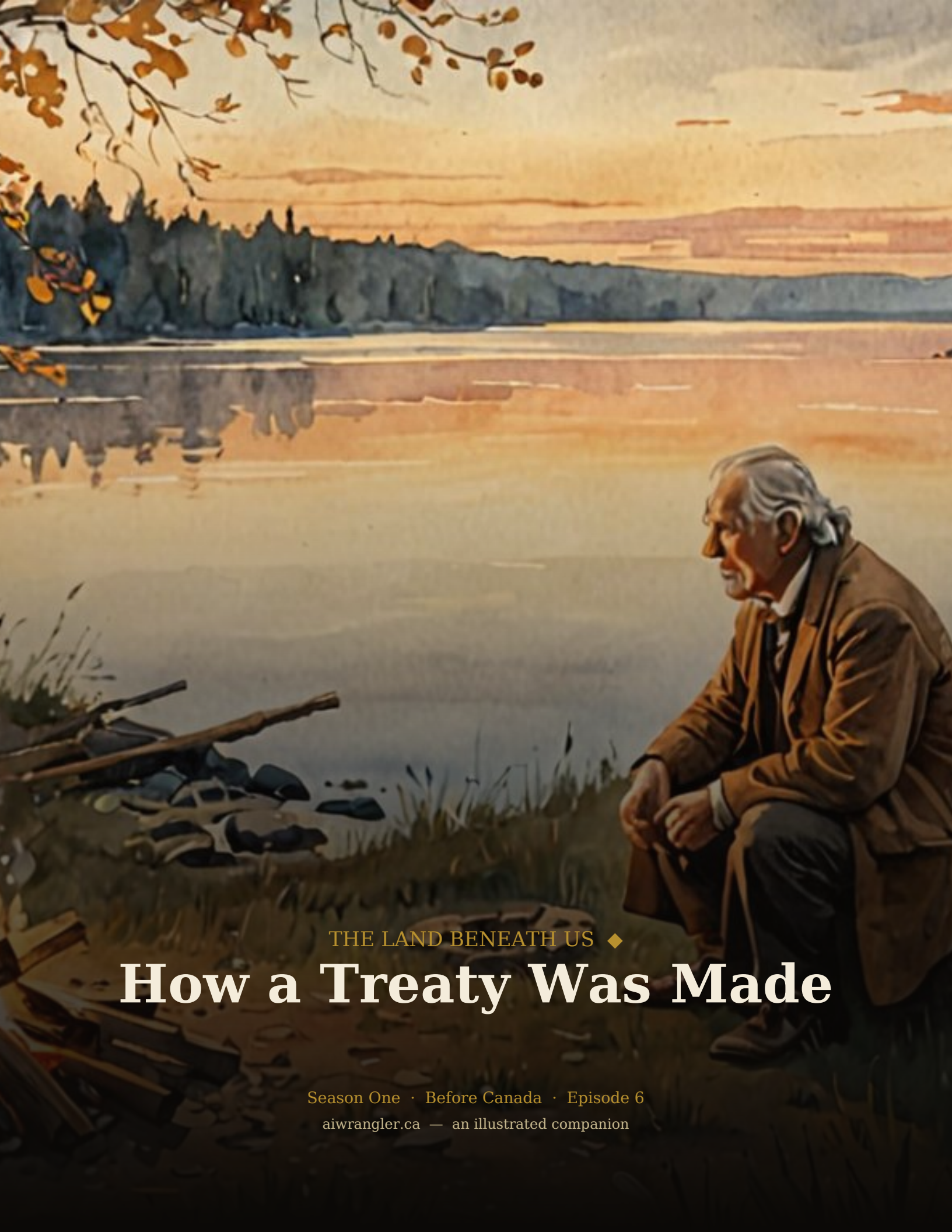




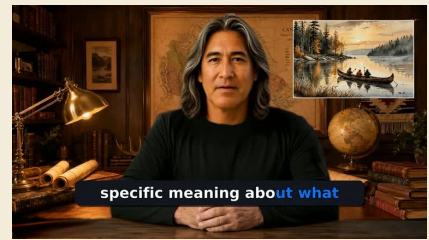
THE LAND BENEATH US ◆

How a Treaty Was Made

Season One · Before Canada · Episode 6

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 shore of the St. Marys River in Sault Ste. Marie today, you are standing at one of the most significant diplomatic crossroads in the history of this land — a place where, long before Canada existed as a country, nations came together to make agreements that still determine who holds what beneath your feet. In this land's long tradition of treaty-making, those agreements were understood as living relationships between peoples. And today's question is not what any one treaty says. My question is: how were they actually made?

SAM CARDINAL

A treaty council was not a meeting. It was a ceremony. The nations of this territory had been conducting formal diplomatic gatherings for centuries before any European arrived with a pen, and those gatherings ran on protocol as precise and deliberate as anything in a European court. You had to know the protocol, or you were not in a negotiation — you were simply talking at each other across a fire without any shared understanding of what the talking was for.



WILLOW BORN WITH A TOOTH

So walk me through it. What happened first?

SAM CARDINAL

Start with the fire, because the fire is where everything begins. The council fire was lit by the hosting nation, according to protocol, and its presence transformed the space into something different from an ordinary gathering place. The seating around it was arranged by rank and by nation — you did not sit wherever you felt comfortable. Who sat where, who spoke first, how long each speaker held the floor — all of that was itself a kind of document, establishing the nature and seriousness of the council before a single word about land or relations had been spoken.



WILLOW BORN WITH A TOOTH

So the shape of the gathering was already saying something, before any agreement was discussed.

SAM CARDINAL

It was saying: this is what kind of council this is, and therefore what kind of agreement is being made here. And alongside the fire came the pipe. In many nations' traditions, the tobacco offered before speaking meant your words were now witnessed by something larger than the people present in the circle. You were not negotiating a transaction. You were entering a relationship, and the opening ceremony made that plain to every person seated around that fire — whatever language they spoke at home.



