

Treaty Six: A Portrait of Cree Agency

The discipline of history can often misrepresent events, tell half-truths, or create myths that perpetuate false accounts. Unfortunately, if these deficient chronicles are retold enough times by enough credible historians they become *the* mainstream orthodox history. The field of Canadian Aboriginal history, in particular, has suffered greatly from this popular yet misleading kind of historiographical regurgitation, and the signing of Treaty Six at Fort Carlton, Saskatchewan in 1876 is one such example. The standard Canadian myth regarding Treaty Six holds that the Plains Cree were facing cultural annihilation in the face of aggressive colonial expansion and because of this they *had* to sign Treaty Six with the Canadian state or perish by starvation.¹ Although there is some truth to this assertion as the buffalo herds, the main source of Cree food and livelihood, *had* greatly diminished and settlers *were* arriving in ever greater numbers, it does not tell the whole story.² Specifically, by painting Cree people as passive non-actors who settled for government treaty terms, the myth misrepresents the Canadian government as farsighted and altruistic while simultaneously robbing Cree people of their agency.³ This lopsided historiographical interpretation is simply not true, as the Cree nation, led by Chiefs Mistawasis and Ahtahkakoop, did possess and employ agency while signing Treaty Six. Their exertion of agency can be seen most clearly in three ways. First, the transference of Rupert's Land from the Hudson's Bay Company to the Dominion of Canada incited political resistance in the North-

¹ John Tobias, "Canada's Subjugation of the Plains Cree, 1879-1885," in *The Canadian Historical Review*, 64, 4 (1983): 519.

² *Ibid.*

³ *Ibid.*

West, which included Cree people. Second, Cree people had a long history of adaptation and survival in adversity upon which they drew in their negotiations with Canada. Third, Treaty Six saw the inclusion and expansion of many far-reaching terms beneficial to Cree and their descendants. By looking at these three factors together it is possible to construct a more complete historical interpretation of Treaty Six, one that dispels the Canadian myth that Mistawasis, Ahtahkakoop, and the Cree were passive co-operatives who accepted government-imposed treaty terms.

Perhaps the best way to understand the agency that Chiefs Mistawasis and Ahtahkakoop and the Cree Nation possessed and employed in 1876 during Treaty Six is to examine the political circumstances of the North-West after the transfer of Rupert's Land to Canada in 1870. It is prudent to start here because it was the social upheaval that the land transaction caused that led the Cree to demand treaty. The Plains Cree prior to 1870 had always been an autonomous nation; they had their own system of governance and leadership and had engaged in international trade with the Hudson's Bay Company (HBC) for over two hundred years.⁴ Cree scholar Neal McLeod explains the equal power dynamic that existed between the Cree and the HBC before Treaty Six: "Prior to the treat[y] there had been roughly 200 years of mutually beneficial trade...The notion of reciprocity (*miyo-wicihitowin*, 'helping each other in a good way') was the core of this relationship."⁵ Moreover, according to McLeod, their long-term international relationship was based strictly on "economic gain." At no time did the Cree relinquish their rights or sovereignty to the HBC.⁶

⁴ Neal McLeod, *Cree Narrative Memory: From Treaties to Contemporary Times*, (Saskatoon: Purich Publishing Limited, 2007), 35.

⁵ *Ibid.*

⁶ *Ibid.*

The unannounced transfer of Rupert's Land, then, from HBC to Canada in 1870 came as a great shock for Cree peoples who had been neither informed of, nor consulted about, the deal.⁷ Perplexed, the Cree steadfastly believed that they remained a free people: after all, *their* nation had not entered into land negotiations with the Queen to surrender *their* ancestral lands, and, even if they did, they simply would not give away the land that the Creator had given to them.⁸ First Nations lawyer Sharon Venne explains the confusing political climate in Saskatchewan between the years 1870 and 1876: "The [Cree] peoples heard that the Hudson's Bay Company had sold their lands to the British Crown. The Chiefs could not believe that the trading company could have acquired their lands. In present circumstances, it would be tantamount to Pepsi Cola or another such company gaining title to the lands of another country merely by engaging in trading. The [Cree] peoples never recognized that the company had any jurisdiction over them."⁹ Historian John Tobias supports Venne's observation of the Cree's outright rejection of the unconsulted land transfer (and the authority that came with it) by highlighting their initial reaction: "The Cree had learned in 1870 about Canada's claim to their lands...[and] made clear that they would not allow settlement or use of their lands until Cree rights had been clearly recognized."¹⁰ Tobias fortifies his point by illustrating exactly how the Cree mobilized against Canada's sudden political imposition: "They interfered with geological surveys and prevented the construction of telegraph lines through their territory to emphasize that Canada had to deal with the Cree for Cree lands."¹¹ Also during this time, according to McLeod, the Cree began to forcefully exert their agency in the form of sporadic armed standoffs, and "in some cases

⁷ McLeod, 35.

