

# Respect, Responsibility, and Renewal: The Foundations of Anishinaabe Treaty Making with the United States and Canada

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## THE WOMAN WHO MARRIED A BEAVER: ANISHINAABE CONCEPTIONS OF TREATY MAKING

In 1904, Kagige pinasi, a Fort Williams Anishinaabe, recounted the story of *The Woman Who Married a Beaver* to Mesquaki anthropologist William Jones.<sup>1</sup> In this story, a young girl blackened her face and went to fast.<sup>2</sup> After a while a being approached her and asked her to come live with him. She agreed and eventually married him. The being was very rich and had many impressive things; therefore, the young woman was never in need. In time, they had four children and continued to live without want. The family was always well fed and clothed. Jones recorded:

Now and then by a person were they visited; then they would go to where the person lived, whereupon the people would then slay the beavers, yet they really did not kill them; but back home would they come again. Now the woman never went to where the people lived; she was forbidden by her husband. That was the time when very numerous were the beavers, and the beavers were very fond of the people; in the same way as people are when visiting one another, so were (the beavers) in their mental attitude toward the people. Even though they were slain by (the people), yet they really were not dead. They were very fond of the tobacco that was given them by the people; at times they were also given clothing by the people.<sup>3</sup>

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Her children and husband would often go to the homes of the Anishinaabe, but they always returned.<sup>4</sup> They brought back many gifts such as kettles, plates, knives, and tobacco, the very things used by the Anishinaabe when they ate beavers. Her husband told her that he and their children greatly loved the Anishinaabe and always enjoyed visiting them. She never left her home but heard these many things from her husband. Instead, she always remained, tidying their home. Then one day she realized that she was in a beaver lodge. She then knew she had married a beaver.

Eventually, the woman's husband passed away, and she returned to her own people. She lived many years and often told the story of what happened when she was married to a beaver.

And she was wont to say: "Never speak you ill of a beaver! Should you speak ill of (a beaver), you will not (be able to) kill one."

Therefore such was what the people always did; they never spoke ill of the beavers, especially when they intended hunting them. Such was what the people truly know. If any one regards a beaver with too much contempt, speaking ill of it, one simply (will) not (be able to) kill it. Just the same as the feelings of one who is disliked, so is the feeling of the beaver. And he who never speaks ill of a beaver is very much loved by it; in the same way as people often love one another, so one is held in the mind of the beaver; particularly lucky then is one at killing beavers.<sup>5</sup>

*The Woman Who Married a Beaver* carries with it many lessons for the listener. It serves, first of all, to prepare young children for the encounters they may have with other beings when they engage in fasting or a vision quest. This story, as Bruce White has noted, also details the intermediary role that a woman can play in her marriage.<sup>6</sup> Yet a striking feature of the story is its attention to the reciprocal relationship that exists between the Anishinaabe and the beavers. White says, "Further, it is a basic description of and commentary on the cooperative arrangements that many Ojibwa people believed existed between different kinds of beings in the world."<sup>7</sup> By living among the beavers, the woman learned the importance of Anishinaabe offerings of tobacco and gifts to the beavers' well-being. The exchange of gifts—the beaver's life in exchange for tobacco and housekeeping items—also maintains the pleasant and mutually beneficial relationship between the Anishinaabe and the beavers. The ongoing success of this relationship depends on the Anishinaabe's practice of returning the bones of the beaver to the water, as this allows the beavers to come back to life and return home. The woman learned these lessons while she lived with the beavers and passed them on to the Anishinaabe when she returned home to her own people.

What is of particular interest is how this relationship and agreement are, in many respects, comparable to treaties. I argue that this story recounts the forging and functioning of a treaty relationship between the Anishinaabe and beavers. A treaty is in place between the Anishinaabe and beavers. The beavers offer themselves up to the Anishinaabe as food, and in exchange the

Anishinaabe agree to return the bones of the beaver and make offerings so that the cycle can continue. Importantly, this treaty is predicated on mutual respect between the beavers and the Anishinaabe. The necessity of respect is illustrated by the woman's warnings that the Anishinaabe are never to speak ill of the beaver.<sup>8</sup> She stated that their relationship to the beaver is like their relationship to one another: just as the Anishinaabe love one another, the beaver greatly loves those Anishinaabe who speak well of them. Those who speak kindly of the beaver will find great success in trapping one. Thus, the beavers, in turn, respect the Anishinaabe by greatly loving them and giving themselves up to the Anishinaabe for food.

Another key principle in this diplomatic accord between the Anishinaabe and beavers is responsibility. Each party has a responsibility to the other: the relationship is cooperative and predicated on trust. The Anishinaabe have a responsibility to make offerings to the beavers, enabling them to live without want.<sup>9</sup> They also have a responsibility to return the bones of the beaver back to their homes to allow for the beaver's continuation. In turn, the beavers have a responsibility to "visit" the Anishinaabe, giving themselves as food for the Anishinaabe, which allows the Anishinaabe to live without want.

Finally, this treaty is founded on the principle of renewal. The Anishinaabe and the beaver alike must carry out the principles of respect and responsibility for the treaty to remain continually in effect. Each time the Anishinaabe offer gifts to the beavers, the beavers in turn offer themselves by allowing their physical bodies to be trapped. When their bones are returned to the water, this treaty is renewed.

These early treaties between indigenous peoples and the Animal and Star nations are perhaps the oldest recorded treaties; they are contained in stories that lay out many foundational principles of treaty making. These principles would inform Anishinaabe political thought and practice as the Anishinaabe negotiated treaties with the United States and Canada and remain pivotal to contemporary legal and political struggles that face Native nations. By thinking about this story as a treaty, we can more fully understand the values and proper behavior necessary for two or more nations to engage in creating alliances with one another, a relationship rooted in respect, responsibility, and renewal. Robert Williams states, "In American Indian treaty visions of law and peace, a treaty itself was a special kind of story: a way of imagining a world of human solidarity where we regard others as our relatives."<sup>10</sup> The principles of respect, responsibility, and renewal illustrated in this treaty between the Anishinaabe and beavers are foundational in Anishinaabe political thought and practice. The Anishinaabe utilized these principles in their treaty practices with the United States and Canada as a means to establish just and mutually beneficial relationships.