WILLOW BORN WITH A TOOTH

And then came the gifts. I want to make sure we don't rush past this part.

SAM CARDINAL

The gifts are the most consistently misread feature of the treaty record. The Crown's commissioners arrived at council grounds with presents — bolts of cloth, blankets, provisions, medals bearing the image of the King, sometimes coin — and in their own reports they often described this distribution as a purchase price, or as generosity extended from the Crown toward the people. But in the diplomatic tradition of the nations they were meeting, a gift was a ratification. When you gave, you were saying: this is the relationship I am entering with you. When the other side received, they were acknowledging that relationship. It was not a sweetener before the real business began. It was part of the agreement itself.



WILLOW BORN WITH A TOOTH

So the exchange of gifts had already made a statement about what was being agreed — before the written text existed.

SAM CARDINAL

And the nations gave back. The speeches delivered by chiefs at treaty councils were themselves a kind of return gift — a formal, public statement of what the chiefs understood was being agreed to, in their own words, witnessed by their own people. And that is where the record starts to fracture. Because the Crown's commissioners recorded the gifts as a line item in their budget. The nations' oral traditions recorded them as a statement of relationship and obligation. Those are two very different archives of the same moment, gathered around the same fire.



WILLOW BORN WITH A TOOTH

I want to stop here on the interpreters. When you look at the written treaty record across this country, the interpreter is almost invisible — maybe a name in a list of witnesses, if that. And given how much weight was riding on them, that strikes me as strange.

SAM CARDINAL

It should strike you that way, because the interpreter was the hinge on which everything turned. At most treaty councils, the interpreter was someone who had grown up between two worlds — often of mixed heritage, often a trader or a missionary who had learned both languages out of practical necessity. Their task sounds simple: carry the words from one side of the fire to the other. But language is not a bucket you pour from one vessel into another. Every language carries a whole world of meaning underneath the words, and that world does not transfer on its own.

