

THE LAND BENEATH US ◆

The Robinson Treaties

Season One · Before Canada · Episode 15

aiwrangler.ca — an illustrated companion

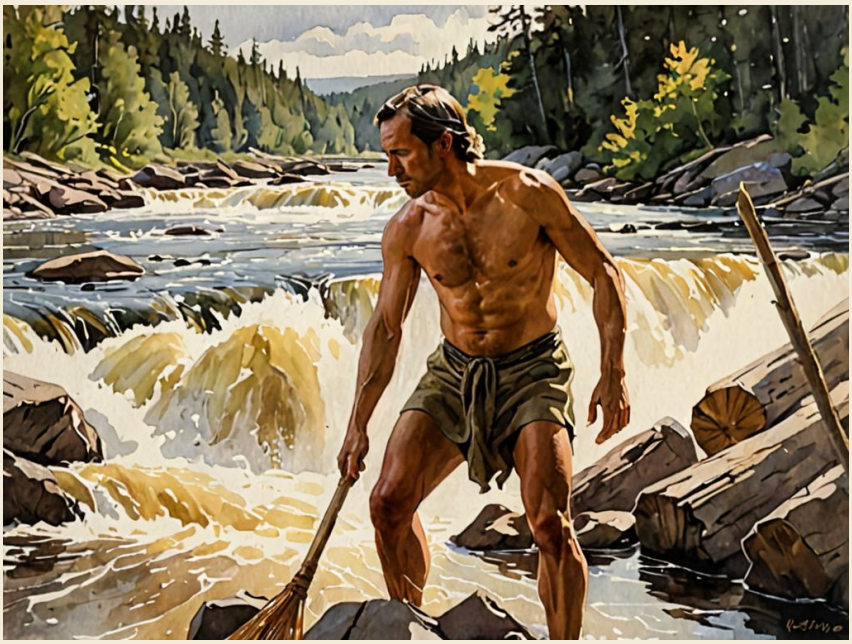
Every date, term, and quotation in this series is drawn from the historical record. This companion is the full episode narration, illustrated.



From the episode

WILLOW BORN WITH A TOOTH

If you stand at the foot of the St. Mary's River where it spills out of Lake Superior — the place the Anishinaabe call Baawaating, the place of the rapids — you are standing where two of the most consequential land agreements in Canadian history were signed in a single week in September of eighteen fifty.



SAM CARDINAL

The Anishinaabe had fished those rapids for longer than anyone could count, and by the summer of eighteen fifty they had an urgent problem: the miners had arrived. Copper had been found along the north shore of Lake Superior, and the Province of Canada had already issued mining licences on Anishinaabe land — without asking, without any agreement. Chiefs like Shingwaukonse, the leader at Garden River, had written to the governor, had physically blocked mining operations, had told anyone who would listen that this was their country and no bargain had been made. The Province's answer was to send one man: William Benjamin Robinson, a fur trader and businessman who moved fast.



WILLOW BORN WITH A TOOTH

So Robinson was not arriving as a peacemaker — he was there to solve a legal problem the Crown had already created for itself.



SAM CARDINAL

That is exactly right, and it shapes everything that follows. In the space of one week, Robinson negotiated two separate agreements: the Robinson-Superior, signed on the seventh of September, covering the north shore of Lake Superior, and the Robinson-Huron, signed two days later on the ninth, covering the north shore of Lake Huron — territory that is now the better part of northern Ontario, stretching from Georgian Bay west to the current border with Minnesota.

THREE RECORDS

THE TEXT	THE CROWN	THE ANISHINAABE
a cession with an annuity	a fixed, minimal payment	a share of the wealth, forever

WILLOW BORN WITH A TOOTH

Two treaties, one week, the better part of a province. What did the documents actually say?



SAM CARDINAL

The written texts were short and plain — and they fit a pattern that had been remaking Upper Canada for decades, the Crown's preferred form: the nations surrendered their interest in the land, received defined reserves carved from their own territory, a one-time payment, and a perpetual annuity. For the Robinson-Huron nations it was six hundred pounds provincial currency per year, divided among the signatory bands; for Robinson-Superior, five hundred pounds. Per person, that worked out to roughly one dollar and sixty cents. But Robinson added something to these treaties that no earlier surrender document in the province had contained, and it is the clause that everything since has turned on.

A LIVING CASE

1850 — Robinson-Huron and Robinson-Superior
the perpetual augmentation promise
2024 — the Supreme Court rules

WILLOW BORN WITH A TOOTH

The augmentation clause.