**"OUR HEARTS AND OUR BRAINS ARE LIKE PAPER; WE NEVER  
FORGET": TREATY COUNCILS AND THE WRITTEN TEXT**

The Anishinaabe have long had to reckon with what it means to live in a multicultural and multinational world. Beyond recognizing a collective

identity, the Anishinaabe comprise distinct, separate bands that span a vast geographic region from the Great Lakes to the Plains.<sup>11</sup> Historically and today, the Anishinaabe are a people who share many beliefs and practices, yet individual bands are influenced by their particular histories, geographic locations, political relationships, and internal conflicts. Long before the arrival of Europeans, Anishinaabe nations were participating in social, economic, and political alliances that required engagement across national borders, kin ties, and epistemologies.<sup>12</sup> Nonetheless, as Vine Deloria and Raymond DeMallie state, “There has always been a question whether treaty making was a process familiar to Indian tribes or whether it was newly introduced by Europeans and inadequately understood by the Indians.” But the overarching body of evidence shows that treaty making was a long-standing tradition among Native peoples. Deloria and DeMallie declare that, “As far back as we can trace the practice we find that Indians were quite familiar with diplomatic negotiations and had their own forms for making agreements.”<sup>13</sup> Indigenous diplomatic practices are evident throughout the treaty record as Native peoples brought their own understandings of treaty making into the process.<sup>14</sup> The use of the pipe, exchange of wampum, and practice of gift giving are well-documented indigenous political practices that continued into their relations with European nations and later the United States and Canada.<sup>15</sup>

Nell Jessup Newton and colleagues argue that “the initial ‘treaties’ between the Americans and the Indian tribes were not written documents, but instead were formal diplomatic ceremonies lasting several days and marked by the exchange of presents, ceremonial objects, and solemn promises of friendship.”<sup>16</sup> Even in the early formation of the United States, little attention was focused on a written agreement.<sup>17</sup> Legal scholar Brian Slattery similarly finds that, in Canada, “historic treaties were profoundly influenced by Indian concepts, procedures and ceremonial and differed in a number of ways from treaties typical among European states.” He notes that “normally they were oral rather than written agreements. An Indian treaty typically took the form of a spoken exchange of proposals and responses, often marked by special rituals and usually taking place in several sessions extending over a number of days, leading to a firm understanding between the parties on certain matters.”<sup>18</sup> Although initial treaty making relied heavily on US and Canadian adherence to indigenous political protocols with little aim toward a written document, these colonial nations were able to formalize this process in ways that supported their own shifting political goals and standards.<sup>19</sup> Thus, at the end of the eighteenth century, the shift toward a written treaty, first found with the Delaware in 1778, became standard US and British North American practice.<sup>20</sup>

The Anishinaabe did not conceptualize the treaty exclusively as a written document. Instead, they understood that the treaty consisted of the entire council proceedings coupled with the events preceding its development and following its implementation. DeMallie has thoroughly addressed this more holistic view of the treaty process in his research on treaty councils. Although he specifically focuses on the Dakota, his findings have broader implications and can inform our understanding of Anishinaabe treaty practices. DeMallie

argues that “for the Indians the council was the traditional way of making peace or negotiating with another people.”<sup>21</sup> Native peoples had historical diplomatic practices of negotiating and working to attain consensus when building or maintaining social and political alliances. Therefore, when First Nations entered into these practices with European nations, they fully understood their purposes. Nonetheless, DeMallie argues, “If the council as a diplomatic forum was commonly understood by both whites and Indians, the concept of the treaty was not.” He finds that “for plains Indians, the council was an end in itself. What was important was the coming together in peace, smoking the pipe in common to pledge the truthfulness of all statements made, and the exchange of opinions. . . . Thus, from the Indians’ point of view, the council *was* the agreement.”<sup>22</sup>

Francis Paul Prucha also recognizes this critical distinction, asserting that “the meeting itself was the significant event, and for the Indians the exchange and acceptance of wampum strings and belts confirmed the decisions at the council.”<sup>23</sup> The word *treaty*, while currently understood as a contract between two or more nations, historically had an alternate meaning and usage: “a ‘treaty’ in that sense was the ‘act of negotiating,’ the discussion aimed at adjustment of difference or the reading of an agreement, and by extension the meeting itself at which such negotiations took place.”<sup>24</sup> Although the United States and Canada may have utilized the term *treaty* in its varied meanings, in time they would see the written document as the final and binding agreement.

Alternately, the Anishinaabe understood the entire council deliberations as the treaty. US and Canadian treaty commissioners primarily perceived the council, gift exchange, and dialogue as a prerequisite to acquiring the desired signatures of First Nations leaders. Although these colonial nations were frequently interested in extinguishing Indian title by having Native peoples sign their name to a treaty, or “touching the pen,” the written document rarely represented the vast expressions of indigenous sovereignty, nationhood, and land tenure articulated within the council. As DeMallie states, “for individual Indian leaders, touching the pen apparently signified that they were validating all they had said at a council; in many cases the record of the treaty proceedings makes it clear that the Indian leaders did not realize their signatures committed them to *only* those statements written in the treaty.”<sup>25</sup>

An Anishinaabe leader expressed the importance of oral negotiations to the process of treaty making. During the negotiation of Treaty Three, which concerned Anishinaabe lands in present-day Ontario with a small portion in southeastern Manitoba, this chief stressed to the Crown, “you must remember that *our hearts and our brains are like paper; we never forget.*”<sup>26</sup> The commissioners were aware of the Anishinaabe’s remarkable ability to remember everything said during these negotiations.<sup>27</sup> This is reflected in the negotiation records when Canadian Treaty Commissioner S. J. Dawson cautioned the other commissioners to use great care in choosing their words. He recalled his experience with a Fort Frances Anishinaabe leader who had repeated verbatim everything Dawson had stated two years earlier.<sup>28</sup> Anishinaabe leader Metawaa’s words at the 1833 treaty between the United States and the United Nation of Ojibwe,

Ottawa, and Potawatomi echoed the sentiments of the Treaty Three leader. He stated, "We have heard the words of our Fathers. They are good and we will hearken unto them. They shall abide in our memories."<sup>29</sup> Anishinaabe ability to recall the statements made in previous councils shows that they, as DeMallie suggests, understood the entire council's proceedings as constituting the treaty.

This distinction between the council as the treaty in contrast to the written document alone has led to various disputes about what was understood by the First Nations as they engaged in treaty making with the United States and Canada. The written treaties did not always faithfully reflect the terms verbally agreed to by the participating nations. This became evident to the First Nations when the government response did not mirror the promises made during the negotiations.<sup>30</sup> Although the Anishinaabe did not see the written document exclusively as the treaty, they gradually became aware of its importance to US and Canadian government officials. The Anishinaabe responded to the distinction of what constituted the treaty by utilizing the written format in conjunction with their long-standing practice of recording to memory everything said throughout the council.<sup>31</sup>

The record surrounding the 1846 treaty between the United Nation of Ojibwe, Ottawa, and Potawatomi and the United States demonstrates one way that the Anishinaabe responded to colonial preference for a written document.<sup>32</sup> Superintendent of Indian Affairs Major Thomas H. Harvey had met with the Anishinaabe delegations in June 1845 to discuss the prospect of a treaty that would enable the United States to remove the United Nation from its reservation in western Iowa. The United Nation was dissatisfied with this offer. Aware of the importance of the written document for the United States, they sent Major Harvey back to Washington with a written "talk" that outlined their response. This "talk" focused primarily on the United Nation's request for one million acres of land held by the Kansas Indians, as opposed to the lands proposed by the president, as well as their proposal for adjustments to the amount and duration of their annuities.

