninsula, as well as the Crown's protection are affirmed in the following words from Lord Glenelg:

I beg to suggest the great Importance of Her Majesty's Government reserving a sufficient Tract of Land on what is called the “Saugeeng Territory” as the future Home of all the Canadian Indians, and for any who may come over from the United States to settle in Canada I am of opinion that the Time will come when many of those Tribes located in the Midst of the White Settlements will see the Necessity of forming One general Community, and I know of no Place (unoccupied by the White Population) better calculated for this Purpose than the Saugeeng Territory. The Establishment of Schools of Industry amongst the Indian Tribes are very much needed, and would tend greatly to facilitate their entire Civilization. (No. 27, Lord Glenelg to Sir G. Arthur, 22d Sept, 1838)

The policy of “gradual civilization” through the settlement of Indigenous peoples is evident in this passage. Treaty 45 and Treaty 45 ½ were signed on August 9th, 1836.

The signing of the Manitoulin Island Treaty of 1836 sparked outrage amongst proponents of the “civilization” program (Surtees 1966; Surtees 1986). The Aborigines' Protection Society was one of its most bitter opponents. In their publication: *Report on the Indians of Upper Canada*, they were intensely critical of Sir Francis Bond Head's policy of isolation. The denial of the Indigenous people from good agricultural land in exchange for “23,000 rocks of granite, dignified by the name of the Manitoulin Island,”

was contradictory to the “civilization” policy (Surtees 1986).

The Aborigines' Protection Society and the missionaries (mostly Methodists) that rose in protest of Bond Head's anti-civilization policy had a tremendous effect on British policy towards the Indigenous peoples (Surtees 1966). Though the ideology of these groups was based upon European cultural superiority, in the sense that they believed in the capacity of Indigenous peoples to “progress,” they did attest that Indigenous peoples were equal to settlers in terms of political rights. They recognized Indigenous peoples as “the original Possessors of the Soil” and asserted that they were engaged in a process of “civilization” which only strengthened this title (Aborigines' Protection Society 1829; Surtees 1966). It was on this point they were in stark opposition to Bond Head's policy. A letter from the Memorialists to Lord Glenelg addresses this subject:

They have learnt with Regret from that Address as well as from other Sources that the Territories of the original Possessors of the Soil have been still further reduced by the Concession which they have been persuaded to make of a very large and important Tract of valuable Land. The Tract of Land so ceded is not solely inhabited by wandering and uncivilized Indians, but it comprehends within its Limits a thriving and highly interesting Wesleyan Missionary Settlement, in which Two hundred Indians have embraced Christianity, and applied themselves with Success to the Arts of civilized Life ; Sixty of their Children are receiving regular Instruction in the Missionary School, and it is stated that the Effect of their Example has been such as to induce many neighbouring Indians to join them...It appears to your Memorialists that those Indians who have cleared the Land, ploughed and sowed Fields, and reared Houses, Barns, and Places of Worship, upon it have rendered themselves Possessors of the Soil by a stronger Title than that by which their wandering Brethren have held other Portions of the District as a common Hunting Ground ; and your Memorialists implore that these Indians may not be considered as bound by the Treaty and compelled to remove, but that they may be allowed, and even encouraged, to retain a Portion of Land adequate to the Necessities of the Settlement, with Privileges and Advantages equivalent to those offered to pauper Emigrants from this Country, who have yet to make the Land their own by Labour bestowed

upon it. (To Lord Glenelg, No.1 and No. 2)

In this way, they argued for the complete recognition of the rights of “civilized” Indigenous peoples, on par with those of white settlers. Their appeal to Lord Glenelg asked that the British resume the policy of “civilization”. They asked that he “afford [the Indigenous peoples] his fatherly Protection” (To Lord Glenelg No. 1 and No. 2).

It is also interesting to note that the Memorialists adhered to the story that the British were in this new territory for the well-being of the England's poor. One section of their letter to Lord Glenelg read: “[The Memorialists] are willing to believe that his Object [of this mission] has been to benefit the Poor of England, by obtaining for them a Tract of fertile Land to which they may be induced to emigrate with Advantage” (No.2). For them, this was always a humanitarian endeavour.

A Committee of the Executive Council of Lower Canada also opposed Bond Head's policy with respect to Treaty 45 (Report of a Committee of the Executive Council...respecting the Indian Department, 13 June, 1837). In a report they wrote:

The Committee cannot admit the belief, that in the Order of Providence any race of men are doomed to an exclusion from those advantages of social improvement and advancement which the light of knowledge and of religion has uniformly bestowed on the rest of mankind. In the intellectual or moral condition of the Indian, except as modified by accidental influences, they recognize nothing to unfit him from rising to a level with his brethren of the European race.

Those influences which have operated against him have proceeded from a long and fatal neglect of those who should have watched over his improvement, of the proper means of raising him in the scale of civilization; or rather, he has been the victim of a vicious system positively calculated to depress and degrade him.

The Vices attributed to the Indians as the Result of attempts to civilize them have been none other than have ever been found even in the most savage and uncultivated forms of life. But, even in spite of all the disadvantages inflicted on them, the Indians have not failed to afford sufficient evidence, in various instances, of their capacity for the ordinary

pursuits and arts of life, and of their readiness to enter upon them when opportunity and encouragement was afforded. (Report of a Committee of the Executive Council...respecting the Indian Department, 13 June, 1837)

Opposition to the policies of Sir Francis Bond Head were effective in appealing to Lord Glenelg, and these policies were abandoned in favour of the “civilization” program (Surtees 1966; Surtees 1986). By extension, the Manitoulin Island settlement project was resumed by T.G. Anderson

In the summer of 1838, the project began to take hold with a settlement called Manitowaning. This project was an infringement upon Treaty 45, first, because the British had no “right” to physically be there; and second, because the treaty contained strict non-interference clauses (Borrows 1994: 108). Despite this obvious infringement, the project did appeal to some Indigenous peoples. As Borrows states:

Despite Anderson's egregious defilement of the sacred promises of the Crown, his actions could not continue without eventually some form of cooperation coming from the Anishnabe. The cooperation for Anderson's plan occurred through some Anishnabe people accepting the principles that he was trying to establish. (Borrows 1994: 108)

It is this writer's opinion that this alignment occurred because the project was presented as an opportunity to learn. It was in no way a policy of assimilation in the minds of the Anishnabe. The events discussed below illustrate the natural effects of a policy of possession. The Indigenous peoples of Manitoulin Island were always resistant to a project which would seek to replace their lifestyle with the ways of the settlers. In all periods of the project, the Anishnabe showed a strong adherence to their traditional lifestyle (Borrows 1994: 108-118).

By all accounts, the Manitoulin Island project was a “failure” (Bleasdale 1974;

Borrows 1994: 112-122; Surtees 1986). The Indigenous peoples learned some of the practices associated with settler ways but, it was on their own accord. As historian Ruth Bleasdale stated: “When the Indians did work the fields they worked, rested, ate, slept, drank, and smoked in what Anderson [the project's Superintendent] considered an unsystematic manner” (150). Instead of living at the settlement and learning the trades, Indigenous children left to join their parents in traditional practices. Fishing, hunting, and gathering remained an integral part of their life (Borrows 1994: 122). In addition to this, the Indigenous peoples did not subordinate themselves to the colonial leaders; they often ignored their commands when it was not to their advantage (Borrows 1994: 112). Furthermore, the schools and churches were not well attended, numerous inhabitants left the island, and many of the farms “presented a picture of complete neglect and indifference” (Canada. Report of the Special Commissioner. Sessional Papers, 1858).

Bleasdale (1974) summarizes the reason for the project's downfall:

In the first decade of Manitowaning's existence some Indians entirely abandoned their houses for wigwams on other parts of the island. More disturbing was the 1841 exodus of many Potawatomi who returned to the River St. Clair and some Ojibway who left for Lake Michigan. Over the next two decades, until the termination of the Manitowaning project by the government, the number of new Indians attaching themselves to the settlement could not equal the number who abandoned the benefits of civilization. Secure in the possession of fishing stations, sugar bushes and hunting rounds, the Ojibway of Manitoulin Island had no need of the white man's civilization. Certainly, the white man's houses were warm and the white man's doctor eased the toothache, but it was not necessary to accept everything which the white man offered. Frustrated in the wheat field or the blacksmith's shop, the Indian boy could escape to the forest. Without the immediate pressure of white settlement, the Indian felt no need to settle down in a permanent structure on a rectangular plot. It was the Island which belonged to the Indian, not the land marked off by the Indian agent. (152)

What is clear from this passage is the difference between the policy of “civilization” and the notion of learning about settler ways. The project collapsed because the relationship of sharing and learning from one another was infringed upon.

Local historian Cecil King (1992) makes an associated argument concerning the decimation of the Manitoulin Island project. He focuses on the state of the relationship between First Nations and the Crown and argues that the degradation of Manitowaning was linked up with the colonial government's to provide for the Indigenous peoples in the manner they had specified in Treaty 45 (8-12). First Nations considered the colonial government's failure to uphold treaty obligations – particularly those concerning their welfare – a denial of the relationship. King states: “The Anishnabek decided they had no choice but to abandon Manitowaning when they felt that the sacred covenants between the government and themselves were being broken” (8). The missionaries told a similar story in terms of the neglect of the government. They expressed anger at the government's failure to keep its promise regarding the building of the mill. As well, they showed disdain at the government's actions of “forbid[ing]” the Indigenous peoples from selling the wood they worked so hard to acquire (Letter #34: Chone to Scholastics, p. 189). In this reading, the settlement's “failure” was not because the Indigenous peoples did not adhere to a “civilization” scheme, it was because the colonial government abandoned their obligation of caring for them.

The following anecdote, intimated by Rev. F. O'Meara in 1847, demonstrates First Nations' feelings towards government behaviour (King 1992):

Assignack who have been entrusted by you with the keep of your store during your absence was therefore understood by the Indians to have been left as your substitute, sent for one of the Indians of this place and having gone through the Indian formality of giving

him tobacco preparatory to a talk asked him how much corn he had and being told by the Indian that the corn had been much frost bitten, said that it would always be the case with the Indians here as the land was not good and that they would always be badly off as there was hunting near and therefore if they would take his advice they would look out for some other place to settle as it never could be the desire of the queen that the Indians should starve. (O'Meara to Ironside, November 7, 1847)

This story encapsulates the Indigenous peoples' conceptualization of their relationship with the Queen and the colonial government. Starving – in this story's usage – does not mean the physical state of starvation; but rather the impossibility of living well while the government continued to break promises. As indicated in this story, Indigenous peoples could have lived bountifully in their traditional way, and if this proved to be the better way of living, then the Queen would have approved, for she was the insurer of their well-being. In this narrative, the Queen as a figurehead in the Indigenous peoples' relationship with the Crown stays intact. Their grievances lie with the colonial government, not with her (King: 8-12).

It is clear from a reading of these sources that the Indigenous peoples of Manitoulin Island were okay with learning from the settlers; however, they never agreed to their own assimilation. The official Crown policy of “civilization” did not factor into their vision of Manitowaning. As I have come to understand it, their vision was one in which “civilization” was added on to what they already had. Two different relationships - one of possession and one of sharing - are illuminated here. The concept of discrepancy between the colonial government and Indigenous peoples' expectations will be explored further in my analysis of the Manitoulin Island treaties of 1836 and 1862. First, I discuss the events surrounding the Manitoulin Island Treaty of 1862.

Manitoulin Island Treaty of 1862

In the years approaching 1860, Manitoulin Island was looking increasingly attractive to the colonial government in terms of industrial ventures. Increased immigration and the consequent desire for more land, as well as the development of industry in Toronto and Montreal, prompted authorities to look to Manitoulin Island as a site for settlement (Surtees 1986; Bleasdale 1974; Wightman 1982: 32-33). The government policy of assimilation was being forcefully pursued and provided the ideological legitimation for seeking a land cession. It was believed that the close proximity of whites would benefit the Indigenous peoples of Manitoulin Island (Borrows 1994: 121-123; Surtees 1986; Wightman: 32-33). As well, our government felt less bequeathed to protect the Indigenous peoples from settler immigration (Bleasdale 1974: 157) A report in 1858 read:

We cannot but fear that the day may be approaching when the pressure of the tide of immigration into the country may overpower all the barriers which now fence the Indian possessions, when the demands of the White population for land may become too strong to be successfully withstood, and that the Redman may be deprived of all that still remains to him of his once wide domain. (Journals of Assembly 1858, App. 21, Part III)

By 1861, the Crown had released itself from responsibilities for “Native affairs.”

The subsequent plan was to generate income through the surrender of Indigenous lands. The sale of these lands to settlers would, in turn, pay for the Indigenous reserves (Borrows 1994: 121-122). Clearly, the ethos of assimilation was coming to the fore here. The principle of protection of Indigenous lands established with the Royal Proclamation was beginning to be broken down.