SAM CARDINAL

Robinson wrote it himself, and by every account Shingwaukonse drove hard for it. The language promises that if the surrendered territory produces sufficient revenue, the Crown shall augment the annuity from time to time, as often as circumstances permit. The Anishinaabe chiefs had watched the miners pull copper from their hills. They understood perfectly well what this land was worth. What they demanded, and what Robinson agreed to put in writing, was a guarantee that as the wealth came out of their country, they would share in it — not just at the table in eighteen fifty, but permanently, as long as the land produced.

THE ANNUITY

PROMISED	FROZEN
to rise with the land's wealth	at four dollars a person since 1875

WILLOW BORN WITH A TOOTH

Set the three records side by side: the treaty text, Robinson's report back to the Province, and what the Anishinaabe understood they were agreeing to. Do they line up?



SAM CARDINAL

They do not, and the distance between them is the story of the next one hundred and seventy-four years. Robinson's report to the Province was a reassurance — the Anishinaabe had surrendered their title, the mining licences were now legitimate, the problem was solved. What the oral record of the nations preserves is something different: not a sale and a departure, but an agreement to share the land and its continuing bounty, with the annuity and its augmentation promise serving as the mechanism of that sharing — a living relationship, not a transaction declared finished the moment the last signature went down.

STILL BEING PAID FOR

A ten-billion-dollar Robinson-Huron settlement came in 2023.

WILLOW BORN WITH A TOOTH

And that augmentation — did it happen?



SAM CARDINAL

Once. In eighteen seventy-five, twenty-five years after the treaties were signed, the annuity was raised to four dollars per person per year. Then it stopped. Consider what came out of those territories in the century and a half that followed: copper, nickel, silver, timber, hydroelectric power on a scale that lit whole cities — the mines around Sudbury eventually produced a significant share of the world's nickel supply. The per-person annuity remained four dollars.



WILLOW BORN WITH A TOOTH

Four dollars a year per person. While Sudbury became one of the great mining districts of the world.



SAM CARDINAL

The Anishinaabe nations did not accept this quietly. The augmentation clause was raised in courts beginning in the nineteen eighties. The case that finally became decisive was known by the name Restoule — named for lead plaintiff Wilmer Restoule of the Sagamok Anishinawbek. The trial court found for the First Nations. The Ontario Court of Appeal found for the First Nations. In the spring of twenty twenty-four, the case went to the Supreme Court of Canada.



WILLOW BORN WITH A TOOTH
I want to stay on that for a moment — this is not ancient history that people are still quietly debating. This is a live case at the highest court in the country.

SAM CARDINAL
The Supreme Court of Canada issued its decision in July of twenty twenty-four, and it was unanimous — nine judges, not one dissenting. The Court found that Canada had breached its treaty obligation under the augmentation clause, failing for generations to even seriously consider whether the annuity should be raised. It ordered the parties to negotiate a remedy. The exact dollars have not yet been finally settled, but the principle was declared: the augmentation promise is real, it is enforceable, and the Crown broke it.

WILLOW BORN WITH A TOOTH
That is not only a damages ruling. It is the court saying the treaty means what the nations said it meant — a living agreement, not a closed transaction.

SAM CARDINAL
That is what the decision established, and it matters far beyond the annuity cheques. Canadian courts have spent decades working through how to read a treaty — whose understanding governs, whether the English text is the whole record or only one record among several. What the Supreme Court affirmed in Restoule is that both sides' understandings are part of the agreement, and that a promise to share in the ongoing wealth of the land does not expire when the ink dries. Robinson put the augmentation clause in because Shingwaukonse insisted on it — because the chiefs looked at those mines and said: if this land has a future, we are part of that future.

WILLOW BORN WITH A TOOTH
And one more thing sets these two treaties apart from everything that came before them.

SAM CARDINAL

They became the model. Before eighteen fifty, each treaty in Upper Canada was its own improvised arrangement — different forms, different terms, no standard template. The Robinson Treaties were the first to use the structure the Crown would carry west after Confederation: defined territory, defined reserves, lump payment, perpetual per-person annuity. When the numbered treaties began — Treaty One in eighteen seventy-one, stretching through to Treaty Eleven in nineteen twenty-one — negotiators reached back to Robinson's documents as their guide. The augmentation clause did not travel with them. But the frame did, and so did the gap between what the Crown believed it was receiving and what the nations believed they were agreeing to share.

WILLOW BORN WITH A TOOTH

The architecture of the deal, without the promise that was supposed to make it fair.