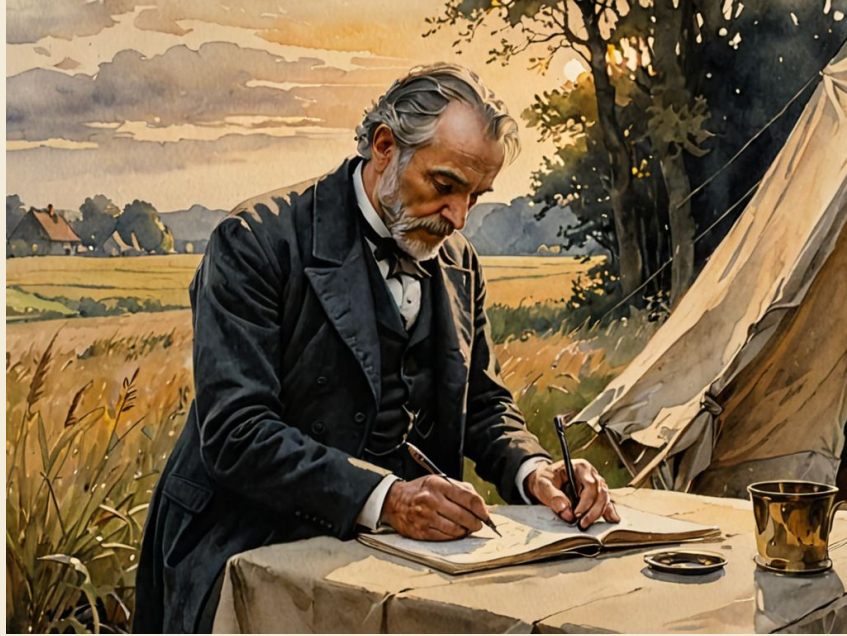


SAM CARDINAL

The difficulty was not vocabulary. You can find a word for land. The challenge was the conceptual frame underneath the vocabulary. In many Anishinaabe traditions, to speak of a relationship to territory was to speak of belonging, of kinship, of ongoing obligation — not of ownership in the sense of a thing that can be sold and transferred to a new holder. The interpreter standing between a Crown commissioner and an Anishinaabe leader had to carry two entirely different frameworks across the fire, in real time, in public, with both sides watching. And something was going to be compressed in that crossing, or bent, or collapsed into the nearest available equivalent that carried the right sounds but not the right weight of meaning.

WILLOW BORN WITH A TOOTH

And we mostly don't know what choices any given interpreter made in the moment.



SAM CARDINAL

The written record rarely tells us. We know the outcome — we have the text. But we seldom know what the interpreter actually said out loud around the fire: what word they reached for, what concept they set aside, what they simply could not render and so approximated as best they could. Some interpreters were trusted deeply by the nations they worked with. Some were trusted by the Crown. Some by neither. And the written record, which lists the interpreter among the witnesses and then moves on, gives us almost nothing with which to read that crucial, invisible moment.

WILLOW BORN WITH A TOOTH

Which is why you need what you call the third record.



SAM CARDINAL

Every treaty council produced three records. The first is the written text — the document the Crown drew up, signed, sealed, and filed in its archives. The second is what the Crown's negotiators reported back to their government: the minutes, the letters, the summaries of how the council went — usually consistent with the written text, because they were produced by the same party for the same purpose. The third record is what the nations carried away: the spoken account, remembered by those who sat at the fire, taught to their children, repeated at every subsequent moment when the agreement was invoked or its meaning contested. These three records do not always agree. And where they diverge, that divergence is the most important historical fact we have.

WILLOW BORN WITH A TOOTH

Can you give me a specific moment where I can see all three of those records and the gaps between them?



SAM CARDINAL

The councils at Bawating — what is now Sault Ste. Marie — in September of eighteen fifty are a useful place to look. The Crown had sent William Benjamin Robinson to negotiate with Anishinaabe nations along the north shores of Lakes Huron and Superior. The written text of what became the Robinson-Huron Treaty runs to a few pages. Robinson's reports to the Provincial Secretary are confident and detailed — he believed he had conducted a clear negotiation and brought it to a successful conclusion. And the third record — maintained by Anishinaabe communities of the north shore of Lake Huron, and now entering courts of law in treaty rights cases that are still being decided — describes something different in what was fundamentally understood.