In November 1845, a delegation for the United Nation went to Washington to inquire about the president's response to their written "talk"; US treaty commissioners argued that the United Nation had not been invited to Washington and asserted that the United Nation had refused to enter into a treaty with the president. Anishinaabe leader Obto-gee-shick responded to the commissioner's recitation of their recent treaty negotiations, stating: "We have never refused him anything. When Major Harvey came to ask for our land we did not refuse, we told him it was the last piece we had to sell—take it—there is our price. We gave him a paper—it is all written down. We want our great Father's answer to that paper."<sup>33</sup> The United Nation recognized that the United States placed weight on the written document. Therefore, they had their requests to the president written down. When the United Nation felt that treaty commissioners had misrepresented the events surrounding a previous attempt to negotiate a treaty, they again called on this written document to assert their interests.

In order to control the tone and direction of the negotiations in Washington, the United Nation presented a formal written response to the

commissioners.<sup>34</sup> They had this response read for them by Richard S. Elliott, their former Indian subagent at Council Bluffs, and set up measures to ensure that what was stated accurately reflected their words. Obto-gee-shick declared, “The answer he is going to give you for us comes from our hearts—the half breeds will listen to what he says.”<sup>35</sup> Although the United Nation requested that Elliott present its written response, it ensured that he accurately represented their interests by confirming his interpretive statements through bilingual “half-breed” Anishinaabe interpreters present at the treaty.<sup>36</sup>

Though the United Nation left Washington without any resolution, commissioners assured the Anishinaabe that US officials would negotiate a treaty with the United Nation that summer. Recognizing the importance of written documentation for the United States, the United Nation not only formally wrote its response to US treaty commissioners, but also asked for personal copies of the written treaty. When the negotiations concluded in June 1846, Anishinaabe leader Ne-bea-me stated, “You must make us a strong paper & a good paper with the name of our great Father to it and give us one of them that we may keep it ourselves.”<sup>37</sup> Other Native nations also requested copies of their written treaties.<sup>38</sup>

For instance, the Anishinaabe in Lake of the Woods requested a written copy of Treaty Three in 1873. They said that they wanted their copy to be written on parchment so that the treaty would not be “rubbed off.”<sup>39</sup> This insistence on a copy that would withstand time was important for Lake of the Woods Anishinaabe, who saw their treaties as foundations for a long-standing relationship with Canada that carried responsibilities, rights, and privileges for both parties. These responsibilities, though not always recorded in their entirety, were thought by the Anishinaabe to be included in the written agreement. Besides insisting on a copy of the written treaty, an Anishinaabe leader at the negotiations for Treaty Three also requested the names of all the Canadian officials for accountability purposes. He stated, “I would wish to have all your names in writing handed over to us. I would not find it to my convenience to have a stranger here to transact our business between me and you. It is a white man who does not understand our language that is taking it down. I would like a man that understand our language and our ways.”<sup>40</sup>

The United States and Canada have occasionally attempted to reconcile these distinct understandings of treaty making and resolve the issues that came out of these different perceptions by creating and relying upon special canons of treaty construction by which a document might be interpreted and construed.<sup>41</sup> Although the United States and Canada have sporadically adhered to these canons in court cases, they have sometimes led to favorable judicial rulings for First Nation.<sup>42</sup> The canons posit three distinguishing factors for interpreting Indian treaties: “(1) a cardinal rule in the interpretation of Indian treaties is that ambiguities in treaty language are to be resolved in favor of the Indians; (2) since the wording of treaties was designed to be understood by the Indians, who often could not read and were not skilled in the technical language often used in treaties, doubtful clauses are to be resolved in a nontechnical way, as the Indians would have understood the language; and (3) treaties are to be liberally construed to favor Indians.”<sup>43</sup> In

addition, the reserved rights doctrine, a closely related concept, holds that all rights not expressly ceded by a tribe in a treaty are reserved while the abrogation doctrine asserts that Congress's intent to infringe upon tribal rights must be clear and unambiguous.<sup>44</sup>

The canons of construction, when they are invoked, seemingly work in favor of Native interpretations of treaty making, relying on a broader examination of the historical record instead of merely the written treaty. However, Felix Cohen has pointed out that "although an interpretation of a treaty should be made in the light of conditions existing when the treaty was executed, as often indicated by its history before and after its making, the exact situation which caused the inclusion of a provision is often difficult to ascertain."<sup>45</sup> The canons promote and rely upon an examination of the historical record to ascertain what Native people intended when they engaged in treaties with the United States and Canada. Deloria recognizes the importance of this historical record: "We can conclude that an Indian treaty, in addition to being a formal document either ratified by Congress or unratified but nevertheless negotiated in good faith, should include the narratives of the negotiations and any prior or subsequent form of negotiation conducted according to traditional Indian procedure. By adopting this expanded understanding of the Indian treaty, one can illuminate the obscure phrases and promises contained in the written document."<sup>46</sup>

Journal records surrounding Anishinaabe negotiations with the United States and Canada brim with Anishinaabe conceptions of treaty making and what these agreements entail. As Deloria observed, "By looking at what the Indians said in their formal speeches during negotiations, one can determine what the Indians saw as important and what parts of the treaty should be taken seriously as a meeting of the minds."<sup>47</sup> Although the historical record can shed light on the important aspects of a treaty for First Nations, it can also illuminate what First Nations saw as critical principles for building and sustaining mutually beneficial relationships with other nations, namely the United States and Canada.

#### "OUR TREATIES WERE MEANT TO LAST FOREVER": THE TREATY AS A LIVING RELATIONSHIP

The treaty process, mirroring long-standing diplomatic practices, was seen as a way to develop international alliances with colonial and settler nations.<sup>48</sup> Rebecca Tsoie and Wallace Coffey state that "our ancestors recognized themselves as distinctive cultural and political groups, and that was the basis of their sovereign authority to reach agreements with each other, with the European sovereigns, and then the United States." They argue that "in each of these instances, our Ancestors exercised governmental authority to protect their lands, resources, peoples and cultures."<sup>49</sup> Furthermore, they point out that indigenous treaty making was primarily focused on the protection of land, resources, and peoples. Anishinaabe elder Mervin Huntinghawk echoes these sentiments: "our treaties were meant to protect our rights to the land and to provide a base for a lasting relationship with the Crown. They

represent political arrangements which we gave to the Crown in order to regulate how we shared our land and resources in nation-to-nation relations.” His statement illustrates how the treaty process was not a novel practice. It was a practice “given” to the Crown by the Anishinaabe. Huntinghawk, in his discussion of the treaty-making process, connects treaty elements with the longer tradition of diplomacy employed by the Anishinaabe in their relations with other Native nations.<sup>50</sup>

Although Huntinghawk’s comments illustrate contemporary perceptions among the Anishinaabe, these views of the treaty process provide a retrospective lens for interpreting the political discourses and practices employed by the Anishinaabe in the treaty era. In many cases, the Anishinaabe called on their long-standing diplomatic practices to shape and set the tone of the treaty negotiations.<sup>51</sup> Additionally, Huntinghawk’s comments that “our treaties were made to last forever” evidence that the Anishinaabe saw the treaty as having forged a living relationship, not merely an agreement fixed on paper.<sup>52</sup> This living relationship continues to be dependent on the principles of respect, responsibility, and renewal.