⁸ Sharon Venne, "Understanding Treaty 6: An Indigenous Perspective," in *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality, and Respect for Difference*, eds. Michael Asch, (Vancouver: UBC Press, 1997), 184.

⁹ Venne, 184.

¹⁰ Tobias, 521.

¹¹ *Ibid.*

[resisted] the Crown by force.”¹² Canada’s concern about the rise and spread of violence can be heard in a letter that Chief Factor of the Saskatchewan district W. J. Christie wrote to Governor Archibald in Fort Garry in 1871: “I have no doubt that they would have proceeded to [more] acts of violence, and once that had commenced, there would have been the beginning of the Indian war.”¹³

Indeed, Christie’s fear was not unfounded. Venne identifies that systemic, all-out war was a real possibility in the North-West Prairies post transfer: “All over the West following 1870...Indigenous peoples were protecting their territory without a treaty. If the Crown wanted to have access to their territories, the Crown would need an agreement from the Indigenous peoples.”¹⁴ We can thus see that a wave of Native resistance swept the west and, consequently, also closed it off to the young Canadian state. Tobias bluntly describes Canada’s *lack* of agency in the area during this time: “They [the government] had no plan on how to deal with the [western] Indians.”¹⁵ Historian Sarah Carter supports Tobias’ claim; however, she also believes that the organized Native resistance had delivered political control to Cree and other Indigenous peoples who then initiated Treaty Six (and the other numbered treaties) so they could positively affect their own lives: “[T]here was no [government] plan or particular direction; the pattern and timing of treaty-making...were to a great extent the result of pressure brought to bear by Aboriginal people...Aboriginal people were interested in entering into agreements that could assist them to acquire economic security in the face of a very uncertain future.”¹⁶ The testimony

¹² McLeod, 36.

¹³ Alexander Morris, *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: Belfords, Clark & Co. of Toronto Publishers, 1880), 170.

¹⁴ Venne, 184.

¹⁵ Tobias, 520.

¹⁶ Sarah Carter, *Aboriginal People and Colonizers of Western Canada*, (Toronto: University of Toronto Press Incorporated, 1999), 120.

of Alexander Morris, the lead Canadian official during Treaty Six, on day one of the negotiations corroborates Carter's observation that the Cree had initiated the talks: "I am here now because for many days the Cree nation have been sending word that they wished to see a Queen's messenger face to face."¹⁷

In this reversal of power we see the neglected other half of the Canadian historiographical myth pertaining to western treaty making: Cree political agency. No longer are Mistawasis and the Cree simply starving and waiting for treaty terms to end their perpetual suffering. Instead, they become the *main* actors who force the Canadian government, by way of organized resistance, to recognize them as an independent nation through Treaty Six. Tobias pinpoints this fact of agency: "[The] Plains Cree in the period 1872-5 [had] compelled the government of Canada to [make treaty] with the Indians of the Qu'Appelle and Saskatchewan districts."¹⁸ Historian D. J. Hall further argues that the Cree "not only forced [treaty]...[they] raised most of the issues!"¹⁹ Notwithstanding Cree agency, the underlying facts pertaining to the "old treaty myth" remain intact: the buffalo herds had diminished immensely, and settlers were pushing westward in ever-increasing numbers, and both factors greatly threatened Cree sovereignty.²⁰

Yet, when one considers both of these impingements one must also remember that the Cree nation had always been able to adapt to new circumstances and new ways of life.²¹ Their history of changing economic strategies in the fur trade and their inclusion of agricultural in Treaty Six is a testament to their agency. Tobias explains:

¹⁷Deanna Christensen. *Ahtahkakoop: The Epic Account of a Plains Cree Head Chief, His People, and Their Struggle for Survival, 1816-1896*, (Shell Lake: Ahtahkakoop Publishing, 2000), 238.