There were some however, who continued to adhere to the notion that

Manitoulin Island should remain exclusively for Indigenous peoples (Wightman 1982: 39). This argument came predominantly from the Jesuits at Wikwemikong who believed in the project and argued that the island was unsuited for white settlement. They advocated for the removal of more “wandering” Indigenous peoples to the island and protested vehemently the presence of white traders. However, their views would have little influence on the objectives of the colonial government. With the recognition that a treaty would be necessary for implementing a settlement plan, the government began seeking negotiations with the Indigenous peoples of Manitoulin Island (Surtees 1986; Wightman 1937: 39).

In order to legitimate negotiations, the colonial government sought to invalidate Treaty 45 (Surtees 1986). To achieve this, they constructed an argument designed to extinguish Indigenous claim to the island. It was based on two conditions. Firstly, that the Crown had assumed that 9,000 Indians would migrate to the Island. Because this did not occur, they asserted that “the Indians had 'not fulfilled their part of the contract' and therefore had invalidated the agreement (Surtees 1986). The government also called upon the phrase in the written account of Treaty 45 that read: “the property (under your Great Father's control) of all Indians whom he shall allow to reside [there].” They argued that this phrase – which indicated the island as in the King's “control” - served as evidence that “the Manitoulin had continued to be vested in the Crown and that the Indians' exclusive occupancy was at official sufferance” (Wightman 1982: 43). Excerpts of the government statement appears below:

You are aware that in the year 1836, the Island on which we are now assembled was the subject of conflicting claims...A compromise was come

to at a Council held at this place, on the 9th of August, between 1,500 of yourselves and your Father, Sir Francis Bond Head, then Governor of Upper Canada, by which the three contending claimants agreed that this Island should be given up for settlement by all Indians, whom the Government might permit to come here.

At that time there were 9,300 Indians, under the protection of your Great Father, who assembled at an appointed place every year in Upper Canada. It was then thought that this large number would make this Island the place of future settlement. If they had done so, and followed your examples in becoming cultivators of the soil. The intention of the Government in settling this Island with Indians would have been carried out.

Unfortunately, however, your people have not availed themselves of the opportunity of collecting, as settlers, upon this Island in a body by whom a large portion of its best soil might be cultivated...

We are instructed to tell you that 25 acres will be secured by a Crown Deed to every head of a family upon this Island...In default of the Indians neglecting to come here and settle this Island, your Great Father deems it equitable to grant the remainder of the land to his white children, of whom, as well as yourselves, it is his duty to take care. (Canada, Sessional Papers Indian Department Report 1863)

The argument presented by the government was a bizarre and fraudulent premise for negating a treaty (Surtees 1986; Borrows 1992: 196-198; King: 12). It was met by vehement opposition on the part of Indigenous peoples and their supporters (Wightman 1982). The following quotation from our government captures the response of the Indigenous peoples to this argument: “When the statement was given in which the wishes of the government were expressed...the Indians without a word of consultation among themselves, at once declared their refusal to acquiesce to the conditions proposed” (Canada. Sessional Papers Indian Department Report 1863).

Despite this obvious opposition, the colonial government pursued negotiations (Borrows 1992; Surtees 1986; Wightman 1982). They ordered a three-day Treaty Council in 1861. Here, First Nations were unanimous in their refusal to enter negotiations and rejected the proposed treaty. The general feeling of the Indigenous peoples is captured in the following quotation from an Odawa chief named E-do-wih-cosh:

You, my English Chiefs, listen to what I say to you this day. I am employed by my superior Chiefs and by my warriors also, to say to you that this land on which we are now, has been the land of our forefathers, on which the great spirit has put them, they kept it till now for us, and it is our duty to keep it for our children and our grandchildren. Would you not think that it would be a great sin to rob our children and grand children of their inheritance?

The treaty of 1836 which you allude to today was not concluded the way you read it now, it was understood by our Chiefs then that this Island was to be exclusively for the Indians. (The Christian Guardian (October 1861) no. 46 at 180. In Borrows 136)

With the deep-seated opposition of the Indigenous peoples noted, the council was dismissed. The Indigenous peoples met together three times following the council, each time confirming their opposition to the proposed treaty (Surtees 1986; Wightman 1982).

The following statement, again uttered by E-do-wish-cosh, intimates eloquently the Indigenous peoples ties to their land and their refusal to part with it.

I am employed by the other Chiefs and warriors to tell you their decision since we last met. They have been thinking of their past life, of the alliance of the three tribes and also of the future. What would become of themselves by and by? They have smoked the pipe together, as their forefathers had done, thinking over old matters. They are the proprietors of the Island, and intend to keep the land for themselves and their friends all over the country who may come here. (The Christian Guardian, October 1861, no. 46 at 180. In Borrows 1994: 137)

Still, the government continued to attempt treaty negotiations. An Order-in-Council was issued and an official treaty council was called in the Fall of 1882. It was headed by William McDougall – Superintendent General of Indian Affairs, and William Spragge – Deputy Superintendent (Surtees 1986; Wightman 1982; 43-46; Borrows 1992: 198-201). During these negotiations, McDougall claimed that white encroachment was inevitable and that the First Nations' best option was to give up their land and “receive some compensation and an assurance of reserves for themselves” (Borrows 1992: 201). He

stated: “My Indian Brothers, I have your answer to my proposition; you are losing your time in useless protests. The Great Chief must have your land, and he will have it” (Christian Guardian 1861, in Borrows 1994: 142). Again, the Indigenous peoples refused.

During the events of the council however, McDougall had noted the diversity and faction apparent in the Indigenous communities of Manitoulin Island. Those located in the middle of the island were more conservative in their opposition to the treaty, while the easternmost community of Wikwemikong was united in its refusal to sign (Wightman 1982: 45-46; Borrows 1992: 201-202). Differing views of white settlement were central in producing this dissent as there were Indigenous peoples on the island who approved of the proximity of whites. Many of those who rejected the treaty did so because they thought it was an unfair deal in terms of land and monetary compensation, not because they opposed settlement (Wightman 1982; Borrows 1992). Also, the commissioners learned that those who most strongly rejected the treaty were having the effect of quieting the “more moderate voices” (Wightman: 46). In reconvening the treaty council, McDougall took advantage of this dissension. He stated that he would enter negotiations solely with the Indigenous communities in the western and central areas of the island. In so doing, McDougall eliminated his strongest opposition – the Wikwemikong. He then reformulated his proposal to include larger reserves and annual payments, so as to make it more appealing; and negotiated a treaty with the above mentioned communities. After negotiating solely with this group, McDougall addressed the Wikwemikong and their position with respect to the new treaty (Borrows 1992, 1994; Surtees 1986; Wightman 1982). The negotiations that transpired will be discussed in Chapter 4.

The negotiation of the Treaty of 1862 sparked outrage amongst Indigenous

peoples and their supporters. Its “illegality” was noted on several counts in a document written by a Jesuit missionary by the last name Carrez (Letter #39, Carrez to Scholastics, Sept 12 1863: 234). First, it was stated that there was no “contract” because negotiations did not occur between two sovereigns; “it was a pupil-tutor relationship.” Second, the treaty was negotiated under severe threat and coercion. Missionary France Chone likened the treaty to “highway robbery.” He stated: “There was no liberty in the discussion; the conditions were imposed by the acquiring party, without even leaving any indication to the other party that it was free to discuss it” (Letter #39, Carrez to Scholastics 234). In addition to these factors, only a minority agreed to sign this treaty, and this minority was acting against the wishes of those they represented. One missionary living at Wikewemikong asserted: “It is a fact. The Honble. Mr McDougall being discountenanced by the first response of the Indians told them – since I cannot treat with the majority I will address myself to some of you only” (Canada. Sessional Papers 1863). Furthermore, many of those in the minority held land in the mainland and therefore, were not sacrificing their own lands and home. Alcohol was also an influential factor in the negotiation of the treaty (Borrows 1992).

Numerous protests were written against the treaty, pointing to the deception and coercive actions during negotiations as evidence of the treaty's “invalidity” (Wightman 1982: 47). For example, the following statement written by Jesuit missionary Augustus Kohler intimates the feelings of betrayal, shock, and injustice that erupted upon news of the treaty:

And when I see those who placed themselves by the Treaty of 1836 under the protection of the British Government, who pledge himself to defend them against the encroachments of the whites asked by their *Guardian* to depart with their land, *when they are*

still in tutelage, a thing against all laws in civilized nations. When I hear of offers the most ridiculous made to these poor children of the forest to cede part of their reserves, and of this miserable island, where you say there are a million acres of arable land, and where you would rather find a million acres of *rocky* and *barren* soil, divided by lakes, one of them nineteen miles long, and that under the pretext that all whites are hunting eagerly for land to cultivate, when according to a statement given in the DAILY GLOBE, Monday May 11th, 1808, 8,418,800 acres of land in Upper Canada are held by absentees. It is then that I feel that I have the bowels of a mother and the heart of a father, and that I would sincerely give my life to rescue my adopted children from total destruction. First of all they have the right to be emancipated, and to be looked upon, as formerly, as the allies of Canada, and then the Canadian Government will be in an honourable position to deal with them...(Letter #39, Carrez to Scholastics, Sept. 12, 1863: 227-228)

It is evident in this excerpt that Kohler conceived of the Indigenous peoples as being in his care. The actions of the Canadian government were a betrayal of the relationship they had formed. He states that the only way in which our government can justly engage with the Indigenous peoples is if they see them as “allies”, not subordinates of the Crown who they treat as they please. In a similar manner, Jesuit F. Chone called into question the government's immoral conduct. He stated: “Sirs, I ask you: are the natives your slave, your subjects, or your allies? They should not be either slaves or subjects; they are allies. Well then! You must treat them as such; you must judge their acts as those of friends” (Letter#36 Chone to Scholastics, Nov. 12, 1862: 206). Both missionaries are pointing to the duplicitous action of the government. They knew that their conduct was detrimental to the state of the relationship.

The Wikwemikong, in their statements of protest, pointed to the use of “deception” and force during negotiations. They argued that the treaty was invalid; that the island could not be sold unless it was done collectively. They also argued that those

who signed the treaty did not have the rights to do so because their homes were on the mainland (Letter #39, Carrez to Scholastics, Sept. 12, 1863: 208). They attempted to convince other Indigenous communities in the area to join their struggle. For example, the community of Shishigwaning was persuaded to side with the Wikwemikong and released the following statement conveying their support:

It is because they have been deceived, very gratuitously frightened, that our chiefs have parted with our Island. As for us, we have not agreed with them [the chiefs]. This then we expect of thee, that thou annullest by they authority as Great Chief, what those bad Englishmen have come to do. The time when they were to sell was unknown to us. It was only when we entered into council place we heard them accomplishing the sale (of our land). And were not pleased with it, and are not now...There are many things which are not nice (in the transaction) and this particularly why we are dissatisfied, and all of us here in Sheshigwaning. (Sheshigwaing, May 28, 1863 in Sessional Papers (No.18) A. 1863

In endeavours to persuade other First Nations communities however, the Wikwemikong would not be so successful. Many expressed their continued support of the treaty and asked that the Wikwemikong stop interfering with their affairs (Borrows 1992: 203-205).

The terms of the treaty will be covered in detail in the next chapters, but, I will speak briefly about them here (Surtees 1986; Wightman 1982). For the Wikwemikong, the agreement affirmed their title to the eastern portion of the island. They remain today an Unceded reserve. For those who signed, the treaty established tracts of land for the Indigenous peoples in separation from white settlers. The specifics of this arrangement were: “100 acres to each family, 50 to young men, and 100 to orphans over 21 years” (Letter #36: Chone to Scholastics, Nov, 12. 1862: 209). All tracts had to border upon another so that the least space was taken up. This established collective tracts. In the end, six reserves were set up in addition to Wikwemikong. An initial fee of \$700 was paid to

the Indigenous peoples, and interest on land to be sold to settlers was promised. In terms of rights to resources, it was stated that the signatories would have the same fishing rights as white fishermen (Surtees 1986). Hunting rights, and the islands and waters off Wikwemikong land were not given mention (Surtees1986).

CHAPTER 3 – TREATY 45 – MANITOULIN ISLAND TREATY OF 1836

Introduction

In this chapter, I analyze Treaty 45 as per the methodology put forward in Chapter One. The chapter is organized in the following way. I begin with a statement on the Indigenous understandings of the treaty, which is divided into three sections: A) Land Arrangement B) Political Status of the Indigenous Peoples of Manitoulin Island and the Political Relationship Established with the Treaty; and C) Treaty Obligations of Both Parties. In composition of this statement, I draw primarily upon a film put forth by the Ojibwe Cultural Foundation entitled *Island of Great Spirit: The Legacy of Manitoulin Island*. I also draw upon a four-part series of articles first published in the Manitoulin Expositor, as well as sources from John Borrows (1992; 1994) and Cecil King (1992). Following this statement, I attempt to reconcile the Indigenous understandings with accounts of the treaty negotiations. A transcript of these negotiations is unavailable to me. Thus, I rely upon the correspondences between Sir Francis Bond Head and his superior Lord Glenelg. These correspondences can be found in a compilation entitled: *British Parliamentary Papers, vol. 12, Correspondence, Returns and other Papers relating to Canada and to the Indian Problem Therein, 1839*. Before looking for overlap of the Indigenous understandings in these correspondences, I put forth a statement on Sir Francis Bond Head. In this statement, I delve into Bond Head's personal reflections and actions concerning the honour of these treaties. I then begin the analysis of looking for confirmation of the Indigenous understandings in the correspondences. I end with a statement on the shared understandings of Treaty 45. This is meant to be a general

comment on the “spirit and intent” of Treaty 45.