Throughout the treaty-making process, the Anishinaabe echoed these three principles. For example, an Anishinaabe leader from Treaty Three discussed the principle of responsibility that is rooted in notions of reciprocity: “We are the first that were planted here; we would ask you to assist us with every kind of implement to use for our benefit, to enable us to perform our work; a little of everything and money. We would borrow your cattle; we ask you this for our support, I will find whereon to feed them. The waters out of which you sometimes take food for yourselves, we will lend you in return.”<sup>53</sup> This leader was asserting Anishinaabe sovereignty as it was connected to their placement in North America. Such an assertion established their claim to the land. The Anishinaabe leader then made specific requests of the Canadian government, offering in return the use of Anishinaabe lands and resources. His words demonstrate that the Anishinaabe saw the treaties as vehicles for building relationships vested in reciprocal responsibilities. The Canadian government would be responsible for aiding the Anishinaabe, and, in turn, the Anishinaabe would be responsible for assisting Canada.

Anishinaabe intent for treaty making was often generated by their desire to establish relationships with the United States and Canada based on peace and friendship. Anishinaabe leaders echoed this sentiment at the negotiations surrounding Treaty Three with Canada. One leader stated, “You have come before us with a smiling face, you have shown us great charity—you have promised the good things; you have given us your best compliments and wishes, not only for once but for ever.”<sup>54</sup> Respect and kindness toward one another were critical to establishing treaty relationships. The Anishinaabe leader continued, “Let there now for ever be peace and friendship between us.”<sup>55</sup>

The principles of respect and renewal were interdependent for the Anishinaabe of Lake of the Woods. They closed the negotiation councils by reminding the commissioner of the lasting effect of the treaty, which entailed mutual responsibilities, dependent on continuous renewal. Anishinaabe leader Mawedopenais expressed it this way, “and now, in closing this Council,

I take off my glove, and in giving you my hand, I deliver over my birth-right and lands, and in taking your hand, I hold fast all the promises you have made, and I hope they will last as long as the sun goes round and the water flows, as you have said." Mawedopenais emphasized that each nation had a responsibility to the other, with each having acquired rights from the agreement. Likewise, Lieutenant-Governor Alexander Morris seemingly recognized the responsibility that treaties carried, proclaiming, "I accept your hand and with it the lands, and will keep all my promises, in the firm belief that the treaty now signed will bind the red man and the white together as friends for ever."<sup>56</sup>

Yet treaty promises were not always kept by the United States and Canada.<sup>57</sup> These nations were frequently slow in fulfilling certain aspects of the treaties. The Anishinaabe often petitioned their treaty partners, pressing them to uphold the promises and responsibilities they had to one another. The United Nation of Ojibwe, Ottawa, and Potawatomi, while negotiating with US commissioners in Washington in 1845, expressed their understanding of the responsibilities outlined in the treaties. When the United States failed to fulfill previous treaty stipulations, the United Nation reminded the United States of its responsibility, explicitly stating, "There were two contracting parties to that treaty. The United States and ourselves. And it was not a treaty until both parties agreed to it. We were told that it could not be altered without the consent of both. We have never agreed to alter it."<sup>58</sup>

The United Nation continued to assert the importance of previous treaties with the United States, declaring, "This is one of the troubles that has brought us here. You now say that our Great Father cannot give us money to build our farm houses, and shops where we now are." The United States argued that they could not fulfill their treaty responsibilities to the United Nation until the tribe removed. The United Nation, having already been removed from the western shore of Lake Michigan to their current location in Iowa and Missouri, was frustrated with US attempts to remove them again with Potawatomi bands to Kansas.<sup>59</sup> They continued, "But the treaty calls for these things and he [the president of the United States] said when we saw him that all the stipulations of the treaty should be fulfilled."<sup>60</sup>

The United Nation of Ojibwe, Ottawa, and Potawatomi summarized the distinct understanding of treaty making maintained by these three separate polities when it stated, "We wished to act up to our treaties: but it seems he has changed his mind, since the last great treaty was made. Now he wants us to remove: and because we will not go to a country where we cannot live; because we will not give him our last tract of land for six cents an acre; we will not make ourselves still poorer forever than we now are, you say, he thinks we are not wise."<sup>61</sup> When the United States and Canada did not adhere to their treaty promises, the Anishinaabe often expressed the three principles of respect, responsibility, and renewal as a means to reorientate their relationship with the United States and Canada.

An Anishinaabe leader at the Treaty Three negotiations perhaps best expressed the importance of treaty making for the Anishinaabe when he stated, "We would not wish that anyone should smile at our affairs, as *we think our country is a large matter to us*."<sup>62</sup> He pushed for Lieutenant-Governor

Morris to agree to the terms set out by the Anishinaabe. Morris's response is quite telling. It shows how Canadian treaty commissioners understood treaty making in relation to the Anishinaabe. Morris responded, "I quite agree that this is no matter to smile at. I think that the decision of to-day is one that affects yourselves and your children after."<sup>63</sup> Although these decisions did affect the Anishinaabe and their children, these commitments also affected the Canadian government and its citizens. This agreement carried responsibilities for both sides, a point that Morris did not seem to reflect upon. The responsibilities the Canadian government had toward the Anishinaabe did not cease with a signature on paper and the payment of treaty annuities. The Anishinaabe, recognizing that treaties would affect their people for generations, understood that these relationships would need to be renewed continuously.

The Anishinaabe, in their treaties with the United States, also expressed the importance of these agreements for the future of their nations. For example, Mississippi Band of Anishinaabe leader Hole-in-the-Day (the younger), in a conference with Minnesota Governor Alexander Ramsey in October 1863, stated, "What we speak of to-day are subjects of the greatest importance to us; they are matters of life and death to us."<sup>64</sup> Hole-in-the-Day and his people, distraught by the paltry terms of the 1863 treaty signed in Washington, recognized that this treaty would have lasting ramifications for his people. He stated, "When we look at the treaty, we have only about a stone's [?] that is good for anything, and we see no way of bettering ourselves." Hole-in-the-Day was so troubled by what this treaty would entail for his people that he declared, "I am willing to sacrifice myself for my band, and die for them."<sup>65</sup> Building a relationship vested in Anishinaabe treaty principles was a way for the Anishinaabe to ensure their survival in a rapidly changing world.