SAM CARDINAL

Shingwaukonse — whose name translates as Pine — was one of the principal Anishinaabe leaders at those councils. The account of his speeches that comes through the fragmentary record is incomplete, filtered through translation. But what is consistent across the third record, across the oral history that his community has maintained, is this: the Anishinaabe leaders understood the agreement as a sharing arrangement. They were permitting the Crown and its settlers access to the territory in a relationship that carried ongoing obligations on both sides. They were not, in any sense recognized by their own tradition, transferring ownership of land. They were entering a relationship at a council fire, according to the protocols they had always used for exactly that purpose.

WILLOW BORN WITH A TOOTH

And Robinson heard something he understood as a completed sale — and reported it that way.

SAM CARDINAL

In good faith, as best the record shows. He was not deceiving anyone by his own lights. He had brought the gifts, held the council, obtained what he understood to be agreement, and put it to paper. From the Crown's perspective, the ceremony had been conducted properly. From the Anishinaabe perspective, the ceremony had also been conducted properly — according to protocols that carried specific meaning about what a spoken agreement at a council fire committed each nation to. The same fire. The same speeches. Two entirely coherent systems of understanding, operating simultaneously around the same council ground, arriving at different accounts of the same moment. That gap does not come from deception on either side. It comes from the fact that the ceremony itself was carrying meaning that only one side could fully read.

WILLOW BORN WITH A TOOTH

The ceremony wasn't a formality before the agreement. The ceremony was the agreement — or at least, it was the part of the agreement that mattered most to the people who had been making agreements that way for generations.

SAM CARDINAL

And this is why the third record has never gone silent. When nations come forward today and say: this is what was agreed, this is what our grandparents carried home from that council fire and taught us to remember — they are not speaking from sentiment or from a desire to revise history. They are reading a record that was kept exactly the way records have always been kept in their tradition: in living knowledge, in ceremony, in the testimony of the people who were there and the people those people taught. That record was not less real for being unwritten. For the nations who kept it, it was the most authoritative record there was. I'm Sam Cardinal.

WILLOW BORN WITH A TOOTH

And that record is still speaking. Every treaty rights case before the courts today rests, at some level, on this exact question: what did the people seated at the council fire understand they were agreeing to? The gifts, the fire, the spoken word of a chief witnessed by his nation — those weren't stage dressing. They were the evidence. And they still are. I'm Willow Born With a Tooth. We'll see you next time on 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 worked example in this episode — the Robinson-Huron Treaty, negotiated by William Benjamin Robinson with Anishinaabe nations at Bawating (Sault Ste. Marie) in September 1850 — is not a closed historical matter. The Anishinaabe understanding of that agreement as a sharing arrangement with ongoing obligations is at the centre of the Restoule litigation over the treaties' annuities, which reached the Supreme Court of Canada in 2024. Canadian courts have given increasing weight to Indigenous oral history as evidence since *Delgamuukw v. British Columbia* (1997).

References & further reading

"Robinson Treaties of 1850." The Canadian Encyclopedia — the Robinson-Huron and Robinson-Superior treaties; William Benjamin Robinson; the north shores of Lakes Huron and Superior.

Restoule v. Canada (Attorney General) — the Robinson-Huron/Robinson-Superior annuities case (Ontario courts 2018–2021; Supreme Court of Canada, 2024).

Shingwaukonse (Little Pine), a principal Anishinaabe leader at the 1850 councils at Bawating (Sault Ste. Marie).

Delgamuukw v. British Columbia, [1997] 3 S.C.R. 1010 — the Supreme Court of Canada on the admissibility and weight of Indigenous oral history in establishing rights and title.

On treaty-council protocol — the fire, the pipe, gift exchange as ratification, and the role of interpreters: Robert A. Williams Jr., *Linking Arms Together* (1997); Heidi Bohaker and related scholarship on Great Lakes diplomacy.