Indigenous Understandings

A) Land Arrangement

With the conclusion of Treaty 45, the Ottawas and Chippewas of Manitoulin Island understood the island chain to be exclusively in their possession (King 1992; Ojibwe Cultural Foundation 2008; Debassige). They agreed to withdraw their respective claims to the island in order to allow for Indigenous peoples from surrounding areas and the northern United States to come and live with them. They believed that this treaty secured for them, and all the First Nations that would migrate to the island, a location where they could live in their traditional way, well protected from settler encroachment. As local historian Cecil King (1992) reports: “The Anishnabek believed that they were being asked to share their island with other Indian people under the auspices of the Crown” (4). The treaty confirmed their title to the island and allowed for others to be incorporated in. With the treaty, nothing was extinguished (Ojibwe Cultural Foundation; Debassige). Ojibwe storyteller Esther Osche (Ojibwe Cultural Foundation) states of her ancestors:

They did not surrender anything, they did not give up anything they just said, “we agree for the others to come.” This will be an exclusive aboriginal occupied area. No miners, no timber cutters, no settlers. Nobody will fight us for our fishery, nobody will interfere with our harvesting. (23)

A similar understanding of Treaty 45 confirming Indigenous title to the island is found in the words of many of the Manitoulin Island elders. Chief E-do -wish-cosh asserted the

following: “The treaty of 1836...was understood by our chiefs then that this Island was to be exclusively for the Indians” (The Christian Guardian No. 46 at 180 in Borrows).

Along a similar vein, a Potawotomi Chief claimed: “I was present at the Treaty of 1836, heard with my own ears its discussion it was said by our Great Father that this island was to be the exclusive property of the Indians and had given up his claim in our favour [sic] (The Christian Guardian No. 46 at 180 in Borrows). Another chief speaks about the promises the Crown made to always reserve the island chain for the Indigenous peoples.

...[D]id not our great father give us those islands to be our property for ever and did he not give us his hand that he would always keep his white children from coming. And will not he do what he said, I tell you he will, so the white people will not be allowed to put a foot on these islands. (PAC RG 10, Vol 117)

Thus, the understanding was that the island was set up as a place where Indigenous peoples could come and live forever, well insulated from European immigration. The island was to be an “Anishnabe place” (King 13).

B) Political Status of the Indigenous Peoples of Manitoulin Island and the Political Relationship Established with the Treaty

Continuance of the Indigenous people's way of life went hand in hand with the establishment of the island as an Indigenous “refuge.” As Esther Osche stated previously: “They did not surrender anything, they did not give up anything...” (Ojibwe Cultural Foundation 2008); the Manitoulin Island chain was to be in Indigenous control. Indigenous relationships to the land, systems of governance, and trade activity were not altered with the treaty. Manitoulin Island was a centre for political and trade activity. Indigenous peoples travelled throughout the Great Lakes Region during their seasonal

routes; they would not have affixed their names to an agreement which halted activities so central to their way of life. They were to continue living in their traditional way under their own laws without intervention from settlers. This assertion is reflected in the vision many of the Indigenous peoples shared for the future of the island (Ojibwe Cultural Foundation 2008). They saw the concept of the “bowl with one spoon” as the kind of relationship that would ensue upon completion of the treaty. Its depiction of many nations nourishing themselves from the same bowl paralleled the notion of “collective title” (Borrows 1992) put forth in Treaty 45 (Ojibwe Cultural Foundation 2008). Prior to the treaty, the Anishnabe held “shared concepts of ownership” over the land and its resources. The three Indigenous nations worked out agreements based upon totemic and clan systems that allowed all to “meet their needs” (Borrows 1992: 135). As John Borrows states: “Hunting, fishing, and village selection was apportioned among the Anishnabe to allow sharing and exclusion to occur simultaneously” (1994: 28). This was the sort of political system that was to continue between the existing and migrant Indigenous groups upon completion of the treaty.

It is also notable that Treaty 45 held significance for those Indigenous peoples who planned to migrate to the island (King 1996: 4). For example, the Odawak living in Michigan had a long established connection with the island chain and conceived of their migration in a very meaningful way. Cecil King explains:

According to the Odawak, they had originated as a people on Manitoulin Island. It was their place of origin, their traditional homeland. To go back to Manitoulin Island was to go home. The government support to Indian people wishing to go to Manitoulin was the ultimate reward for Indians who had aided the British in the war. The Odawak still in Michigan were preparing to move to Canada. It was a perfect time for all Odawak to come home. (4)

In this sense, the Odawak viewed the invitation to live on Manitoulin Island as a gift from the Crown. Migrating to Manitoulin Island corresponded with their history as the treaty summoned a return to their “traditional homeland.” It is clear that the notion of two distinct societies, each governed by their own laws, was to continue with the completion of this treaty.

For the Indigenous peoples, Treaty 45 reaffirmed the fundamental relationship they held with the Crown - a relationship they had long been engaged in prior to Treaty 45 (Borrows 1992; 1994). Treaty negotiations were conducted in accordance with the Ottawa and Chippewa's traditional history of treaty making, thus indicating that it was in line with previous agreements. As well, the treaty was accompanied with the smoking of the peace pipe; connecting it with their deep history of treaty-making and binding the two parties in an alliance of “perpetual friendship.” The Treaty of Niagara and the wampum belt also occupied a place of centrality in Treaty 45. Its evocation signaled the agreement's alliance with the wampum relationship. The perpetuation of the wampum relationship was of great importance to the Indigenous peoples (Borrows 1992). They expressed concern during negotiations that Treaty 45 – specifically its clauses pertaining to the separation of the two cultures - would undermine this relationship of continual renewal and interaction. John Borrows (1994) explains the rationale behind this concern.

[R]enewal and re-interpretation was practised to bring past agreements into harmony with changing circumstances. First Nations preferred this articulation of treaty-making in the exercise of their powers of self-government because it was consistent with their traditional land use and oral traditions. The idea of the principles of a treaty being “frozen” through terms written on paper was an alien concept to the Anishnabe. (94-95)

Thus, in approving this treaty, the Indigenous peoples believed that the dynamical relationship with the Crown would continue. It was in line with traditional practices.

The Anishnabe signed a treaty which they believed established a relationship consistent with the wampum. Gift giving served a similar purpose; it was a means for further emphasizing the treaty's alignment with the fundamental relationship and giving physical expression to the dynamical relationship that had characterized relations between the Ottawas and Chippewas and the Crown (Borrows 1994: 98). It put the concepts of “renewal and reaffirmation” into practice and reminded each party of its responsibility in the treaty relationship. Through these customs, the Indigenous peoples understood this treaty as an “extension and re-affirmation” of the fundamental relationship (Borrows 1994: 98). None of these customs were perceived to stop upon the conclusion of the treaty. Protests from the Indigenous peoples concerning the Crown's plan to stop circulating presents attest to this point (Borrows 1994: 98).

With respect to kinship structure, the Indigenous peoples called the King their Great Father and conceived of him as an overarching figure greatly concerned with their welfare. This was in line with the fundamental relationship, as Europeans were required to fit into First Nations kinship systems upon first settling on their land (Miller 2009; Surtees 1966; Leighton 1977). Utterances of kin terms – be it “children”, “Great Father”, etc. - evoked the fundamental relationship of King as provider. The King's position, as the Indigenous peoples understood it, was to look after them and ensure their well-being during European immigration. This relationship of guardianship occupied a place of centrality in the negotiations of Treaty 45. A speech, uttered by J.B. Assiginack during treaty infringements is revealing of this point:

My Children, I clothe your land, you see that wampum before me, the body of my words, in this the spirit of my words shall remain, it shall never be removed, this will be your Mat, the Eastern Cornice from which I myself will occupy the Indians being my adopted Children their life shall never sink in poverty. In the centre part of our land I plant a big fire, it is kindled with the choicest pieces of firewood, and it shall continue to burn as long as the world shall last, and the Indians dwelling round will frequent it in order to enjoy the benefit of such warmth...[L]et your eye be always directed towards that quarter where the Sun rises; sometimes the Sun will appear like blood, then you will say to yourselves, I see the coat of my Great Father the protection of my life: My Children you heard me say that in this the Great Spirit pointed out to me to imitate him, and this is the reason why the coat of the British Nation is red; and as the Sun will continue to appear to you so my coat shall never be out of your sight. (PAC RG 10, Vol 613)

The relationship articulated here is one in which the Indigenous peoples would always be provided for by their Great Father. They would “never sink in poverty.” Although the King is referred to as “Great Father”, and the Indigenous peoples as “children”, it must be noted that this was not a paternal relationship (Asch N.d.). The figuration imagined here was one in which both Indigenous peoples (“red children”) and settlers (“white children”) were engaged in a parallel relationship under the guardianship of the Crown. As expressed in the speech above, the political relationship established with this treaty was in line with the fundamental relationship. Indigenous peoples were never subjects of the Crown.

C) Treaty Obligations of Both Parties

Treaty 45 carried obligations for both parties. The Indigenous peoples understood the treaty as protecting the island for their exclusive use. The Crown was never to interfere in their way of life. This translated into more concrete promises – specifically

the promise to never take up a physical presence on the island. As such, industrial activity was viewed as infringement upon the treaty terms. The following statement from F.A.

O'Meara, a missionary stationed at Manitowaning, confirms this claim. He stated:

From our knowledge of the feelings of Indians resident on the island we beg to assure his Excellency that the cutting of a single tree on the Island or the erection of a single building by any white man or half breed unconnected with the Indian Establishment will have the effect of entirely destroying all confidence in the treaty...
(PAC RG 10 Vol 117)

Consequently, the presence of white traders, fishermen, and industry in the 1840's, 1850's, and 1860's was met with forceful opposition from the Indigenous peoples (Wightman 1982: 40-50). Any venture not in Indigenous control was recognized as a treaty violation. For the Indigenous peoples, the promise of non-interference also meant that the Crown would never seek to intervene in their ways of conducting politics. Thus, the status of Indigenous peoples as a politically autonomous was to continue.

In entering into this agreement, the Indigenous peoples held the expectation that the Crown or “Great Father” would continue to ensure their welfare (Ojibwe Cultural Foundation 2008). In line with the Royal Proclamation, they were to be insulated from settler infringement. Protests from Indigenous peoples in the years following the treaty indicate that the guarantee of economic security was viewed as part of the treaty terms. We were to take care of them. Practices and protocol associated with the fundamental relationship and Treaty of Niagara were to continue (Borrows 1992; 1994).

The specific obligation of the Ottawas and Chippewas under Treaty 45 was to allow the island to be shared by all Indigenous peoples of Upper Canada and the northern United States. As Esther Osche stated of her ancestors: “...they just said, 'we agree for the

others to come” (Ojibwe Cultural Foundation 2008). In this way, the Ottawas and Chippewas consented to the opening up of the island to others, and agreed to carry on peaceful relations with these people.

Sir Francis Bond Head

I wish to begin with an exposition of Sir Francis Bond Head and his understanding of his position of negotiator. This discussion of Bond Head relates to my approach towards reading these treaties described in Chapter One. It demonstrates that Bond Head intended to have these treaties regarded as honourable. By extension, it shows that during negotiations we presented ourselves to the Indigenous people as an honourable party. Bond Head followed closely the protocol for conducting proper treaty negotiations, and showed concern in his letters to Lord Glenelg that his actions were fair and honourable. Additionally, he exemplified considerable knowledge of the Indigenous ways of engaging in political relations and placed a priority on clear communication, irrespective of cultural differences. Thus, we cannot make claims of miscommunication. Bond Head's correspondences to Lord Glenelg also reveal that he grappled with the ethics of ending the fundamental relationship; he knew this would entirely destroy the confidence of the Indigenous peoples.

As stated above, Bond Head asserted that he acted honourably in negotiations with the Ottawas and Chippewas. He seemed to be concerned that the treaty be carried out in a fair manner. He stated: “Your Lordship will at once perceive that the Document is not in Legal Form, but our Dealings with the Indians have been only in Equity, and I was therefore anxious to show that the Transaction had been equitably explained to

them” (No. 31, Sir F.B. Head to Lord Glenelg, 29th August 1836). As well, Bond Head cited the trading of the wampum during negotiations as evidence of the treaty's validity. He made sure that there were two records of the wampum and that one would remain with the Indigenous peoples at Manitoulin Island (No. 31). The actions and words of Bond Head demonstrate that he intended for this treaty to be legitimate; he was concerned with his honour.