Treaties were clearly not static agreements from an Anishinaabe perspective but were contingent on each nation meeting the obligations they carried. These commitments necessitated a constant renewal of friendship and peace through their fulfillment. Anishinaabe nations, when entering into a treaty with the United States and Canada, frequently built upon their previous agreements. For example, when the United States sought to negotiate an additional treaty with the United Nation of Ojibwe, Ottawa, and Potawatomi in 1846, they were reminded that their previous responsibilities would not be nullified by the success or failure of reaching a new agreement. The United Nation, in its written response, stated, "We have not come here because we wanted to sell our Country: but we have met you because our Great Father has been asking us for it for years. We have named our price, and we have no other price. If our Great Father is pleased it is well; if not, our women and children will feel glad, and, therefore, will be happy. They do not want to remove."<sup>66</sup>

The United Nation, though quite reluctant to remove, recognized that their survival in an ever-changing multinational terrain was dependent on their ability to establish and maintain a peaceful relationship with the United States. However, they were only willing to negotiate a new treaty that would entail their removal if certain stipulations they put forward were met. They

continued their speech by declaring that “Our Great Father has been knocking at the door of our wigwams for six years. We have opened the door. If he does not come in we will close it and we do not want him to knock again.”<sup>67</sup>

The United Nation was willing to engage in a relationship with the United States but held fast to its own demands. If a new treaty was not to be concluded, the United Nation reminded the commissioners that their previous treaties needed to be fulfilled, stating, “But if our Great Father does not want to make a treaty, on our terms, we hope he will see that all our old business is arranged.”<sup>68</sup> The United Nation used this moment to remind the commissioners that they came to the president not to sell additional lands but to express the need for him to fulfill their previous treaty stipulations. They carefully noted that the inability of reaching a new agreement did not void previous agreements.

Anishinaabe leader Ma-ghe-ga-bo also expressed the principle of renewal at the 1837 treaty negotiations with the United States by stating, “If you offer us money and goods we will take both. You see me count upon my fingers (counting six) [.] Every finger counts ten. For so many years we wish you to secure to us the payment of an annuity. At the end of that time our grandchildren, who will have grown up, can speak to you for themselves.”<sup>69</sup> Ma-ghe-ga-bo’s words demonstrate that this agreement, within Anishinaabe understandings of treaty making, did not exclusively depend on the stipulations the Anishinaabe put forward at that time. This treaty would need to be revisited in sixty years for Ma-ghe-ga-bo’s grandchildren to be able to speak for themselves.

Treaties created relationships among nations. They established relationships of trust. That trust did not end with the completion of a written document; it merely began with it. However, it was the responsibility of all parties involved to maintain the relationships established through treaty making. The sustainability of these agreements was dependent upon each nation adhering to the principles of respect, responsibility, and renewal.

#### CONCLUSION: CONTEMPORARY APPLICATIONS OF ANISHINAABE TREATY PRINCIPLES

The story of *The Woman Who Married a Beaver* illustrates Anishinaabe principles of respect, responsibility, and renewal that are critical in treaty making. The Anishinaabe expressed these principles when they negotiated treaties with the United States and Canada. Treaty making was contingent upon trust. Williams has asserted, “By recognizing the central principle of Encounter era Indian diplomacy that a treaty is a relationship of trust, we begin the complex process of rendering a more complete accounting of the importance of Indian ideas and values in protecting Indian rights under U.S. law.”

The canons of construction have created a path for a reorientation of federal Indian law by providing an interpretive framework for the courts to expand their interpretations of First Nations’ treaty rights. Nonetheless, today federal Indian law in the United States and Canada is primarily rooted in the trust or fiduciary relationship. David Wilkins and K. Tsianina Lomawaima,

in their examination of the trust doctrine, note that “common to many, but not all, definitions of ‘trust’ is the notion of federal *responsibility to protect or enhance* tribal assets (including fiscal, natural, human, and cultural resources) through policy decisions and management actions.”<sup>70</sup> Although the trust doctrine is critical to the field of federal Indian law and had its inception in treaty making, the courts have not considered Anishinaabe conceptions of trust, as defined in their treaty relations.

Williams states, “The trust doctrine was not the exclusive by-product of the Western legal tradition brought to North America from the Old World. This central protective principle of Indian tribal rights under our law has deep roots in Encounter era Indian visions of law and peace.”<sup>71</sup> Therefore, an understanding of the parameters and applications of the trust relationship should require an incorporation of Native peoples’ understanding of this important political relationship when it came into existence during the treaty era. Williams’s perspective is corroborated by Tsosie and Coffey, who state that “the ‘trust doctrine’ should reflect our Ancestors’ understanding of their relationship to the United States government, including their commitment to having their separate political existence affirmed by the United States, and their belief that the treaties entailed a series of moral duties between two groups that pledge to live in peace with one another and act in good faith.”<sup>72</sup> The trust relationship was initially born out of this pledge to live in peace and act in good faith.

Throughout their treaty negotiations with the United States and Canada, the Anishinaabe articulated a notion of trust that infused Anishinaabe treaty principles. An understanding of Anishinaabe interpretations of treaty making, grounded in the three principles of respect, responsibility, and renewal, can shed light on how trust can be put into practice. A return to and recognition of these three foundational principles can provide new directions for federal Indian law that has often constrained indigenous peoples’ rights and left them with an ever-shifting status.<sup>73</sup>

*The Woman Who Married a Beaver* is a powerful story of transformation that sheds light on how the Anishinaabe understood treaty making. The young girl is literally transformed into a beaver. Through this change, she learns how important the principles of respect, responsibility, and renewal are for a healthy and beneficial relationship to continue between the Anishinaabe and the beavers. She brought these lessons back to the Anishinaabe when she returned to her people. These principles were and remain foundational to the development and sustainability of mutually beneficial relationships. Treaty making was about making relationships. They were not mere agreements that ceded one thing in exchange for another. Treaties bound nations to one another. They carried commitments that did not end with the exchange of land for annuities. These agreements connected people. Treaties were a vision for what a multinational society could entail.

The treaty record demonstrates that Anishinaabe understandings of the trust relationship were built upon their foundational treaty principles of respect, responsibility, and renewal. Although these principles were primarily the ideal and were not always the practice, Anishinaabe often saw treaty

making as the way to build relationships that worked toward this ideal. In 1873, an Anishinaabe leader in the negotiations for Treaty Three said to Canadian Treaty Commissioner Alexander Morris, “If you give what I ask, the time may come when I will ask you to lend me one of your daughters and one of your sons to live with us; and in return I will lend you one of my daughters and one of my sons for you to teach what is good, and after they have learned, to teach us.”<sup>74</sup>

This notion of intertwining families and teachings, of creating shared relationships, echoed time and again by Anishinaabeg in their treaty relationships, can shed light on how various nations can come together to develop long-lasting relationships based on the principles of respect, responsibility, and renewal. These relationships today are often carried out through federal Indian law as Native nations call on the United States and Canada to reaffirm their treaty commitments with First Nations and to continue or revive the treaty process, commitments that carry a relationship of trust. Perhaps this story of the woman who married a beaver can shed light for what a relationship based on trust can look like in practice.

