

Robinson Huron Treaty Litigation News

June 2018

Court Update

By Jennifer Pereira

Phase One of the Robinson-Huron Treaty court case will soon be wrapping up. In September 2017, twenty-one Anishinabek communities under the Robinson Huron Treaty (RHT) took the governments of Ontario and Canada to court over the Crown's failure to implement the terms of the 1850 RHT. At issue is that the beneficiaries have received no increase to the four-dollar annuity since 1874. Closing arguments will take place in Sudbury starting on June 4th, 2018.



The court has heard evidence regarding Anishinaabe law, diplomacy, understanding and responsibility to the treaty relationship. It heard from Anishinaabe Elders and Experts including: Wikwemikong Elder Rita Corbiere (Anishinaabemowin), Treaty 3 Elder Fred Kelly (Anishinaabe law and Anishinaabemowin), Sagamok Elder Irene

Makedebin (Anishinaabe oral history), Batchewana Elder Irene Stevens (Anishinaabe oral history), M'Chigeeng member Alan Corbiere (Metaphors, symbols, ceremonies and mnemonic devices), Dr. Heidi Bohaker (Anishinabek political geometry, doodem identity and treaty relationships), and Dr. Heidi Stark (Anishinaabe laws and stories). Over the past two months, the court has been hearing from witnesses for the Crown.

Representatives of the 21 First Nations maintains that the RHT defines the political and economic relationship between Anishinabek and the Crown and the intention of the Treaty was to share the revenue derived from the lands involved in the treaty. The Crown was supposed to increase the amount of annuity in line with financial profits it derived from the lands, and share that with Anishinabek. The territory includes about 35,700 square miles of land on the northern shores of Lake Huron.

“This case is very important in this current era of reconciliation. It means Anishinabek will be heard and I'm hoping the Robinson Huron Treaty will be interpreted in a modern context and maintain its spirit and intent according to the agreement reached in 1850,” said Mike Restoule, Chair of the Robinson Huron Treaty Trust.

The Statement of Claim issued in court points out that Canada endorsed the United Nations Declaration on

the Rights of Indigenous Peoples (UNDRIP) on November 12, 2010. The Statement of Claim quotes Paragraph 1 of Article 37 of the UNDRIP: “Indigenous Peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with the States or their successors and to have the States honour and respect such treaties, agreements and other constructive arrangements.”

It was also important for the court to hear from Anishinabek about our Laws and understandings of treaty. The Opening Statement reads, “...Courts have generally been able to figure out the non-Indigenous perspective, it is the Indigenous perspective that is hard to put a handle on. The Robinson Huron Treaty and the augmentation clause in particular, needs to be understood from the perspective of the Anishinaabe people, meaning their language, culture and their laws.”



Ogimaa Shingwaukonse, signatory to the Robinson Huron Treaty was one of the earliest voices to implement the augmentation clause in the treaty.

Lawyer David Nahwegahbow of Nahwegahbow, Corbiere – Genoodmagejig/Barristers and Solicitors gave an update to Robinson Huron Treaty Chiefs on March 9th in Sudbury. In his presentation, Nahwegahbow said the case went very well, and that they proved everything they said they would prove, particularly the Anishinaabe perspective.

Although closing arguments will not take place until this coming June, the litigation management committee (LMC) continues to work toward a negotiated settlement with the governments of Ontario and Canada.

The court hearings are open to the public and supporters are encouraged to attend. A sacred fire burns near the court location for people to come and offer semaa (tobacco).

The remaining hearing dates until the end of phase 1 are as follows:

- June 4 – 8, 2018 – Final arguments (Sudbury)
- June 11 – 15, 2018 – Final argument (Sudbury)

If a settlement is not reached, the process will enter Phase Two to begin in the Fall of 2018.

The case is also being livestreamed and the archived videos are available at: <http://livestream.com/firsttel>. Please follow us on Facebook: (Robinson Huron Treaty Trust – Annuity Case), Twitter: (@1850RHTreaty) and check our website: rht1850.ca for updates.

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Sacred Fire lit during court proceedings

Sacred Fire has a spirit, and keeps a path lit to Creator and is a large part of ceremonies and has helped light the way for Anishinabek as well as the individual. One such sacred fire burned for most of the days that the Robinson Huron Treaty (RHT) was being heard in the Superior Court of Ontario. First, it started in Thunder Bay, Ontario where the hearings first began. Then the hearings went to Garden River First Nation, then Manitoulin Island and then onto Sudbury, where they wrapped up. Where the hearings went, so too, did the Sacred Fire' or Shkodeh.

Just as important as the Fire, are the Fire Keepers and it takes quite a number of men to coordinate and look after a sacred fire, and there was an organizer: Leroy Bennett an Anishinabe from Sagamok. He's the Cultural Coordinator or affectionately known as the "Cultural Guy" for Robinson Huron Treaty Litigation Committee.

Bennett said, "When we discussed it with the RHT committee, it was thought to be a good idea to have a fire burning while the lawyers were in court."

When the hearings began in Thunder Bay, the Fire was lit in the city, nearby the courthouse. According to Bennett, the fire helped a lot of people. He said, "In Thunder bay we had eight to one-thousand people come through. It was the only situation that word of mouth travelled faster than Facebook. The fire had a lot of company. People were amazed that we went ahead and did it." (The city gave permission after the fact).



l-r: Leroy Bennett and Steve John helped with the Sacred Fire.

In between hearings in the different regions, Bennett said a few coals were kept from the Fire, to start the new fires when the hearings continued. In every area, Fire keepers or Shkabawis were called upon to help watch the fire and ensure it stays lit and protected. This, Bennett says is not for everyone, as people need to have the teachings to enable them to watch a sacred fire. A member of Sagamok, Steve John, is one such trusted Shkabawis.

It's a serious job to look after a sacred a sacred fire and John agrees with Bennett about how the fire can help people. There's a connection between a sacred fire and one's own heart. He says, "The more I learn, the stronger my fire becomes. I feel honoured to be there for some people."

During the time he looked after the fire, John learned more about the Robinson Huron Treaty and he also learned to work with others. He says, "[When] it came to Little Current, and I was asked to go over there to watch the fire, I was there with other firekeepers. I've never done that before. I was learning from other fire keepers. It was a turning point in my learning."

For John, the sacred fire has been instrumental in turning his life around. He mentions that his life wasn't always good, "It changed my life. I didn't

always walk this way... I ended up with an alcohol problem. I found out that there was a way out of this disease – I was looking for a cure and ended up in a treatment centre.” It was there, where John was introduced to the Sacred Fire. He says, “The teachers to help me with my problem, they used the fire to help. And I have always used the fire to help me through my bad times and through the best times.”

John’s connection enabled him to work with the Sacred Fire while it was lit during the hearings. He’ll be back at his watchful post in June when the final arguments take place in a Sudbury court, where people can offer their prayers at the Fire.

Bennett adds, through the Sacred Fire, “We wanted people to know that we are praying for everyone involved in the case.”

Watch from home online at:
<http://livestream.com/firststel>.

Follow us on Facebook (Robinson Huron Treaty Trust – Annuity Case) and Twitter (@1850RHTreaty).