Bond Head placed priority on making the agreements clear to the Indigenous peoples. He explained to them his own society's practice of recording agreements on paper and recognized the Indigenous peoples' methods of recording agreements symbolically or through exchange. He assured Lord Glenelg that there were no problems concerning mistranslation. He stated:

The proposed arrangement was then not only verbally explained by me, but I also explained to the Council that we White People had the Power of placing our Words on Paper; that to prevent any Mistakes hereafter I would make their Interpreters translate aloud what I had that Morning written, in order that the Chiefs might judge for themselves whether or not it accorded with what I had just said ; and that for further Security I had prepared One Copy to be kept by me, and One Copy to be kept by them. (No. 40, Sir F.B. Head to Lord Glenelg, 15th August 1837)

In this way, Bond Head ensured that miscommunication would not serve as an obstacle in the negotiation of this treaty.

Additionally, Bond Head displayed a thorough understanding of Indigenous traditions of treaty making. In speaking about how treaty promises were recorded and remembered by First Nations, he stated:

It will be asked, in what Way were these our Promises made? It is difficult to reply to this Question, as it involves the Character of the Indian Race. An Indian's word, when it is formally pledged, is

one of the strongest moral Securities on Earth ; like the Rainbow it beams unbroken when all beneath is threatened with Annihilation. The most solemn Form in which an Indian pledges his Word is by the Delivery of a Wampum Belt of Shells, and when the Purport of this Symbol is once declared, it is remembered and handed down from Father to Son with an Accuracy and Retention of Meaning which is quite extraordinary. Whenever the Belt is produced every minute Circumstance which attended in its Delivery seems instantly to be brought to Life; and such is the singular Effect produced on the Indian's Mind by this Talisman, that is common for him, whom we term "the Savage," to shed Tears at the Sight of the Wampum which has accompanied a Message from his Friend. I have mentioned these Facts because they will explain the confident Reliance the Indians place on the Promises which, accompanied by the Delivery of Wampums, were made to them by our Generals during and at the Conclusion of the American Wars. These rude Ceremonies had probably little Effect upon our Officers, but they sank deep in the Minds of the Indians. The Wampum thus given have been preserved, and are now intrusted to the Keeping of the great Orator Signah, who was present at the Council I attended on the Manitoulin Island on Lake Huron ; and in every Sense these Hieroglyphics are moral Affidavits of the by-gone Transactions to which they relate. On our Part little or nothing documentary exists; the Promises which were made, whatever they might have been, were almost invariably verbal; those who expressed them are now mouldering in their Graves. (No. 32 Sir F. B. Head to Lord Glenelg 20th Nov. 1836)

This eloquent description demonstrates that Bond Head thoroughly understood the sentiments he was evoking when he ratified the treaty in wampum. He knew that breaking these promises made would be detrimental to the relationship.

Shared Understandings

A) Land Arrangement

The correspondences of Sir Francis Bond Head affirm the Indigenous claim that

the island was established as a “refuge”, for the exclusive use of the Indigenous peoples. In a speech entitled “Address of the Chief Superintendent of Indian Affairs [Bond Head] to the Indians assembled in General Council at the Great Manitoulin Island, 4th August 1837”, Bond Head stated:

Your Great Father who lives across the Great Salt Lake is your Guardian and Protector, and he only. He has relinquished his Claim to this large and beautiful Island on which we are assembled, in order that you may have a Home of your own quite separate from his White Children. (Sir F.B. Head to Lord Glenelg 22d August 1837)

In further support of this claim, a Wesleyan missionary who was present at the negotiations and wrote a detailed account of the transaction, stated: “Here the Ottawas and Chippewas, each of whom claimed the Manitoulin Island, relinquished the same, on condition that the Governor should secure it to both, and their Heirs for ever” (No.1 Extract of a Letter from a Wesleyan Missionary). The written record of the treaty can also be utilized to affirm the claim that the island was set up for the exclusive use of the Indigenous peoples. It reads:

I consider, that from their Facilities, and from their being surrounded by innumerable Fishing Islands, they might be made a most desirable Place of Residence for many Indians who wish to be civilized as well as to be totally separated from the Whites; and I now tell you that your Great Father will withdraw his Claim to these Islands, and allow them to be applied for that purpose. Are you therefore, the Ottawas and the Chippewas, willing to relinquish your respective Claims to these Islands, and make them the Property (under your Great Father's control) of all Indians whom he shall allow to reside on them?

The message here is clear. Bond Head promised the Indigenous peoples a “home” in separation from Europeans. The notion of the “Anishnabe Place” (King 1992) held true.

B) Political Status of the Indigenous Peoples of Manitoulin and the Political Relationship Established with the Treaty

It is evident that prior to the treaty, the Crown recognized the Indigenous peoples as holding title to Manitoulin Island. As Bond Head asserted, “it would be necessary to obtain [the Indigenous peoples'] Permission...” (No. 31. Sir F.B. Head to Lord Glenelg 20th August 1836) in any dealings with respect to the island chain. As the Ottawas and Chippewas understood it, this recognition of title continued after negotiation of the treaty, because the agreement renewed the fundamental relationship with the Crown (Borrows 1992:). Confirmation for this claim can be found in the correspondences of Bond Head and Lord Glenelg. They show that in negotiations, Bond Head continually made reference to the fundamental relationship through the evocation of the two-row wampum belt and Treaty of Niagara, kinship structure, as well as gift giving. For example, the wampum belt was used to document the treaty (No. 31. Sir F.B. Head to Lord Glenelg, 20th August 1836), and signify its alignment with the Treaty of Niagara. In the beginning paragraph of the written record of the treaty – a record which Bond Head claimed was the actual speech he delivered to the Ottawas and Chippewas – Bond Head made reference to the Treaty of Niagara. He wrote: “Seventy snow seasons have now passed since we met council at the crooked place (Niagara) at which time and place your Great Father the King and the Indians of North America tied their hands together by the Wampum of friendship” (Enclosure in No. 31) In conjuring up the Treaty of Niagara and the wampum relationship, Bond Head negotiated this treaty in its spirit. He presented Treaty 45 “as an affirmation and re-affirmation” of the Treaty of Niagara (Borrows 1992).

In a similar way, Bond Head utilized kin terms which connected Treaty 45 with

the fundamental relationship. The specific terms utilized were “Great Father” and “red and white children.” In utilizing these terms, Bond Head conjured up a long-established relationship of the Crown (“Great Father”) as the guardian of Indigenous people who undertook the responsibility of caring for the Indigenous peoples (his “red children”) during European immigration. This relationship carried an overwhelming sense of trust and significance for the Indigenous peoples. This was understood by Bond Head. In correspondences to Lord Glenelg concerning funds spent on First Nations of Upper Canada, he stated:

[O]f all the money which has ever been expended by the British Government there is perhaps no Sum which ought to be less regretted than that which we have hitherto bestowed upon the Aborigines of America. It has purchased for us the Blessing of their Race; they love us, they have shed their Blood for us; they would do so again; they look upon us as the only just and merciful Inhabitants of the Old World; and impressed with these Feelings their Attachment to our Sovereign amounts almost to Veneration: “*When we see the Sun rise to the East*” said a warrior to me at the Great Council at the Manitoulin Island, “*it is our Custom to say to our young Men, there is our Great Father; he warns us, he clothes us, he gives us all we desire.*” (No. 32 Sir F.B. Head to Lord Glenelg, 20th Nov. 1836)

The turmoil Bond Head experienced regarding the Crown's plan to shift its direction to a relationship of “Benefit and Utility” is evident here (Scott 1914). He knows the sense of betrayal these actions will cause. It is clear in this excerpt that the kin relationship - in which the Crown was conceived of as the Indigenous peoples' protector – occupied a place of centrality during Treaty 45 negotiations. As explained in the earlier section on Indigenous understandings of the treaty - it conveys a figuration in which Indigenous peoples and settlers are engaged in a relationship of equality, with the British Crown in the position of overseer of both entities. Thus, this agreement must be read as an

international treaty. It must also be noted that the kin positions spelled out specific obligations for both parties. This concept will be further explained in the next part of my analysis.

Gift giving also played a significant role in signifying Treaty 45's connection with the fundamental relationship (Borrows 1992; 1994). In the diplomatic relationship between First Nations and Europeans, gifts expressed appreciation of military alliance, sealed trade agreements and established links of peace and good spirit (J.R. Miller 2009: 24). They were powerful communicators of emotion and gave physical expression to the dynamical relationship between Europeans and Indigenous peoples. As J.R. Miller states:

However important the gifts obtained in trade were in a practical sense, they were at least as significant symbolically...[R]egular meetings, rituals, and gift exchanges were essential to reassure the parties of the other group's continued goodwill and interest...Gifts "wiped away tears." They also "unstopped the ears" so that the parties could communicate honestly and fully. As Father Le Clerq remarked... "In fact, by presents they wipe away tears, appease anger, arouse nations to war, conclude treaties of peace, deliver prisoners, raise the dead – in fact, nothing is said or answered but by presents ; hence in harangues presents pass for words. (24)

Thus, gifts were much larger than their material substance. It was the exchange and act of giving that was important here. It built relationships.

It was in the spirit of gift giving that Bond Head assured the Indigenous peoples that the relationship would continue. He stated: "...your Great Father will continue to bestow annually on all those who permanently reside here or in any Part of his Dominion, valuable Presents..." (No. 32 Sir F.B. Head to Lord Glenelg, 20th Nov. 1836)). Bond Head understood that gift giving was similar to the wampum belt in that it served to solidify promises. During Crown efforts to cut expenditures through the phasing out of

gifts, he protested, arguing that such a scheme would be detrimental to the relationship. He asserted: “I am of opinion that to the Visiting Indians of the United States we cannot without a Breach of Faith, directly refuse to continue the Presents which by the Words of our Generals, we have promised, and which by long Custom we have sanctioned...” (No. 32, Sir F.B. Head to Lord Glenelg 20th Nov. 1836). He continues with the statement:

However, the regular Delivery of the Presents proves and corroborates the Testimony of the Wampum; and be whatever Sophistry we might deceive ourselves, we could never succeed in explaining to the Indians of the United States that their Great Father was justified in deserting them. (No. 32 Sir F.B. Head to Lord Glenelg, 20th Nov 1836)

Despite speaking to the significance of gift giving, Bond Head approved a plan which would limit presents to only those residing permanently in Upper Canada. These plans were not made clear to the Indigenous peoples. Bond Head conceded:

I did not formally make his Declaration [the plan to phase out presents to those indigenous peoples living in the United States] at the Great Council at the Manitoulin Island, but it was sufficiently hinted to them to be clearly understood, and, as far as I could learn, and have since learned, it was received without Disapprobation. (No. 32)

Because this plan was not “formally” announced, we can conclude that it was not part of the shared treaty terms. Thus, the practice of gift giving was to continue.

My rationale for concentrating so heavily on the fundamental relationship and the associated mechanisms of the wampum belt, the kinship terms, and the practice of gift giving, is that they are significant in revealing how the treaty would have been understood at the time. In “renewing” the fundamental relationship, Treaty 45 gave credence to a relationship which recognized the sovereignty and underlying title of the

Indigenous peoples.

Affirmation of this relationship during Treaty 45 negotiations can also be seen in the Crown's presentation of a flag to the Indigenous peoples. The flag articulated the parallel relationship between the settlers and Indigenous peoples. It harkened back to the fundamental relationship, and gave salience to a future relationship based upon the same values. Spoken of in the same breath as gift giving, the flag was another means for capturing the dynamical nature of the relationship. During its presentation, Bond Head explained the flag's significance:

Children – Your Great Father the Lieutenant Governor, as a token of the above Declaration, transmits to the Indians a Silk British Flag, which represents the British Empire. Within this flag, and immediately under the Symbol of the British Crown, are delineated a British Lion and a Beaver, by which it is designated that the British Peoples and the Indians, the former being represented by the Lion and the latter by the Beaver, are and will be alike regarded by their Sovereign so long as their Figures are represented on the British Flag, or, in other Words, so long as they continue to inhabit the British Empire. (No. 41. Sir F.B. Head to Lord Glenelg 22d August 1837)

Thus, the flag depicts a figuration of the relationship akin to the kinship structure described earlier. This relationship was to be binding; it was to endure.

The sovereignty of the Indigenous peoples is also confirmed in the words of a missionary present at the negotiations. It illustrates that the Indigenous peoples were to continue living as they always had in separation from Europeans. With reference to Sir Francis Bond Head, the missionary wrote: "...and One Ground which he urged their Removal to the Manitoulin Island was, that it would allow them an open Field for their hereditary Pursuits, uncontrolled and uninterrupted by the Vicinity of the Whites" (To Lord Glenelg. No. 1 and No. 2). We can interpret this in its broadest sense to mean that

their political system and way of life were to continue unchanged. Their sovereignty was not to be infringed upon.