¹⁸ Tobias, 521.

¹⁹ McLeod, 41.

²⁰ Carter, 120.

²¹ Tobias, 522.

In adopting this position [agriculture via Treaty Six], the Cree were simply demonstrating a skill that they had shown since their initial contact with Europeans in 1670. On numerous occasions during the fur trade era, they had adapted to changed environmental and economic circumstances, beginning first as hunters, then provisioners and middlemen in the Hudson's Bay Company trading system, and finally adapting from a woodland to parkland-prairie buffalo hunting culture to retain their independence.²²

Possibly the best example of Cree resiliency and adaptation is found in the western smallpox epidemics that occurred between 1780 and 1820 that had drastically winnowed all of the Indigenous nations of central Saskatchewan.²³ The Cree and Assiniboine (the two most dominant nations in the area) lost roughly half to three quarters of their populations during this time.²⁴ Oddly, and unexplainably, beginning in 1781, the Cree population slowly started to rebound, then; surprisingly, after 1820, they rose to completely dominate central Saskatchewan.²⁵ Concurrently, the Assiniboine receded southward, reeling from the effects of repeated outbreaks, and never again to attain prominence in Saskatchewan.²⁶ Fur trade historian Arthur Ray tries to make sense of the Cree's strange biological ability to persevere and expand while the Assiniboine contracted: "The sharply different population-growth rates [post 1780-1820] of the Assiniboine and Western Cree are puzzling considering that the two groups were living in roughly similar environmental settings and were often in close contact with each other...[What is more,] it may be that the general mortality rates of the Cree were actually *higher* than those of the Assiniboine because of somewhat lower standards of living."²⁷ Blood Elder Dorothy First Rider is not confused; she offers a simple, unscientific explanation: "The Cree had a long history of survival [by] adaptation."²⁸

²² Tobias, 522.

²³ Arthur Ray, *Indians in the Fur Trade: Their Roles as Trappers, Hunters, and Middlemen in the Lands Southwest of Hudson's Bay, 1660-1870*, (Toronto: University of Toronto Press, 1974), 111.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Sarah Carter, Dorothy First Rider and Walter Hildebrandt, *The True Spirit and Original Intent of Treaty 7: Treaty Elders and Tribal Council*, (Montreal: McGill-Queen's University Press, 1996), 220.

Certainly Chiefs Mistawasis and Ahtahkakoop must have known in 1876, as Elder First Rider does now, of their own people's ability to adapt and thrive in adversity. Based on this assumption of agency, it is conceivable that maybe this is the real reason why Mistawasis entered into Treaty Six instead of continuing the successful resistance effort or going to war. Moreover, maybe this is why Mistawasis had enough confidence to encourage his people to switch from mobile bison hunting to sedentary farming. Adapting their way of life to survive had, after all, been *the* Cree way of life for over two hundred years and it had always served them well. Why would Treaty Six, with its reserves and agriculture, be any different than past *segues*?²⁹ Authors Walter Hildebrant, Carter, and First Rider support the observation that Mistawasis believed strongly in his people's ability to adapt to agriculture by showing that farming/husbandry was their "top priority" during Treaty Six: "[T]he goal was...adapting to an agricultural way of life; this is what the Cree demanded. Cree leadership...[had] settled on the strategy of becoming agriculturalists [to survive]."³⁰ So vehemently did the Cree and Mistawasis pursue the issue of farming during Treaty Six that on day four of the negotiations a frustrated Morris tried to resolve the topic by offering privileges he was not authorized to make: "Therefore, I would agree to give every spring, for three years, the sum of one thousand dollars to assist you in buying provisions while planting the ground. I do this because you seem very anxious to make a living for yourselves, it is more than has been anywhere else; I must do it on my own responsibility, and trust to the other Queen's councillors to ratify it."³¹ Concerned about their livelihood, Mistawasis and the Cree leadership secured a comprehensive agricultural plan from Morris and the Dominion of Canada, one which they knew they could execute given their long history of

²⁹ McLeod, 35.

³⁰ Carter, First Rider and Hildebrant, 220.

³¹ Morris, 217.

adaptation.³² This willingness to adapt to a new way of life *by way of* Treaty Six helps uproot the old historiographical germ that the Cree *had* to adapt to a new way of life *because of* Treaty Six's climate (e.g. starvation, settler encroachment, and government imposition). However enlightening this shift of perspective is in appreciating the Cree's agency during 1876, it is not the clearest display of their wherewithal during treaty talks. Their agency is most brightly illuminated in what stipulations they managed to secure during negotiations.