SAM CARDINAL

There is a reason Shingwaukonse and the other chiefs who sat across from Robinson at Baawaating insisted on that clause, and it is not a complicated reason. They were wise enough to know that a country changes — that what the land is worth in eighteen fifty is not what it will be worth in nineteen fifty, or twenty fifty. They did not want a one-time payment. They wanted a place in the future. In twenty twenty-four, one hundred and seventy-four years after those documents were signed, the highest court in Canada said they were right to want it, and right to call the promise a promise. I'm Sam Cardinal.

WILLOW BORN WITH A TOOTH

The rapids at Baawaating are still there. So are the fishing families. The next time you drive the Trans-Canada through northern Ontario — past the mine stacks and the hydro lines and the cutover hills — you are moving through the territory those documents describe, and through a promise that outlasted every man who made it. This has been The Land Beneath Us.

Sources & Notes

The Land Beneath Us is built on the historical and documentary record. Where that record is contested, we say so.

A note on the record

The episode says the Supreme Court "ordered the parties to negotiate a remedy" and that "the exact dollars have not yet been finally settled." That is accurate for the Robinson-Superior beneficiaries, whose compensation was still open when the Court ruled in July 2024. For the Robinson-Huron beneficiaries, however, a settlement had already been reached in June 2023 — $10 billion from Canada and Ontario for past breaches of the augmentation clause — a fact the episode does not mention. The blended framing is not wrong, but the two treaty groups were at different stages: Huron largely settled, Superior still to be negotiated.

The episode dates Robinson-Huron to "the ninth" of September 1850 (two days after Robinson-Superior on the 7th). September 9 is the date given by The Canadian Encyclopedia and most treaty texts; a minority of sources cite September 8. The per-person figures are likewise approximate — the roughly "$1.60" initial annuity reflects the Robinson-Huron calculation, and the $4 cap set in 1875 is firmly documented.

References & further reading

"Robinson Treaties of 1850." The Canadian Encyclopedia. Robinson-Superior (7 Sept 1850) and Robinson-Huron (9 Sept 1850) signed at Bawating / Sault Ste. Marie; surrender of the north shores of Lakes Superior and Huron for reserves, a one-time payment, and perpetual per-capita annuities; the distinctive augmentation clause allowing (but not requiring reduction of) increases if the ceded lands yielded revenue; the treaties served as a model for the later numbered treaties.

Ontario (Attorney General) v. Restoule, 2024 SCC 27 (26 July 2024), CanLII / Supreme Court of Canada. Unanimous nine-judge Court (Jamal J. writing; Wagner C.J. and Karakatsanis, Côté, Rowe, Martin, Kasirer, O'Bonsawin and Moreau JJ. concurring): the Crown "dishonourably breached" its augmentation promise under the Robinson Treaties for nearly 150 years, has a duty to consider from time to time whether it can raise the annuity without loss, and was ordered to negotiate honourably with the Superior plaintiffs.

Crown-Indigenous Relations and Northern Affairs Canada, "The Robinson Treaties (1850)" (rcaanc-cirnac.gc.ca). Treaty texts and terms: annuity of £600 provincial currency for Robinson-Huron and £500 for Robinson-Superior, divided among the signatory bands; reserved lands; continued hunting and fishing on unoccupied Crown territory.

"Restoule v Canada." Wikipedia (procedural history and figures). Annuity raised to $4 per person in 1875 and never increased since — frozen for almost 150 years; the augmentation clause litigation; the June 2023 Robinson-Huron $10-billion settlement with Canada and Ontario for past breaches.

Restoule v. Canada (Attorney General), 2018 ONSC 7701 (Hennessy J., Stage One trial) and Restoule v. Canada (Attorney General), 2021 ONCA 779 (Court of Appeal for Ontario). The trial court and appeal court both interpreted the augmentation clause in favour of the First Nations before the case reached the Supreme Court.

Fasken, "Restoule Decision Finds the Crown Breached its Promise to Robinson Treaty Beneficiaries" (2024), and Mandell Pinder LLP case summary of Ontario (Attorney General) v. Restoule, 2024 SCC 27. Confirm the augmentation clause allows increases (never decreases) when territorial revenue exceeds administration costs, and the Crown's duty to turn its mind to increases.

The Canadian Encyclopedia and Crown-Indigenous Relations Canada on the negotiator: William Benjamin Robinson, a businessman and former fur trader (and legislator), was appointed by the Province of Canada to negotiate the 1850 treaties after mining licences had already been issued on Anishinaabe land and chiefs such as Shingwaukonse of Garden River had protested the intrusions.