C) Treaty Obligations

Based upon my search for overlap between the Indigenous understandings of the treaty and the correspondences, the following obligations of both parties become clear. First of all, the treaty was set up as an Indigenous “refuge”. Consistent with the oral understandings of the agreement, this translated into the specific promise that any industrial presence on the island was prohibited. A letter written by a missionary F.A. O'Meara in protest of the industrial ventures of the 1840's and 1850's, confirms this claim:

...[T]he Indians of this place feel that nothing is left to them but to cast themselves under the shield of British faith and to become suitors at the feet of his Excellency for the protection in the sole and undisturbed possession of these islands guaranteed to them by the deed of the agreement at the great council of August, 1846... From our knowledge of the feelings of the Indians resident on the island we beg to assure his Excellency that the cutting of a single tree on the Island or the erection of a single building by any white man or half breed unconnected with the Indian Establishment will have the effect of entirely destroying all the confidence in the above mentioned treaty. (PAC R.G. 10, Vol 117)

In accordance with the Indigenous claims of isolation and protection, we had a responsibility to ensure that they would be well protected from European immigration. The purpose of the treaty – as it was communicated to the Indigenous peoples – was to make sure that they had, in the words of Bond Head, a “Home” in separation from Europeans (No. 41. Sir F.B. Head to Lord Glenelg, 22d August 1837). The island was put forth as a “haven”; a physical location where all First Nations could arrive and receive

the enduring protection of the Crown as a refuge. The Indigenous peoples also assert that, with this treaty, their welfare was forever insured by the Crown. This assertion is affirmed in Bond Head's use of the term "Great Father." Promises of well-being and security flowed from this kin connection. The Crown promised to meet all the fundamental needs of the Indigenous peoples. In a speech, Bond Head asserted: "If you cultivate the Soil with only moderate Industry and exert yourselves to obtain Fish, you can never want..." (No. 41. Sir F.B. Head to Lord Glenelg, 22d August 1837). This promise is also conveyed in any evocation of the fundamental relationship.

In signing this agreement, the Ottawas and Chippewas state that they undertook the responsibility to open up their home to the Indigenous peoples of Upper Canada (Ojibwe Cultural Foundation 2008). This is affirmed in the following words from the written account of the treaty: "Are you therefore, the Ottawas and Chippawas, willing to relinquish your respective Claims to these Islands, and make them the Property (under your Great Father's Control) of all Indians who he shall allow to reside on them?" Thus, the specific title of the Ottawas and Chippewas was shifted to a "collective title" (Borrows 1992: 190-195) on behalf of all Indigenous peoples who might potentially migrate there.

D. Summary - Shared Understandings of Treaty 45

Sir Francis Bond Head and the Ottawas and Chippewas arrived at the understanding that Manitoulin Island would be set up as a "refuge" (Ojibwe Cultural Foundation 2008) for the exclusive use of the Indigenous peoples. The notion of the "haven" or "refuge" was central to the ethos of this treaty. This was an agreement which

summoned the gathering of all Indigenous peoples of Upper Canada and the northern United States (King 1996: 4). Manitoulin Island was a place where they could come and receive the enduring protection of their “Great Father;” we promised to safeguard them from settler immigration and make sure all their fundamental needs were met. This was in the spirit of the Royal Proclamation as our objective was to protect Indigenous people from European immigration. The treaty was a “renewal” of the wampum relationship (Borrows 1992: 190-195). It affirmed the sovereignty of both parties and promised that practices connected to the fundamental relationship would continue. With respect to the responsibilities of the Ottawas and Chippewas, they agreed to open up their home and allow others to live upon their land in accordance with Ojibwe traditions of conducting political relations (ie. “the dish with one spoon”) (Ojibwe Cultural Foundation 2008). They were willing to extinguish their specific title in favour of a “collective title” on behalf of all First Nations. The treaty did not drastically change the lives of the Indigenous peoples of Manitoulin Island. They were to continue living as they always had, according to their own laws, while engaged in a partnership with the Crown consistent with the fundamental relationship.

E. Differences in Understanding

There were apparent differences in the understanding of Treaty 45 with respect to two conditions. These differences did not become clear until the Crown was seeking to legitimate negotiations for the Treaty of 1862. The discrepancies lie first with the Crown's claim of title to Manitoulin Island (Surtees 1986). They asserted that the phrase in the written account of the treaty: “the property (under your Great Father's control) of

all Indians whom he shall allow to reside [there]”, served as evidence that “the Manitoulin Island continued to be vested in the crown and that the Indian's exclusive occupancy was at official sufferance” (Wightman 1982, Surtees 1986, Canada. Sessional Papers, 1863). Additionally, the Crown claimed that the treaty was invalid because of low Indigenous immigration to the island. The Crown had assumed that 9,000 Indians would migrate to the island. Because this did not occur, they argued that “the Indians had 'not fulfilled their part of the contract' and therefore had invalidated the agreement” (Surtees: 1986). With respect to this claim the statement read: “In default of the Indians neglecting to come here and settle the Island, our Great Father deems it equitable to grant the remainder of the land to his white children, of whom, as well as yourselves, it is his duty to take care” (Canada. Sessional Papers. 1863) In this way, the Crown claimed that Treaty 45 was invalid.

Crown claims to the invalidity of the treaty cannot be supported in the shared understandings. The phrase “under your Great Father's control” did not carry the meaning during the negotiations of Treaty 45 which the government now attested to. The notion that the island was not in Indigenous control was absurd to the Indigenous peoples as the “Great Father” was presented to them as an overriding figure who looked after both his “red and white children” (Wightman 1937: 43). The treaty affirmed their sovereignty; it did not make them subjects of the Crown. This clause was read in a purely technical manner; the written document was understood as representative of the agreement. As France Chone states in reaction to the Crown's claim:

You are mistaken, Sirs, we have meditated over all the words of the treaty; the reserve is absolute, and the government has no right to interpret it otherwise... The treaty [1862] relies on the considerants untangling the truth. Thus it is not true that the natives may have

delivered to the crown their right to the said island by the Treaty of 1836. It is not just to make understand, like second considerant that the treaty is conditional. Not one phrase of the said treaty authorizes this sense. (Letter #39, Carrez to Scholastics, Sept 12, 1863, p. 234)

The second claim is also unsubstantiated in the shared understandings. Indigenous peoples had never accepted the responsibility of having to ensure the migration of all the Indigenous peoples of Upper Canada (Surtees 1986; Borrows 1992: 196-198; King 1992: 12). In contrast, they signed a treaty which would guarantee them enduring title to the island (Borrows: 198).

CHAPTER 4 – THE MANITOULIN ISLAND TREATY OF 1862

In this chapter, I conduct a similar analysis on the Manitoulin Island Treaty of 1862 as that in the previous chapter. I treat this agreement slightly differently because there are differences in opinion on the part of Indigenous peoples with respect to the future of the island and settler proximity. There are two Indigenous parties involved: first the Wikwemikong, and second, the Indigenous peoples located on the central and western parts of the island. My analysis also differs from the last description in that I have less material to work with in constructing the statement on the Indigenous understandings. Because of these two reasons, I organize the chapter into two sections: A) Wikwemikong and B) Signatories to the Treaty. I address all aspects of the treaty under these headings.

This treaty is not regarded as an honourable treaty by many Indigenous peoples of Manitoulin Island because it was negotiated under threat and coercion (Beaudry). In my analysis, I opt to focus on the shared understandings. I take the position that, despite issues of threat and coercion, there are still some agreements that we can bring into our contemporary relations. I do not mean to ignore the injustices in the negotiations, I simply wish to focus on the shared understandings that are often missed in the published sources.

Indigenous Understandings

At the time of the negotiations of the Treaty of 1862, the Indigenous communities of Manitoulin Island conceived of themselves as a sovereign party. They cited Treaty 45 as evidence of this fact. As confirmed in the previous chapter, Treaty 45 was a “renewal” of the fundamental relationship. British claims to the treaty extinguishing their distinct

title and thereby making them subjects of the Crown, are invalid. Thus, we can conclude that in 1862, the Indigenous peoples were a sovereign people.

A) Wikwemikong

The Wikwemikong's position during negotiations was that in order to continue their way of life and ensure it for the next generations, the island must remain in Indigenous hands in the manner outlined in Treaty 45 (Borrows 1992: 192-205; Wightman 1982: 40-50). As such, they did not participate in final negotiations of the treaty and do not see themselves as bound to the agreement. Protests reveal that they were against selling any part of the island. They believed that the treaty was negotiated under threat and coercion and saw the colonial government's motivations and conduct as contrary to the spirit of honourable treaty making (Borrows 1992: 192-205; Wightman 1982: 40-50). The agreement represented a betrayal of Treaty 45. The Wikwemikong, and those nations aligned in solidarity with them, considered the treaty invalid and the island Unceded. In efforts to “annul” the treaty, they composed protests and attempted to mobilize other First Nations towards the cause. The Wikwemikong charged that the agreement did not accurately represent the collective position of the Indigenous peoples because negotiators treated only with a small group. This opinion is expressed in the following petition written four years following the treaty:

We take occasion to protest again and to present to thee how displeased we were when the Ottawa (Manitoulin Island) was surrendered and how we grieve yet for it. What took place then the treaty was not right at all. We repeat again that now we want our land. Please to the Great Spirit that we might own it yet. It does not look well to sell our land since it is only by intimidation that our land has been taken from us. Although we have protested, written to thee until now even that thou wouldst destroy and stop the sale

of our land. It was on October 4th, to use English calculation, 1862, that one great chief, a Commissioner W. McDougal came to speak and made use of some Indians to ask them for their lands. But they all refused, loved their land on that day. It was on October 6th 1862 that some Indians having been spoken to again and when they had been intimidated then only they surrendered their land. The Indians were not all pleased. Some few Chiefs only did the thing. But the majority a very great number were not willing at all and are not yet even now. We hope that when thou shalt see how things, the Treaty, took place it will suggest to thee some great determination for indeed we are very sorrowful for the loss of our land and truly we grieve much in our hearts. We shall never forget it, our Land.

The Wikwemikong's conviction to keep the island for the exclusive use and occupation of Indigenous peoples – as per Treaty 45 – is conveyed strongly here. In not participating in negotiations of the Treaty of 1862, they believed they retained title over the eastern portion of the island and the smaller islands surrounding it. With respect to their political relationship with the colonial government, the Wikwemikong adhered to the relationship defined in Treaty 45. That is, they “continued to live according to the 1836 Treaty; thinking of themselves as engaged in a relationship with the queen, but not required to live under the laws of the government” (Wrightman 1982: 47). In this sense, the Wikwemikong understood themselves as a sovereign party, and the fundamental relationship articulated in Treaty 45 applied.

Subsequent conduct of the Indigenous peoples also illustrates their feelings concerning their treaty relationship with the Crown and the Canadian government. For example, following the treaty, they “banished” from Wikwemikong, several key individuals who supported the treaty. In so doing, they expressed their wish to live as they always had in separation from settler society, in accordance with Treaty 45. They attempted to eliminate any dissent (151-152). As well, the Wikwemikong were incredibly

defensive of their sovereignty over fishing waters. They opposed the government's practice of issuing fishing leases and sought to defeat it. In thinking of themselves as living under Treaty 45, the Wikwemikong believed “that the government had no legal interest in their unsurrendered fishing ground” (152-153).

The Wikwemikong were also aggressive in their opposition to government attempts to survey land west of Manitowaning Bay and South Bay (Borrows 1994: 155); and frightened away settlers who attempted to establish homes on their land (155). These actions reveal a strict adherence and defense of the terms of Treaty 45. As historian J.R. Wightman (1982) stated of the Wikwemikong: “[T]his rising regime was very real to those who lived in its territory and under its intimidation” (47). The Wikwemikong understood themselves to be self-governed.

In addition to the above actions, the Wikwemikong attempted to reverse the Treaty of 1862, and re-establish the Manitoulin Island chain as an exclusively Indigenous location. On July 14, 1865, a council, attended by Indigenous peoples from around the Great Lakes, was held for the purposes of exploring the actions that could be taken. At this council, the words were uttered:

Brothers, you see my heart. Fellow chiefs and warriors! I have looked over your wigwams through Canada, and have arrived at the conclusion, that you are in a warm place: your neighbours, the whites, are kindling fires all around you [slash and burn cuts of the land]. One purpose for which we have been called together, is to devise some plan by which we can live together, and be a happy people, so that our fires may not go out (nation become extinct), but may be kindled in one place...
...ought we not to make our own laws, in order to give character and stability to our chiefs, as well as empower them to treat with the government under which we live, that they may, from time to time, present all our grievances and other matters to it. (Copway 1850: In Borrows 1994: 157)

The Wikwemikong's participation in this event is further expressive of their

understanding of the Treaty of 1862 as ill reflective of their wishes to retain title to their land and sovereignty over their lives.

The Wikwemikong's understanding of the treaty as securing their title to the land, water, and resources is also demonstrated in a petition composed during a council in 1920.

We the Grand General Indian Council assembled at Wikwemikong Indian Reserve, June 16th, do hereby petition the Government of Canada to adjust the Treaty rights of Indians in Ontario concerning hunting and fishing privileges as stipulated in various treaties and surrenders. That when the Indians surrendered their lands to the Crown, the fish and game were not surrendered, and in certain treaties it states that these provisions to hold good so long as the grass grows and water flows, and as long as the British Government is in existence. (Abstract of Proceedings of the General Indian Council of Ontario, June 16-19, 1920, at 4)

Their interpretation of the treaties as binding and honourable agreements meant to secure peaceful, respectful relations is illuminated here.