No doubt the strongest example of Cree agency during Treaty Six is found in the treaty terms themselves. To start, in August 1876 when Lieutenant-Governor Alexander Morris and his Commissioners came to Fort Carlton to negotiate land surrender from the Cree, they brought a pre-drafted contract that they were not legally authorized to alter.³³ Métis interpreter Peter Erasmus reveals the limitations of Morris's power: "His assumption had been [that] the Indians [would] completely adopt his treaty terms, which by his own words he was not authorized to change in any form. I thought to myself, 'a boxer sent into the ring with his hands tied.'"³⁴ Regardless of this handcuffing, the original terms were changed through the impressive negotiation skills of Mistawasis, Ahtahkakoop, and their council.³⁵ In a back-peddling official document sent to Ottawa in December 1876, Morris tried to explain the treaty's alterations:

The negotiations were difficult and protracted. The Hon. David Mills, then minister of the Interior, in his Annual report thus characterizes them: 'In view of the temper of the Indians of the Saskatchewan [Mistawasis and Ahtahkakoop], during the past year, and of the extravagant demands which they were induced to prefer on certain points, it needed all the temper, tact, judgement and discretion, of which the Commissioners were possessed, to bring the negotiations to a satisfactory issue.'³⁶

Even while hiding behind Mills's defence it was obvious to officials in Ottawa that Morris did not follow orders, or "bring the negotiations to a satisfactory issue," nor did he control the

³² Carter, 123.

³³ Peter Erasmus, *Buffalo Days and Nights*, (Calgary: Fifth House Limited, 1999), 244.

³⁴ *Ibid.*

³⁵ Carter, 123.

³⁶ Morris, 176.

talks.³⁷ Tobias explains the political uproar in parliament that followed Morris's weak treaty showing: "So successful were they [the Plains Cree] in negotiating...that when the Mackenzie government received a copy of Treaty 6 in 1876 it accepted the treaty only after expressing protest concerning the too-generous terms granted to the Cree."³⁸ Surely, the protest in Ottawa would have risen to an incomprehensible din if Morris had included in the final treaty draft all the promises that he had made under ceremonial oath, most of which have never been recognized.³⁹ Notwithstanding Morris's deception by omission, Mistawasis and Ahtahkakoop did manage to ink many far-reaching terms not included in other treaties, and it is by these allotments that we can truly understand the skill and agency of these two diplomats.⁴⁰

Of all the treaty terms that Mistawasis and Ahtahkakoop secured in Treaty Six perhaps the most well-known and all-encompassing was the medicine chest.⁴¹ Morris's words on day four of Treaty Six negotiations captures the moment when this famous treaty term was granted: "A medicine chest will be kept at the house of each Indian agent, in case of sickness amongst you."⁴² Venne calls this provision in Treaty Six *the* legal basis for granting health care to modern Aboriginal peoples in Canada: "The Chiefs and Headmen successfully negotiated universal healthcare for all Indigenous peoples within Treaty 6. Treaty 6 is the only numbered treaty that includes a 'medicine chest' provision."⁴³ As well, historian J. R. Miller notes, powerful speeches delivered by Mistawasis and Ahtahkakoop had compelled Morris to extend education privileges found in previous treaties.⁴⁴ But Treaty Six was different than any other treaty because, as

³⁷ Tobias, 523.

³⁸ *Ibid.*

³⁹ McLeod, 36.

⁴⁰ Carter, 124.

⁴¹ Venne, 194.

⁴² Morris, 218.

⁴³ Venne, 194.

⁴⁴ J. R. Miller, *Shingwak's Vision: A History of Native Residential School*, (Toronto: Toronto University Press, 1997), 98.

underscored by Venne, it granted “universal access to education for *all* Indigenous peoples without discrimination by age or sex.”⁴⁵ Again, this historic moment of Cree agency is galvanized in Morris’s words: “Your children will be taught, and then they will be as well able to take care of themselves as the whites around them.”⁴⁶ Admittedly, feeding his people by agriculture had been Mistawasis’s and Ahtahkakoop’s most immediate concern during Treaty Six but it may be that universal health care and education were their wisest and most far-reaching inclusions. For in securing both of these stipulations the chiefs had ensured a future for not only their people but for all Aboriginal peoples in Canada.