### Acknowledgment

I am grateful to David Wilkins and David Chang for their insightful and gracious comments. Participants of the American Indian Studies Workshop at the University of Minnesota also provided generous comments on early drafts. Miigwech!

### NOTES

1. Kagige pinasi (Forever Bird) is also referred to as John Pinesi (Penessi, Penassie). For biographical information about this Anishinaabe chief from Fort Williams, ON, see Truman Michelson, ed. and William Jones, comp., *Ojibwa Texts*. Publications of the American Ethnological Society, vol. 7, pt. 1, ed. Franz Boas (New York: E. J. Brill, 1919), xvi–xvii.

2. Frances Densmore and Smithsonian Institution Bureau of American Ethnology, *Chippewa Customs* (1929; repr., St. Paul: Minnesota Historical Society Press, 1979), 70–71; Basil Johnston, *Ojibway Ceremonies* (Lincoln: University of Nebraska Press, 1990), 41–56. For an account of a young Ojibwe woman’s fasting experience, see Maude Kegg and John Nichols, *Portage Lake: Memories of an Ojibwe Childhood* (Minneapolis: University of Minnesota Press, 1993), 22–25.

3. Michelson and Jones, *Ojibwa Texts*, 255.

4. There have been a number of names with varied spelling for the people who call themselves Ojibwe. However, as E. S. Rogers notes, “Although the Indian groups now referred to as Chippewa, Ojibwa, and Saulteaux descend from closely related bands that were living in a fairly compact area in the mid-seventeenth century, at no time has there been a single distinctive name for these groups alone” (768). The historical record initially labeled these people as Algonquin, Mississauga, Saulteaux, and Ottawa while contemporary records primarily utilize the modern local band names referencing specific communities and peoples and not the larger group of

the Chippewa/Ojibwe. Chippewa is the English rendering of Ojibwe, and its usage is primarily in the United States and southern Canada. US federal records and treaties label these people as Chippewa. Canadian sources primarily reference these people as Ojibwe (also spelled Ojibwa and Ojibway). Many of the Southeastern Ojibwe were historically referenced as the Mississauga. Saulteaux was primarily found in historical references to the Ojibwe to include the Ojibwe from Sault St. Marie westward, and today is often used to connote the Ojibwe in Manitoba and Saskatchewan. I have chosen to use Anishinaabe as it is the name used by the people and adheres to contemporary scholarly practice. In addition, Anishinaabe connotes a broader group than some of these aforementioned terms are associated with. For a list of the various spellings and meanings associated with the terms used to reference the Ojibwe/Anishinaabe people, see Laura Peers, *The Ojibwa of Western Canada, 1780–1870* (Winnipeg: University of Manitoba Press, 1994); Robert E. Ritzenthaler, “Southwestern Chippewa,” in *Handbook of the North American Indians: Northeast*, ed. Bruce G. Trigger (Washington, DC: Smithsonian Institution, 1996), 15:743–59; E. S. Rogers, “Southeastern Ojibwa,” in Trigger, ed., *Handbook of the North American Indians: Northeast*, 15:760–71.

5. Michelson and Jones, *Ojibwa Texts*, 257.

6. Bruce White, “The Woman Who Married a Beaver: Trade Patterns and Gender Roles in the Ojibwa Fur Trade,” *Ethnohistory* 46, no. 1 (Winter 1999): 109–47.

7. White further notes that “Ojibwa people who hunted, fished or gathered plants had to be aware of their reciprocal obligations with the natural world and give back something to the animals, fish, or plants from which they harvested.” *Ibid.*, 111.

8. White notes, “The beaver story shows that reciprocity was necessary to keep the system operating. Without gifts and respect, animals would not be so helpful to humans. They would hold themselves back and would not allow themselves to be used by people. Without gifts and respect, the system would cease to function.” *Ibid.*

9. For further discussion on how gifts function in treaty making, see Cary Miller, “Gifts as Treaties: The Political Use of Received Gifts in Anishinaabeg Communities, 1820–1832,” *American Indian Quarterly* 26, no. 2 (2002): 221–45.

10. Robert A. Williams Jr., *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600–1800* (New York: Routledge, 1999), 83–84.

11. I utilize the term *band* to refer to the divisions among the Anishinaabe collective. Bands were originally constituted by a number of families that lived together and often became known by their locations, their villages. Today, the Anishinaabe continue to divide along band lines yet maintain a shared identity through common ancestry as Anishinaabe people. These separate bands are primarily recognized as separate nations that maintain their own governments and laws. Many Anishinaabe nations were recognized by their band names in their treaties and continue to employ these names today (e.g., Turtle Mountain Band of Chippewa Indians and Red Lake Band of Chippewa Indians). Some bands were brought together in treaty making and/or vis-à-vis a variety of policies and statutes and are dealt with by the United States as a single nation (e.g., White Earth Nation). In Canada, many Anishinaabe nations maintain names that pertain to their locations. In addition, First Nation is common usage in Canada to refer to Native nations and many Anishinaabe First Nations do not use *band* as part of their official national name. I primarily utilize the term *nation* in place of *band* to reference individual bands because it more accurately recognizes the political autonomy and sovereignty of each band in relation to the Anishinaabe collective.

Historically, the Anishinaabe, an Algonquian-speaking people with origins on the East Coast, migrated west during the course of several centuries. Around the time of arrival at Sault Ste. Marie, distinct linguistic and cultural identities slowly emerged among Ojibwe, Ottawa, and Potawatomi people. The common origins of these three groups are recognized by their shared identity as Anishinaabe people. From Sault Ste. Marie, Ojibwe people continued spreading west along the northern and southern shores of Lake Superior in northwestern Ontario, Upper Michigan, and northern Wisconsin. In the eighteenth century, Ojibwe people began massive expansion into northern Wisconsin and Minnesota. From here, Ojibwe people expanded over a vast area in the plains, establishing communities in North Dakota, Manitoba, Saskatchewan, and Alberta. Plains Ojibwe communities retained distinct woodland cultural institutions, while increasingly drawing on cultural traits of their neighbors on the plains.

12. See Kathy Davis Graves and Elizabeth Ebbott for the League of Women Voters of Minnesota, *Indians in Minnesota*, 5th ed. (Minneapolis: University of Minnesota Press, 2006); William W. Warren, *History of the Ojibway People* (1885; repr., St. Paul: Minnesota Historical Society Press, 1984).

13. Vine Deloria Jr. and Raymond J. DeMallie, eds., *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775–1979*, 2 vols. Legal History of North America, vol. 4 (Norman: University of Oklahoma Press, 1999), 6.