B) Signatories

For those Indigenous communities who signed the treaty, the contract represented the opportunity to participate in some of the advantages of white settlement while retaining control and sovereignty over their lives (Borrows 1992: 208). They observed the changes happening around them and believed that participation in these changes would secure them their livelihoods. Although they wished to be in proximity to settler life, they did not see this as lessening their own sovereignty or traditional way of life. As Borrows explains: “The desire to enjoy the benefits of settler culture and the desire to remain apart are sometimes linked together” (208). The document appearing below captures the thoughts of those Indigenous peoples who signed the treaty and welcomed

settlers upon the island. It was a speech uttered in reaction to pressures to join efforts to annul the treaty.

My friends we do not think alike. We who live on this side consented to give up the Island to the government, but you refused to do so. You spoke of your children and their future condition. You spoke anxiously. We also think of ours, and trust that they may do well, and be treated well by the whites. We have already made a treaty with the Government, and we are not going to throw it away. The future will tell what Indians will be better off. You who oppose to make a treaty, or we who consented to make it. We have hitherto obeyed the Queen Her officers [sic], we mean to do so still. We place ourselves in the good keeping of the government. My friends, we are no longer independent, nor could we live as independent people. We cannot live as our forefathers did. We are dependent on the white man for many things which are essential to our welfare... My friends, this side of the island has been ceded. Why should you any longer meddle with it, or speak about it to our Indians. You have your own reserve speak about that and take good care of it. My friends, you have said that the Indians who ceded their land will be very poor in time to come. I know how the Indians live in small reserves below. They appear to live comfortably. They do not suffer from being surrounded by whites. They are not troubled or persecuted by them. My friends we cannot resist the tide of emigration. The whites are coming nearer and nearer to us. They will at last surround us, but they will not drive us away, before them as they have not driven away those to whom I have just referred. (PAC G 10 Vol 284)

As is evident from this passage, those groups who signed the agreement believed that going a different direction from the Wikwemikong would serve them well. They observed the changes happening around them and believed they could live meaningful and productive lives in proximity to whites. This passage also reveals the high degree of trust that Indigenous peoples felt towards the British. In signing the treaty, they thought they would continue to be well taken care of in a manner consistent with the fundamental relationship. The position of the British as the Indigenous peoples' guardian still figured greatly into this treaty.

With respect to sovereignty, the Indigenous peoples who signed the treaty did not wish to assimilate into settler life. From the views depicted by John Borrows (1992) in relation to contemporary relations, it is evident that the signatories still aimed to “achieve distance from settler culture” (208). They fought for large reserves for exclusive Indigenous use, in separation from the activities of settlers. The ability to direct their lives in isolation from Europeans was a priority. In addition to these measures, the treaty may have been perceived as a “good deal” in terms of monetary compensation, as an initial sale price and a treaty annuity were a part of the final agreement (Ojibwe Cultural Foundation 2008). The Indigenous peoples recognized that the economy and demographics of Upper Canada were shifting. The guarantee of economic security may have been conceived of as attractive for this reason (Ojibwe Cultural Foundation).

Shared Understandings

I now turn to the transcript of the negotiations to seek alignment between the Indigenous understandings and the negotiations. The record of the transcript I draw upon appears in the collection: *Letters from Manitoulin Island, 1853-1870*. It is a translation of the French transcript recorded by missionary France Chone. As in the section above, I deal with the Wikwemikong and the signatories separately.

A) Wikwemikong

The transcript of the negotiations confirms the Wikwemikong's claim to the eastern portion of the island. Throughout conversations with William McDougall and the two initial negotiations: Ironside and Spragge, the Wikwemikong were adamant in their

refusal to allow settlement on the island. Their position was always that they wanted to secure the island for future generations, to the exclusion of settlers. A chief named Jako spoke the following words on behalf of the Wikwemikong:

Listen to me brother to what my chiefs say through me: Is it really now, when good fortune is beginning for the native, is it now that you have come to ask him for all his land! Be careful! Those natives who ceded the mainland have not yet received any of the money that you promised to pay them. You promised them four piastres; now see this (pants): they cost me four piastres, but I did not get them with what you gave for my land. It is the sugar that I take from the trees on my little island that gave them to me. Look at me, Brother, I am a chief from the mainland that my father ceded to the Great Woman-Chief. If my father had come here, he would have spoken. I am not ashamed to reveal my misery to you. One thing amazes me. It is that the Great Woman-Chief comes to ask us for our property, we are unfortunate! Brother, understand my thoughts and those of my chiefs: We do not surrender any of our land. If there are among us some of contrary mind, their words are nothing, the majority alone must decide. Brother, if you offered me something of yours, I would accept it; but if you were offering me something that is already mine, I would not listen to you. I will stop, as it is late. When the light returns, it will be the Day of Prayers (Sunday) the day occupied only with the things of the Great Being. Hence, your mission will still not have been completed. (Letter #36: Chone to Scholastics, Nov. 12, 1862: 212)

In this statement, Jako articulates the position of his people. He states that they do not relinquish any of their land. His people regard the land as the sustenance of their well-being. Any action to cede it would mean an ascent into poverty. It is clear that the fundamental relationship - in which the settlers come from a lower position, asking the Indigenous peoples for land - is relevant here. Jako is baffled by the idea of the Queen asking for his land because it was always her concern and responsibility to keep his people in bounty. Thus, in my understanding, he reads the treaty as an infringement upon this relationship.

The statement above occurred in early negotiations. Later, after McDougall had ordered the exclusion of the Wikwemikong from the negotiations and had signed an agreement with the others, he invited the Wikwemikong back to discuss their position on the island with respect to the new agreement. Once again, McDougall pressed the Wikwemikong to sign, but they refused. Jako stated:

My brother, here are the thoughts from my chiefs: Our elders have spoken of a perfectly beautiful bird; it is with its feather that I want to caress your ears, so that you listen to my words. Of course, I am happy to see you, for you are handsome, very beautiful, and your face is perfectly white, as also your heart is very pure. Well, listen to me. We will never want to give in to those who give you our land; we will always treat them like our brothers. But for us, residents of Wikwemikong our resolution is taken; we do not want to surrender. (Letter #36 Chone to Scholastics Nov. 12, 1862: 214)

This statement conveys the great deal of trust and honour that the Wikwemikong felt towards McDougall. They believed they were dealing with someone whose “heart [was] pure”; who would keep their promises and treat them honourably. After hearing these words MacDougall replied: “For those of you who come from Wikwemikong, you shall have what you desire; you remain proprietors of your land from the middle of Manitowaning Bay to Atchitamaiganing at the entrance of the lake” (215). The Wikwemikong's title is confirmed with this statement. McDougall invited the Wikwemikong to sign their name to the treaty at any time. To this proposition the Wikwemikong stated: “Later, if what you have promised to the other chiefs is realized, if they are happy and paid faithfully, we will examine if we must accept the propositions” (214). Since those words, the Wikwemikong have never signed and thus, they remain an unceded reserve.

Wikwemikong title to the eastern portion of the island is confirmed in the written

account of the treaty. The clause reads:

That portion of the Island easterly of Heywood Sound and Manitoulin Gulf, and the Indians now residing there, are exempted from the operation of this agreement as respects survey, sale of lots, granting deeds to Indians, and payment in respect of moneys derived from sales in other parts of the Island. But the said Indians will remain under the protection of the Government as formerly, and the said easterly part or division of the Island will remain open for the occupation of any Indians entitled to reside upon the Island as formerly, subject, in case of dispute, to the approval of the Government.

With this clause, Wikwemikong title was acknowledged.

The Wikwemikong are adherents to Treaty 45. They do not “recognize [the Canadian Government] as having jurisdiction over them” (Borrows 1992: 216). Their assertion of sovereign status is confirmed by their decision to exclude themselves from entering negotiations. Furthermore, their sovereign status is reinforced through the kinship terminology utilizing during negotiations. Settlers and Indigenous peoples were referred to as “brothers;” thus indicating a parallel relationship.

B) Signatories

I begin first with a discussion of the land arrangement portion of the agreement. The Indigenous understandings of the treaty show that the signatories desired large reserves, in separation from settlers. During initial negotiations, many Indigenous peoples from the central and western areas of the island objected to the treaty because the government's propositions were viewed as meagre. The terms offered in the final negotiations were much more appealing and the Indigenous peoples accepted. The land arrangement – which is verified in both the oral and written accounts – is stated here:

“100 acres to each family, 50 to young men, and 100 orphans over 21 years” (Letter #36: Chone to Scholastics, Nov. 12, 1862: 209). The Indigenous claim that these reserves of land would be separate from settlers is confirmed in the transcript. The colonial government assured them that these tracts of land were theirs in perpetuity and that in entering this agreement, they would be insulated from settlers. McDougall stated: “...I will give you an authentic title that assures you forever the part of the island that you choose, far from where the Whites will settle” (209). Colonial policy was consistent with the Treaty of Niagara in this regard, as our objective was to protect Indigenous peoples from European immigration. In terms of the shared understanding, the agreement promised separation; this did not mean assimilation or the complete spread of industry and settlement over the entire island. Parts of the island were opened to settlers, but this certainly did not translate into European ownership of the island. The central and western portions of the island were to be shared through the arrangement articulated in the agreement.

In signing this treaty, the Indigenous peoples believed they would be well taken care of by the Crown. This is confirmed in the negotiations. Consistent with Treaty 45 and the fundamental relationship, the negotiators stated that the Crown was the guardian of the Indigenous peoples. Under the care of the British, their welfare would be guaranteed. McDougall stated:

I have carefully considered all that concerns you, and I want to treat you properly... I add that the Whites will come here and settle in great numbers, and to your advantage; as they will bring all sorts of things with them. There will be farmers and merchants. Everything will be at a good price. You will not need to go far to exchange your products. Near you, you will have flour mills, sawmills, forges, etc. In a word, you will lack nothing, and you will be surrounded by the care of the great chief...Besides, your children

will be well educated. (Letter #36: Chone to Scholastics Nov. 12, 1862: 208-209)

In this passage, McDougall assures the well-being of the signatories. He states that the presence of settlers will bring them no trouble. In fact, it will be of benefit to them. Also contained in this passage is the promise to educate the Indigenous peoples. During negotiations, McDougall evoked the “care of the great chief.” In so doing, he connected the treaty to the fundamental relationship and extended the promise to ensure the treaty signatories' welfare. McDougall's words confirm the Indigenous peoples' claim that they would be secure, comfortable, and “treated well” by the whites (PAC RG 10 Vol 284).

Consistent with the Indigenous claims that this treaty upheld the relationship of two distinct societies despite close proximity, the transcript does not contain any conditions which suggest assimilation. Upon completion of the treaty, the signatories retained their sovereign status. McDougall stated that their tracts of land would be “far from where the Whites will settle” (209). Additionally, local historian Douglas Leighton asserted: “Ironside tried to persuade his charges that settlement need not harm them, and that large reserves which would keep the newcomers at a distance would be set aside for their use” (Leighton 1977: 118). The condition of geographic separation strengthens the argument that this was not an agreement to assimilate. They could maintain control over their own lives while participating in settler society on their own accord. The kinship terminology utilized in negotiations is also testament to their relationship of equality with settlers. In transactions between the Indigenous peoples and the negotiators, each party addressed one another as “brother”, thus indicating a parallel relationship. The Queen and King were called the “Great-Chief” and “Great-Woman Chief” respectively. Thus, the

kinship structure described in Treaty 45, as well as the fundamental relationship, is upheld in the Treaty of 1862.

My analysis of this treaty yields the conclusion that with the Treaty of 1862, the Indigenous peoples retained underlying title to the Manitoulin Island treaty. Firstly, the Crown's initial claim to title over the island is based upon two fraudulent assertions made to open the way for treaty negotiations (Borrows 1992: 192-205; Wightman 1982: 40-50). The first of these claims was that First Nations had taken up the responsibility of having to ensure that adequate numbers would migrate to Manitoulin Island. The second was that the phrase "under your Great Father's control," stated in the written account of the treaty, had placed the island in the Crown's name. These two assertions were never part of the shared terms of Treaty 45. Thus, we can conclude that underlying title remained with the Indigenous peoples at this time. I now turn to the Treaty of 1862 to investigate its conclusion with respect to underlying title.

The written version of the treaty claims complete surrender of the island and all rights associated with it. The specific clause reads:

Now this agreement witnesseth that in consideration of the sum of seven hundred dollars now in hand paid...the parties hereto of the second part have and hereby do release, surrender and give up to Her Majesty the Queen, all the right, title, interest and claim of the parties of the second part, and of the Ottawa, Chippewa, and other Indians in whose behalf they act, of, in and to the Great Manitoulin Island, and also of, in and to the Islands adjacent, which have been deemed or claimed to be appertinent or belonging therto, to have and to hold the same and every part thereof to her Majesty, her heirs and successors forever.

