

Treaty Rights: Seeking Increased Payments to First Nations

First Nations on and near Manitoulin Island are part of a group of 21 communities located on Lake Huron that is in litigation with the government of Ontario, concerning the Robinson Huron Treaty of 1850.

The 1850 Treaty is an agreement between First Nations and the Crown, that gives access to the north shores of Lake Huron and Lake Superior for settlement and mineral extraction. Part of the exchange is an annuity or annual payment, that in 1874 was increased to \$4.00 per person. The agreement includes increases to this payment if the Crown can make them without loss.

The lack of payment increases since 1874 has led to a court claim that goes back to 2012. The First Nations want an annuity increase and retroactive payments from the government. In 2018, the ruling found in favour of the First Nations. In 2019 the government of Ontario appealed the decision to the Ontario Court of Appeal. This appeal was heard in 2021 and was dismissed. The government of Canada has not made an appeal. Now, the Ontario government is appealing to the Supreme Court of Canada.

From the actual text of the Robinson Huron Treaty 1850, italics added:

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

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

Participating First Nations of Manitoulin Island

Aundeck Omni Kaning
M’Chigeeng First Nation
Sheshegwaning First Nation
Sheguiandah First Nation
Whitefish River First Nation
Wiikwemkoong Unceded Territory
Zhiibaahaasing First Nation

The treaty involves land along the north and eastern shores of Lake Huron, across from Manitoulin Island. PHOTO BY MIKE DAVIS.