14. William N. Fenton, *The Great Law and the Longhouse: A Political History of the Iroquois Confederacy*. The Civilization of the American Indian Series, vol. 223 (Norman: University of Oklahoma Press, 1998); Lewis Henry Morgan and Herbert Marshall Lloyd, *League of the Ho-Dé-No-Sau-Nee or Iroquois* (New York: B. Franklin, 1966); Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*. Cambridge Studies in North American Indian History (Cambridge and New York: Cambridge University Press, 1991); Williams, *Linking Arms Together*.

15. Colin G. Calloway, *New Worlds for All: Indians, Europeans, and the Remaking of Early America* (Baltimore, MD: Johns Hopkins University Press, 1998); Williams, *Linking Arms Together*.

16. Nell Jessup Newton et al., *Cohen's Handbook of Federal Indian Law* (Newark, NJ: LexisNexis, 2005), 20.

17. Francis Paul Prucha, *American Indian Treaties: The History of Political Anomaly* (Berkeley: University of California Press, 1994), 26; Alden T. Vaughan, *Early American Indian Documents: Treaties and Laws, 1607–1789* (Washington, DC: University Publications of America, 1979).

18. Brian Slattery, "Making Sense of Aboriginal and Treaty Rights," *Canadian Bar Review* 79 (2000): 208.

19. Prucha, *American Indian Treaties*; Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1986); Slattery, "Making Sense of Aboriginal and Treaty Rights."

20. Prucha, *American Indian Treaties*, 26.

21. Raymond DeMallie, "Touching the Pen: Plains Indian Treaty Councils in Ethnohistorical Perspective," in *Major Problems in American Indian History*, ed. Albert Hurtado and Peter Iverson (Lexington, MA: D. C. Heath and Company, 1994), 345.

22. Slattery, "Making Sense of Aboriginal and Treaty Rights," 345–46; emphasis in original.

23. Prucha, *American Indian Treaties*, 26.

24. Prucha argues, "The language of the Continental Congress and its contemporaries makes it clear enough from the context which sense of the word it meant. The documents are full of such terminology as 'holding a treaty' with the Indians, 'inviting Indians to a treaty,' providing military support and purchasing presents 'for a treaty,' or greeting Indians as they arrived 'at a treaty.'" *Ibid.*, 25.

25. DeMallie, "Touching the Pen," 346; emphasis in original.

26. The chiefs were often not identified in the negotiation records. Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories: Including the Negotiations on Which They Were Based, and Other Information Relating Thereto* (Toronto: Prospero Books, 2000), 69; emphasis added. For additional information on Treaty Three, see Wayne E. Daugherty, "Treaty Research Report: Treaty Three (1873)," Treaties and Historical Research Centre, Indian and Northern Affairs Canada, [http://www.ainc-inac.gc.ca/pr/trts/hti/t3/index\\_e.html](http://www.ainc-inac.gc.ca/pr/trts/hti/t3/index_e.html) (accessed 15 August 2008). Originally published in Ottawa by Indian and Northern Affairs Canada, 1986.

27. Although it was recognized that Native people maintained the ability to remember everything stated throughout the negotiations, oral history still has not been given its due weight in the courts. See, e.g., John Borrows, "Listening for a Change: The Courts and Oral Traditions," *Osgoode Hall Law Journal* 39 (1997): 1–38.

28. Olive Patricia Dickason, *Canada's First Nations: A History of Founding Peoples from Earliest Times*. The Civilization of the American Indian Series, vol. 208 (Norman: University of Oklahoma Press, 1992), 276.

29. The United Nation of Ojibwe, Ottawa, and Potawatomi was comprised of Anishinaabe who resided on the western shores of Lake Michigan. In this 1833 treaty, the United Nation ceded these lands for a reservation in western Iowa. See *Ratified Treaty No. 189 Documents Relating to the Negotiation of the Treaty of September 26, 1833, with the United Chippewa, Ottawa, and Potawatomi Indians*, Documents Relating to the Negotiation of Ratified and Unratified Treaties with Various Tribes of Indians, 1801–69, National Archives Microfilm Publications, Record Group 75, Microcopy No. T-494, Roll 3:F66 (hereinafter referred to as NAMP RG 75, M T-494). Records of the Bureau of Indian Affairs, National Archives and Records Services, Washington, DC.

30. Brian Slattery, "Understanding Aboriginal Rights," *The Canadian Bar Review* 66 (1987): 730.

31. *Ratified Treaty No. 247 Documents Relating to the Negotiation of the Treaty of June 5 and 17, 1846, with the Chippewa, Ottawa, and Potawatomi Indians*, NAMP RG 75, M T-494, Roll 4; president's message, 9 July 1846. Also see Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*.

32. Unlike the 1833 treaty, this treaty consolidated the treaty interests of the United Nation of Ojibwe, Ottawa, and Potawatomi Indians with other Potawatomi bands and referred to the collective as the Potawatomi Nation. See Treaty with the Potawatomi Nation, 1846, June 5 and 17, 1846: 9 *U.S. Statutes at Large* 853; Treaty with the Chippewa, etc., 1833, September 26, 1833: 7 *U.S. Statutes at Large* 431.

33. Dashes in text have been changed to em dashes for readability. *Ratified Treaty No. 247*, NAMP RG 75, M T-494, Roll 4:F300.

34. *Ibid.*, F304. Miamese said, "Our views have been put on paper and will be presented by Mr. Elliot. We have taken time to consider what our great father has said as you told us to do. And what Mr. Elliot will read to you is our reply."

35. Em dash added for readability. *Ibid.*

36. Many interpreters were not only bilingual but were fluent in multiple languages. The treaty record, however, rarely provides any information on the language skills of the interpreters.

37. *Ratified Treaty No. 247*, NAMP RG 75, M T-494, Roll 4:F333.

38. Also see the records surrounding Treaty Three discussed in the following text and in Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*.

39. *Ibid.*, 72.

40. *Ibid.*, 71.

41. For additional information on the origin and application of the treaty canons of construction, see "Interpretation of Treaties," in Felix S. Cohen, *Handbook of Federal Indian Law, with Reference Tables and Index* (Washington, DC: Government Printing Office, 1942), 120. Also see Philip P. Frickey, "Marshalling Past and Present: Colonialism, Constitutionalism, and Interpretation in Federal Indian Law," *Harvard Law Review* 107, no. 2 (December 1993): 381–440; David E. Wilkins, *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice* (Austin: University of Texas Press, 1997); Charles F. Wilkinson and John M. Volkman, "Judicial Review of Indian Treaty Abrogation: 'As Long as Water Flows, or Grass Grows Upon the Earth'—How Long Is That?" *California Law Review* 63, no. 3 (May 1975): 601–61.