Be that as it may, Mistawasis and Ahtahkakoop had also obtained a vast number of other minor terms that collectively exhibited great agency, chief among these terms was securing water rights. According to Venne, water rights had been a major concern for Cree during the negotiations because “many of their communities within the Treaty Six area were located on or near a lake.”⁴⁷ Venne also says that Mistawasis and Ahtahkakoop “never gave up their rights to water, or the fish, animals, or other things that lived in the water...[because] they made a good living from trapping fish and animals that lived in the water.”⁴⁸ It was only after the Cree were promised their water rights by Morris did they agree to finalize Treaty Six: “The water is not what she [The Queen] wants” he notes, “I do not want to interfere with your...fishing. I want you to pursue it...as you have heretofore done.”⁴⁹ Moreover, Mistawasis and Ahtahkakoop had also successfully negotiated the right to choose the reserve sites on which their people could live.⁵⁰ The granting of this little known stipulation is captured in Morris’s words, recorded by

⁴⁵ Venne, 194.

⁴⁶ Christensen, 275.

⁴⁷ Venne, 195.

⁴⁸ *Ibid.*

⁴⁹ Christensen, 243.

⁵⁰ Morris, 218 and Venne, 197.

government translator and Secretary of the Commission Hon. A. G. Jackes: “You can have no difficulty in choosing your reserves; be sure to take a good place so that there will be no need to change; you would not be held to your choice until it was surveyed.”⁵¹ Venne strongly asserts that these reserve sites must not be understood as lands being given to the Cree as purported by the “altruistic government myth” because “these were not lands given to the Indigenous peoples by the Crown or government.”⁵² She drives her point home by asking: “How [could] the government or the Queen give them lands when all the lands belonged to them?”⁵³ In reality, the Cree would have never signed Treaty Six if they had not been able to choose where they were to settle. Furthermore, Venne states that even the ground upon which the Cree and the immigrant settlers were to eventually occupy had never actually been sold by Mistawasis and Ahtahkakoop in Treaty Six: “[L]and and resources were never sold, but only loaned.”⁵⁴ And even then, it was only “for the use of the land to the depth of the plough.”⁵⁵ Again, the Cree would not have signed the treaty if they thought they were relinquishing their divine inheritance because they simply could not sell or trade it.⁵⁶ Water rights, hand-picked reserves, and land possession had all stood intact as Cree rights at the conclusion of Treaty Six. Their later *illegal* violation by the Canadian government does not mar the contemporary agency that Mistawasis and the Cree exercised during Treaty Six. In fact, the list of successfully negotiated Treaty Six terms also includes many more things like; hunting and trapping rights, adequate and fair policing, mineral rights, social assistance, citizenship, farm instruction and machinery, vocational training and tools, treaty

⁵¹ Morris, 218.

⁵² Venne. 197.

⁵³ *Ibid.*

⁵⁴ *Ibid.*, 205.

⁵⁵ *Ibid.*, 192.

⁵⁶ McLeod. 35.

money, animal protection, housing, and access to a community-chosen Indian Agent.⁵⁷ When the full scope of successfully negotiated treaty terms is presented, it is easy to see just how much agency Mistawasis, Ahtahkakoop, and the Cree exerted during Treaty Six.

In conclusion, the historiographical myth that portrays Mistawasis, Ahtahkakoop, and the Cree people during Treaty Six as passive non-actors while painting the Canadian government as generous and far-sighted is not accurate. A shift in historical perspective comes when one examines how the Cree deployed their agency in a threefold approach. Firstly, the transference of Rupert's Land caused organized resistance in the North-West giving Cree people political agency. Secondly, the Cree people had a long history of adaptation and could use this to transition into agriculture. Lastly, Treaty Six saw the expansion and inclusion of many far-reaching terms not included in previous Numbered Treaties. As a final thought, the historical documents I examined for this paper all sadly point to the undeniable fact that the Canadian government has acted criminally by not upholding their end of Treaty Six. And, despite Mistawasis's and Ahtahkakoop's skilled diplomacy in securing extensive treaty terms, the Cree did not thrive after 1876 because of Canada's gross negligence. But, we must wait for that narrative to be told, because that is another story for another essay in another class.

⁵⁷ Venne, 193-202.

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