This claim however, is not corroborated in the transcript. Crown title to the island would surely have infringed on the relationship of brotherhood. Also, negotiations could not

have dealt with underlying title because Wikwemikong title to the eastern portion was confirmed here. The treaty did not deal with the island as a whole. As well, during negotiations, McDougall told the Indigenous peoples that they held absolute title to the island. He stated: “[Spragge and Ironside] told you that you are not the owners of the island, I do not tell you that today. Assuredly, you are the owners of the island” (Corbiere, Ojibwe Cultural Foundation 2008). For the above reasons, it is impossible to conclude that underlying title lies with the Crown.

All parties: the British, the Wikwemikong, and the Indigenous signatories held the treaty obligation of maintaining good relations with each other. Despite differing opinions with respect to the future of the island, all three entities were to respect each other and live peacefully together on the land. McDougall's words are testament to this:

My Native brothers, I am happy to see that you love each other as brothers. For those of you who come from Wikwemikong you shall have what you desire; you remain proprietors of the land from the middle of Manitowaning Bay to Atchitamaiganing at the entrance of the lake. I add one thing that I ask you to note: Since we leave you more than you need, you must welcome those who come to you and who do not have land. For those who accepted my propositions, I thank them, they know that I will be faithful to my promises. (Letter #36: Chone to Scholastics Nov. 12, 1862: 215)

Demonstrated here is an ethos of good relations and good faith. The government promised to fulfill its obligations. These words also reveal the Wikwemikong's obligation to open their lands to those in need.

Written Account

The written record of the treaty is useful in discerning some of the specifics of the agreement (Morris 1880). In this section, I recount the most notable of these specifics.

Firstly, the written document confirms the land arrangement and includes provisions for how these lands are to be chosen. It states “[T]hat the lots selected shall be contiguous or adjacent to each other so that Indian settlements on the Island may be as compact as possible.” Title and protection on the selected lots was guaranteed: “The deeds or patents for the lands to be selected as aforesaid, shall contain such conditions for the protection of the grantees as the Governor in Council may, under the law, deem requisite.” The written document also preserves some land on the island for government use. It reads:

Should any lot or lots...be contiguous to any bay or harbor, or any stream of water, upon which a mill site should be found, and should the Government be of opinion that such lot or lots ought to be reserved for the use of the public, or for village or park lots, or such mill site be sold with a view to the erection of a mill thereon, and shall signify such its opinion through its proper agent then the Indian who has selected, or who wishes to select such a lot, shall make another selection ; but if he has made any improvements thereon, he shall be allowed a fair compensation therefor.

This guideline enabled the government to reserve more profitable locations for “public” and industrial purposes. The written account also pledged annual payments from interest on lands sold to settlers. Lastly, settlers and Indigenous peoples were to both possess the same fishing rights. That is: “All the rights in privileges in respect to the taking of fish in the lakes, bays, creeks and waters within and adjacent to the said Island, which may be lawfully exercised and enjoyed by the white settlers thereon, may be exercised and enjoyed by the Indians.” Reference to other resource use is not found in the written document (Morris 1880).

Summary – Shared Understandings

My analysis demonstrates that William McDougall and the Wikwemikong agreed

that the Wikwemikong would retain title over the eastern portion of the island. They never entered negotiations, and thus, adhere to Treaty 45. Their political status as a sovereign party and their distinct relationship with the Crown is confirmed here. All provisions of Treaty 45 held true. For the signatories, the treaty opened up the island – excluding the eastern portion of course – for industry and white settlement. We promised the Indigenous peoples that they would not be bothered by our presence. To the contrary, they would prosper. We promised to protect them, share with them our technology, and educate their children. An initial payment, as well as annual interest was to take care of them financially. Political autonomy was secured - kinship terminology is testament to this. There are no claims in the transcript that suggest assimilation. Large tracts of land were secured forever for the Indigenous peoples, in isolation from settlers. In this way, we were acting in accordance with the Royal Proclamation in our objective of insulation. In my understanding, the relationship between the Crown and the signatories can best be described as one of sharing of the land. It seems as though the Indigenous peoples were not abject to settler presence, as long as they could continue to live well.

There are several instances in the transcript which illustrate that this was intended to be an honourable treaty. For example, the words of the Wikwemikong's representative – a chief named Jako – embody the meaning of treaty which guides this treaty insofar as he emphasized the importance of clear communication. In addressing William McDougall, Jako stated: “My Brother, I am happy to see you today in daylight. This is what I have always wanted. I said to myself: 'Would may that I see the one who is in charge, so that I understand him and he understands me’” (Letter #36: Chone to Scholastics Nov 12, 1862: 212). Here, Jako expresses happiness to be in the presence of the one who represents the

Queen. He expects to be listened to and treated honourably. Similarly, in later part of the negotiations, he stated:

My brother, here are the thoughts from my chiefs: Our elders have spoken of a perfectly beautiful bird; it is with its feather that I want to caress our ears, so that you listen to my words. Of course, I am happy to see you, for you are handsome, very beautiful, and your face is perfectly white, as also your heart is very pure. (214)

This statement conveys the great deal of trust and honour the Wikwemikong felt towards McDougall. They believed they were dealing with someone whose “heart [was] pure”; who would keep their promises and treat them honourably. The feather was a mechanism which indicated the necessity of open communication. During treaty negotiations, McDougall heard the words of Jako and guarantees the Wikwemikong's wish to keep their land. The transcript also reveals that the treaty was negotiated in good spirit. Good relations were to ensure; all parties were to fulfill their promises.

CONCLUSION

Introduction

My conclusion addresses the possibilities and limitations of the interpretive methodology in carrying out analyses similar to the one I have done in this project. This is intended to be an exploration of the interpretivist literature – not an authoritative statement. The representations of anthropological theory that I put forward reflect my undergraduate and graduate education; thus, I do not make claims to it being a complete representation.

The interpretive method developed in reaction to the notion that anthropologists could decipher “culture” through the use of scientific laws. Its objective is thus to describe in rich detail the meaning or significance of cultural phenomenon. It shies from producing definitive statements about another culture in favour of hermeneutical descriptions (Geertz 1973). This is its origin.

In this conclusion, I examine three fundamental principles about “culture” that have been generated through interpretive anthropology in its various forms. The three assertions about culture that I examine are: 1) We must rely upon “third order interpretations” to know another culture. 2) Truth is partial. 3) Cultural difference is always implicated in hierarchy/Differences are incompatible. After an explanation of these three assertions, I reflect upon the insights that can be gained when they are examined beside the treaty relationship. My basic learning point from this exercise is that while interpretive anthropology shows a high degree of respect for the other in the sense that it is incredibly sensitive to issues of appropriation and other-ing; and is also a

valuable method for learning about the other, in that it involves a thorough process of observance and study, it is limited in terms of addressing cross-cultural communication. Following my thoughts on this limitation, I briefly discuss some structuralist thinkers I have been exposed to during my graduate education as perhaps a place to look to for guidance and inspiration, if our objective as anthropologists is to work on relationships between cultures. I also reflect upon some of the insights I have gained with respect to intercultural communication and how we come to understand one another. Below is an elucidation of the first of three assertions about “culture” emerging from interpretive anthropology.

1.a) We must rely upon “third order interpretations” to know another culture.

This view is primarily propagated by Clifford Geertz (1973). Geertz describes culture as conveyed through “public” symbols which are layered in meaning and embedded in everyday life. The job of the anthropologist is to decipher through these layers for significance and coded behaviour. This is conveyed with the following quotation:

Believing with Max Weber, that man is suspended in webs of significance he himself has spun, I take culture to be those webs, and the analysis of it to be therefore not an experimental science in search of law but an interpretive one in search of meaning. It is explication I am after, construing social expressions on their surface enigmatical. (5)

Geertz's methodology for navigating these “webs of significance” is called “thick description.” “Thick description” entails an examination of the deeper meaning perceived to underlay the particular physical act or gesture. That is, it analyzes “public” symbols for

the purposes of describing their function, meaning, and import. For Geertz, significance is found in the difference between a “twitch” - which is involuntary; and a “wink” - “a conspiratorial signal to a friend” (6-7). As he states with respect to the “wink”: “That's all there is to it; a speck of behavior, a fleck of culture, and *voilà!* - a gesture” (6).

Geertz (1973) argues that what we produce in anthropology are “representations” (18). He makes a distinction between “culture as a natural fact and culture as a theoretical entity” (15), and sees an inescapable divide between hard reality and a representation of it. The understanding follows that anthropologists “read” culture; we make our own inferences and compose writings based upon our own position. He states: “...[W]hat we call our data are really our own constructs of other peoples' constructs of what they and their compatriots are up to” (9). In other words, are findings rest upon “scholarly artifice” (16). Geertz's position is summarized with the following excerpt:

In short, anthropological writings are themselves interpretations, and second and third order ones to boot. (By definition, only a “native” makes first order ones: it's *his* culture.) The are, thus, fictions; fictions, in the sense that they are “something made,” “something fashioned” - the original meaning of *fictio* - not that they are false, unfactual, or merely “as if” thought experiments. (15)

Revealed here is Geertz's caution towards casting other cultures in an anthropological light. He questions our ability as anthropologists – as outsiders – to grasp the “native[’s]” viewpoint.

Implicit in the practice of “thick description” is the acknowledgment that we can never definitively apprehend or represent the other. This position parallels the interpretivist anthropologist's objective of describing the other culture in layered detail. We can never know for certain the truth; all that is possible is the uncovering and

description of more and more layers of meaning. This concept is exemplified in Geertz's use of the phrase: "turtles all the way down" (1973: 29). What Geertz means by this is that there is no bottom line. He states: "Right down at the factual base, the hard rock, insofar as there is any, of the whole enterprise, we are already explicating; and worse explicating explanations. Winks upon winks upon winks" (9). Thus, all insights about a culture are "intrinsically incomplete" (29). Attaining the "first order interpretation" (the native's point of view) (15) is a challenge.

Geertz's notion of interpretation is expounded upon by those in the "culture-as-text" school; notably, James Clifford (1986, 1988) and George Marcus (1986). Building upon Geertz, but in slight departure, these anthropologists grapple with the role of colonialism in shaping their discipline. Their questioning of "ethnographic authority" leads them to cast doubts about their ability to generate authoritative conclusions about any culture they study. For example, Clifford (1988) asks:

Who has the authority to speak for a group's identity or authenticity? What are the essential elements and boundaries of a culture? How do self and other clash and converse in the encounters of ethnography, travel, modern interethnic relations? What narratives of development, loss and innovation can account for the present range of local oppositional movement? (8)

Our understandings of another culture are never authoritative (1986; 1988). As such, the statements (or ethnographies) we produce are more reflective of our own privilege and society than they are the culture we study. George Marcus (1986) states:

[The interpretativists] want to say something about the modern world as much, if not more, by self-conscious attention to the form of ethnographic text as by direct attention to the bounded world of the ethnographic subject" (191).

In this understanding, we cannot make direct conclusions about another culture because

“self” is implicated too heavily in this project. It must be stated that this is first and foremost a respectful and cautious position in the sense that these anthropologists are deeply aware of their own position of power. They are concerned with remaking or representing others in their own light. They do not wish to speak for others.

1.b) If interpretation is the only way of knowing another culture, could there have been a treaty?

Treaty-making would be difficult in this paradigm because interpretive anthropology is limited in its ability to imagine cultures arriving at a common understanding – an occurrence which is clearly demonstrated in treaty negotiations. For the interpretivists, attempts to achieve common ground are a challenge because we can never attain the “first order interpretation.” Though its reliance upon “third order interpretations” can be useful as a treaty process as it involves learning about the other, a further step must be taken: what we learn must be brought back for the purposes of constructing a relationship.

As noted above, an analysis of treaty represents a problem to the interpretivist method because it shows that different cultures can come to common understandings. For example, during the negotiations of the Manitoulin Island Treaty of 1862, our cultural differences did not serve as a hindrance to clear communication. An instance during the negotiations of the Treaty of 1862 is a case in point. Jako – the Wikwemikong's negotiator states:

One thing amazes me. It is that the Great Woman-Chief comes to ask us for our property! Is she so poor? Does she not have abundant treasures over there in the land they call England? But we who have abandoned our property, we are unfortunate!” (Caudieux: 1982).

In using the term “property”, Jako is not subscribing to European notions of land ownership, but making an effort to effectively communicate his position to McDougall by expressing it through a term that he will surely understand. Similarly, during Treaty 45, Bond Head recognized the Indigenous peoples' methods of orally and symbolically recording agreements and made sure that the treaty was expressed in a manner that they would understand. He grasped the significance of the wampum belt without having to be “native.” The notion that one must attain the “first order interpretation” or be “native” in order to know a culture is challenged here. Our shared treaty history shows us both striving to make ourselves intelligible to each other. In my reading, interpretive anthropology does not provide a means for describing this concept of mutual intelligibility.

It needs also to be emphasized that to build a relationship, there needs to be a process of learning. One cannot immediately assume that they know everything. Interpretive anthropology is useful for this purpose. It focuses on observance and learning about the other culture in a way which is incredibly thorough. However, the process of learning inherent in interpretive anthropology differs from a similar process in treaty-making in that the purpose of treaty is to construct a healthy relationship. This means that we do not need to know everything about the other culture. We only need to know what is sufficient to carry on a relationship.