42. Native scholars David E. Wilkins and K. Tsianina Lomawaima point out that "each of these 'canons' theoretically stands for a system of fundamental rules and maxims that the Court agrees to recognize and use in its interpretation of written instruments." However, they find that "this sense of 'canon' as an authoritative rule does not always hold up in the area of Indian law. As we have seen with other doctrines of federal Indian policy and law, each canon has an opposite corollary that may be cited by the courts when it suits the justices' purposes." Wilkins and Lomawaima, *Uneven Ground: American Indian Sovereignty and Federal Law* (Norman: University of Oklahoma Press, 2001), 141.

43. David E. Wilkins, *American Indian Politics and the American Political System* (Lanham, MD: Rowman and Littlefield, 2002), 339.

44. Cohen, *Cohen's Handbook of Federal Indian Law*, 26. Also see *Choctaw Nation v. United States*, 318 U.S. 423 (1943); *Choate v. Trapp*, 224 U.S. 665 (1912); *Worcester v. Georgia*, 31 U.S. (6 Pet) 515 (1832); *U.S. v. Winans*, 198 U.S. 371 (1905); *Choctaw Nation v. Oklahoma*, 397 U.S. 620 (1970); *United States v. Shoshone Tribe*, 304 U.S. 111 (1938); *Jones v. Meehan*, 175 U.S. 1 (1899); and *Winters v. United States*, 207 U.S. 564 (1908).

45. Cohen, *Handbook of Federal Indian Law, with Reference Tables and Index*, 38.

46. Deloria and DeMallie, eds., *Documents of American Indian Diplomacy*, 8.

47. *Ibid.*, 11.

48. Williams, *Linking Arms Together*.

49. Rebecca Tsosie and Wallace Coffey, "Rethinking the Tribal Sovereignty Doctrine: Cultural Sovereignty and the Collective Future of Indian Nations," *Stanford Law and Policy Review* 12, no. 2 (2001): 196.

50. Mervin Huntinghawk, "Since Time Immemorial: Treaty Land Entitlement in Manitoba," in *Sacred Lands: Aboriginal Worldviews, Claims, and Conflicts*, ed. Jill Oakes et al. Canadian Circumpolar Institute Occasional Publications Series No. 32 (Edmonton, AB: Canadian Circumpolar Institute Press, 1998), 41.

51. For numerous examples of Anishinaabe use of the pipe during their treaty practices with the United States see Documents Relating to the Negotiation of Ratified and Unratified Treaties with Various Tribes of Indians, NAMP RG 75, M T-494, Rolls 1–10. Records of the Bureau of Indian Affairs, National Archives and Records Services, Washington, DC. For Canadian treaty records illustrating Anishinaabe use of the pipe, see Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*. The Anishinaabe also utilized the pipe and other sacred items in their diplomatic practices with other Native nations. See John Tanner, *The Falcon: A Narrative of the Captivity and Adventures of John Tanner* (New York: Penguin Books, 1994); Anton Treuer, *Living Our Language: Ojibwe Tales and Oral Histories, Native Voices* (St. Paul: Minnesota Historical Society Press, 2001); Thomas Vennun, *The Ojibwa Dance Drum: Its History and Construction*. Smithsonian Folklife Studies No. 2 (Washington, DC: Smithsonian Institution Press, 1983); Warren, *History of the Ojibway People*.

52. Huntinghawk, “Since Time Immemorial,” 41.

53. Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*, 63.

54. Em dash added for readability. *Ibid.*, 72–73.

55. *Ibid.*, 73.

56. *Ibid.*, 75.

57. It can be questioned whether the Anishinaabe always upheld their promises. However, I have not found anything in the historical record that suggests otherwise. In addition, it should be noted that the United States and Canada acquired the desired land and resources that they negotiated for. Many treaties carried promises of peace and friendship, and although the Anishinaabe often sought to uphold peace between the nations, unfulfilled treaty promises did often lead to Anishinaabe protest.

58. *Ratified Treaty No. 247*, NAMP RG 75, M T-494, Roll 4:F308.

59. R. David Edmunds, *The Potawatomis: Keepers of the Fire* (Norman: University of Oklahoma Press, 1987).

60. *Ratified Treaty No. 247*, NAMP RG 75, M T-494, Roll 4:F308.

61. *Ibid.*, F306.

62. Principle Chief Ma-we-do-pe-nais likely spoke these words. Chief Powhassan was another principle speaker, however, and the treaty journal only notes that a chief spoke these words; emphasis added.

63. Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*, 60.

64. President’s message, January 7 and 8, 1864; *Treaty of October 2, 1863 with the Red Lake & Pembina Bands of Chippewas*; Indian Treaty Files, SEN 38B-C9, p. 47, RG 46. Also see *Ratified Treaty No. 327 Documents Relating to the Negotiation of the Treaty of October 2, 1863, with the Red Lake and Pembina Chippewa Indians*, NAMP RG 75, M T-494, Roll 6. For biographical information on Chief Hole-in-the-Day (the younger) and his father, see Charles Alexander Eastman (Ohiyesa), *Indian Heroes and Great Chieftains* (Mineola, NY: Dover, 1997). Also see Anton Steven Treuer, “The Assassination of Hole in the Day” (PhD diss., University of Minnesota, 1997).

65. President’s message, January 7 and 8, 1864; *Treaty of October 2, 1863 with the Red Lake & Pembina Bands of Chippewas*; Indian Treaty Files, SEN 38B-C9, p. 47, RG 46.

66. *Ratified Treaty No. 247*, NAMP RG 75, M T-494, Roll 4: F311.

67. *Ibid.*

68. Ibid.

69. *Ratified Treaty No. 223 Documents Relating to the Negotiations of the Treaty of July, 29, 1837, with the Chippewa Indians*, NAMP RG 75, M T-494, Roll 3:F559. Also see president's message, 19 December 1837; *Treaty of July 29, 1837 with the Chippewas*; Indian Treaty Files, SEN 25B-C4, RG 46. For additional information on the 1837 treaty, see James M. McClurken and Charles E. Cleland, *Fish in the Lakes, Wild Rice, and Game in Abundance: Testimony on Behalf of Mille Lacs Ojibwe Hunting and Fishing Rights* (East Lansing: Michigan State University Press, 2000); Ronald N. Satz, *Chippewa Treaty Rights: The Reserved Rights of Wisconsin's Chippewa Indians in Historical Perspective* (Madison: Wisconsin Academy of Sciences, Arts, and Letters, 1991).

70. Wilkins and Lomawaima, *Uneven Ground*, 65; emphasis in original.

71. Williams, *Linking Arms Together*, 133.

72. Tsosie and Coffey, "Rethinking the Tribal Sovereignty Doctrine," 204.

73. David E. Wilkins, "The Manipulation of Indigenous Status: The Federal Government as Shape Shifter," *Stanford Law and Policy Center* 12, no. 2 (Spring 2001): 223–35.

74. Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*, 63.