2. a) Truth is partial.

The second assertion about culture is strongly linked with the first, in that truth –

in the interpretivist school – is conceived of as a “representation.” The interpretivists maintain an idea of objective truth, as the “factual base” (Geertz 1973: 84), but state that it is unattainable. As in the first assertion, the interpretivist anthropologist is limited to producing “representations” of this truth. This is in line with their concern of describing others in their own making. For Geertz, truth is unattainable, but the search towards it still valuable. Our different cultural “worlds” appear to be the determinants of these truths. Clifford (1986) holds a similar position. He claims that truth is always interpreted; that it can only emerge from an objective space, which is impossible to achieve because we are all enmeshed in our own cultural worlds and power relations. He asserts:

Even the best ethnographic truths – serious, true fictions – are systems, or economies, of truth. Power and history work through them, in ways their authors cannot fully control. Ethnographic truths are thus inherently *partial* – committed and incomplete. (1986: 7)

What I understand from this is that truth is formulated or funneled through culture.

Because of this alteration, truth cannot be grasped by an outsider; you need to be enmeshed in it to truly know. A similar relationship exists between: a) “factual base” and “representation”; and b) “objective truth” and what we may term “cultural truth.”

Understanding a “cultural truth” is seen as challenging for an outsider.

2.b) If truth is partial, could there have been a treaty?

No, because, like in the previous question, reconciling truths is a challenge. In this paradigm, each culture has its own truth which cannot be completely understood by the other party. In critiquing the interpretivist's understanding of cultural truths, I am not refuting the importance of culture. We are indeed shaped by our cultures, but this does

not prohibit us from understanding others. It is clear that we need a reconfiguration of truth. The concept of objective truth does not arise in treaty relations. I think that what is revealed in treaty negotiations is a discussion about each others' truths, and how we can work out an agreement that does not infringe upon them. Working on a common project such as a treaty relationship opens us up to the possibility of shared truths.

3.a) Cultural differences are always implicated in hierarchy.

The main proponents of this assertion are those anthropologists who argue that the culture concept essentializes difference through its assertion of coherency and ahistory (Appadurai 1992; Bruman 1990; Friedman 1993; Ingold 1993; Keesing 1981). Once again, these anthropologists are concerned with anthropology's relationship with the colonial project and are cautious of their own privilege. They believe it has a grand effect on how they see and describe others. They profess that culture pronounces difference; it locks a group of people in time and space. This argument is apparent in the works of Lila Abu-Lughod (1991), Arjun Appadurai (1992), and Paul Nadasdy (2002), among others. Building upon the above argument that culture is a means for pronouncing difference, Abu-Lughod asserts that difference is always implicated in hierarchy. She states:

“Culture” operates in anthropological discourse to enforce separations that invariably carry a sense of hierarchy...It could be argued that culture is important to anthropology because the anthropological distinction between self and other rests on it. Culture is the essential tool for making other. As a professional discourse that elaborates on the meaning of culture to account for, explain, and understand cultural difference, anthropology also helps construct, produce, and maintain it. Anthropological discourse gives cultural difference (and the separation between groups of people it implies) the air of the self-evident. (137-138, 143)

Similarly, Arjun Appadurai professes that culture and “hierarchy” are inextricably linked up. Consistent with Clifford and Marcus, he defines “native” as one who exists for, and is owned by the anthropologist. In his understanding, “native” or “culture” is a term used to signify difference. He states: “Natives are those who are somehow confined to places by their connection to what place permits. Thus all the language of natives, of foraging, of material skill, of slowly evolved techniques, is actually a language of incarceration” (37). In this paradigm, talking about difference evokes colonial processes.

Anthropologists who hold this view are concerned with issues of appropriation, exoticization, and other-ing. Abu-Lughod (1991) for instance, views colonial power relations as the central determinant in communication across cultures. Our differences are irreconcilable because relationships of equity are difficult. Intercultural communication is hard to attain without the problematic mechanisms listed above coming to the fore. Similarly, Appadurai (1992) asserts that hierarchy is built upon three problematic mechanisms: “essentialization, “exoticization,” and “totality.” “Totality” is defined as identifying a culture through a few of its “specific features” (41). Our use of culture “prisons” the “native.” Thus, we cannot speak about the “native” without other-ing.

As stated earlier, some anthropologists in the interpretivist tradition assert that differences are always “antagonistic” (Appadurai 1992; Brumann 1990; Friedman 1993; Ingold 1993; Keesing 1981). Once again, this argument finds its basis in the idea that culture lends itself to processes of essentialization. Jonathon Friedman (1993) intimates this view:

Where difference can be attributed to demarcated populations we have culture or cultures. From here it is easy enough to convert difference into essence, race, text, paradigm, code structure, without ever needing to examine the actual processes by which

specificity comes to be and is reproduced. (207)

From here, an argument is launched called “Culturalism.” This concept is defined below:

[“Culturalism”] posits the existence of a finite number of distinct cultural heritages in the world, each tied to a specific place or origin. Since these are taken to be ultimately antagonistic and incommensurable, they and the individuals associated with them are considered best kept separate, ideally in their respective homelands or, if that fails, in ethically defined quarters...(Brumann 1990: 510)

The concern is apparent here: if differences are affirmed, we will always have stark separations which carry with them a strong sense of incompatibility, or even hostility.

A similar argument is seen in the work of Paul Nadasdy (2002). His concern is with processes of appropriation and miscommunication. In “‘Property’ and Aboriginal Land Claims in the Canadian Subarctic: Some Theoretical Considerations,” Nadasdy discusses the problems he understands as inherent in cross-cultural communication. His argument is oriented around First Nations' understandings of “human-animal/land relations” and their relation to the European concept of “property.” Nadasdy argues that in having to prove in the land claim process that they hold title to the land, Indigenous peoples are forced to speak in the language of the dominant culture. In doing so, their position is compromised and they are, to some degree, “incorporated” into the dominant system. On this subject, he states:

The negotiation and implementation of land claim agreements amount to an attempt to incorporate aboriginal people's unique relationship to the land into the existing legal and political institutions of the Canadian state. This kind of incorporation requires a translation of cultural beliefs, values, and practices into a language that can be understood and acted on by Euro-Canadian bureaucrats, lawyers, and politicians (in this case, the legal language of “property”) (248)

In order to engage in communication across cultures, one must assume the framework of the dominant culture. Attempts to reconcile First Nations and settlers are accompanied by “processes of compartmentalization and distillation” (256). Nadasdy states:

...[Reconciliation] involves translating First Nations peoples' understandings of the world into a universe of meaning based on fundamentally different assumptions, with all the risks of mistranslation and misunderstanding inherent in any such process. (254)

Hence, intercultural communication occurs across power lines whereby one party is forced to make themselves intelligible to the other.

3.b) In a treaty relationship, is difference implicated in hierarchy? Does difference pose a problem for communication? Are differences always “antagonistic”?

Cultural differences do exist; but this does not mean that we cannot work out relationships of equity. A grand example of this is in the two-row wampum belt which shows two parties living separately, but together. Differences are here affirmed but a healthy relationship is still established. A new way of being finds expression through the treaty. If differences are always antagonistic, like the interpretivists imagine, treaty-making would be difficult. The argument of “culturalism” renders relationships between cultures difficult, as it sees stark separation as the only way of living with difference. The notion of “sharing” interrupts the “culturalism” argument. It envisions a sort of relationship in which we do not need to possess all of what we know. Sharing is a concept to which I will return in my conclusion.

Treaty negotiations demonstrate that intercultural communication is possible

without appropriation. Our political dominance does not alter the cultural logics of the people we are speaking with. For example, in the Treaty of 1862, our government clearly had more political power than the Indigenous peoples of Manitoulin Island. We were able to force upon them unwanted negotiations based on fraudulent rationale. However, this did not prevent the Indigenous peoples from effectively communicating their position. For example, Jako believed in the good intent of McDougall, stating that his heart was “pure.” Honesty, open communication, and taking the time to hear what was important to the other party is what was important here. In the approach I take in this project, hierarchy or inequality is the result of our failure to honour our treaty obligations. It is not due to a special power to automatically convert the First Nations' ways of thinking.

CONCLUSION

Overwhelmingly, interpretivists perceive cultures to be incommensurable. I understand this position to be a political one when put against treaty. The reliance upon “third order accounts,” parallels the position taken by those who argue that treaties cannot be seen as contracts. Both believe that arriving at a common understanding is impossible. In this way, interpretivism is limited as a method for grasping the accomplishment of treaties which clearly show that accurate communication across cultures occurs. As I have come to understand it, the destructive relationship between First Nations and Canada comes not from an unnamed power to enforce upon Indigenous peoples the dominant view, but from our inability as non-Indigenous peoples to uphold the obligations we made in these agreements. Power, in this understanding, is the result of a political power to evade our treaty obligations; not the power to enforce one's mode of

thinking on another.

As noted previously, interpretive anthropologists are sensitive to issues of appropriation, exoticization, and essentialization. These are healthy concerns – we need these critiques. What I wish to emphasize in my critique of interpretivism is not that this is an all together flawed way of perceiving “culture” - indeed it is useful for imagining a process of learning about the other, and shows caution towards speaking for others - however, in my understanding and focus on an elucidation of the treaty relationship, it does not address the other side of human relationships – of sharing and working together – which is so very important. To ignore this is to deny an inherent aspect of our lives where we can find much hope and possibility.

I see in treaty an alternative framework for thinking about intercultural communication. As a student of cultural anthropology, I have been conditioned to focus on power relations between cultures. I became well versed in processes of appropriation and exoticization, but have had difficulty pointing to what a healthy relationship might look like, and whether there were ways to facilitate such a relationship. Treaty provided a vision. From an investigation of historical treaty relations I was introduced to the concept of sharing as a way for two cultures to engage in a relationship. Sharing runs counter to dominant depictions of culture contact because it speaks to the possibility of peaceful relations through openness and respect. It states that we do not need to possess all that we own. Treaty articulates a new sense of being in the world. This is a difficult concept to articulate, but in my understanding – and this is informed by the works of Marcel Mauss and Claude Levi-Strauss (thinkers to which I will return later) – this sort of relationship occurs organically. Upon meeting another, we are bound to the obligation of taking care

of them. There is no other way.

This relationship is not rare. We see it in friendship; we see it in the relationship between missionaries and Indigenous peoples, and in negotiations with the Crown commissioner. It is the reason why “civilization” or assimilation policies do not succeed – we cannot possess another; it is a destructive way to live. The space of relationality or sharing is inherent in the treaty relationship. The shared understandings of the treaties, or the terms as they were presented to the Indigenous peoples, are always present and, in the case of this research, are conceived of as a place to begin a just relationship.

In focusing on the concept of sharing, I have come to learn a few concepts about how cultures understand each other and engage in relations. Here are a few of my reflections. Firstly, I believe that cultures understand each other through caring about one another. The historical treaties are teeming with clauses vowing to ensure the other party's welfare. In fact, the original reason for entering these treaties was to ensure that the settlers would not fall into poverty. As such, we intimated to the Indigenous peoples our need for land. We entered this relationship from a place of vulnerability.

In order to care about the other, you need to know the other. This does not mean that you assume the position of the “native” (Geertz 1973); it means that you know their “world” well enough to establish a relationship. Listening and learning about the other culture differs from translation in the sense that translation involves replicating the exact meaning of the word or concept. What is apparent in treaty negotiations is a process of figuring out how to make the concept understandable to the other party for the purposes of the agreement. Mechanisms such as the aforementioned feather, as well as gift giving served this purpose; they “open[ed] ears” (Miller 2009: 24) and facilitated clear and

honest communication. These practices were precursors to productive negotiations.

In my reflections upon the insights gained from the research with respect to treaty relationships, I have come to understand interpretivist anthropology as limited in the sense of communication across cultures. Though it puts forth an effective methodology for learning about the other, it does not go far enough in positing shared understandings. If our goal is toward an engaged anthropology that works on reconciling relations, we might consider turning to other theorists for inspiration.

In my graduate education, I have been exposed to thinkers from the structuralist tradition that I believe provide a better means for working on these problems. In *Elementary Structures of Kinship* (1949) for example, Levi-Strauss puts forth a theoretical framework that parallels the notion of treaty. He posits that society came to be through the incest taboo and the subsequent conscious formation of kinship rules designed to ensure reproduction. From the beginning, “self and other” were engaged in a relationship of “intermarriage” which preserved the autonomy of both entities (Asch 2005: 429). Additionally, Marcel Mauss in *The Gift* posits that exchange creates obligations, thereby binding two parties together. He states: “Therefore let us adopt as the principle of our life what has always been a principle of action and will always be so: to emerge from self, to give, freely and obligatory. We run no risk of disappointment” (71). In this regard, we might think about treaty - Indigenous permission to live upon their land - as setting in motion a series of obligations, which we have left unfulfilled.

In my perception – and I know this is a view shared by many – anthropology should be about working on problems concerning how we can all live peacefully together. We should be confronting squarely contemporary political problems. In our call

for a more engaged anthropology, we should consider turning to the above thinkers for direction.

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