The national conversation on confederation-era treaties, and their neglect by Canada, is long overdue. The national conversation on confederation-era treaties, and their neglect by Canada, is long overdue. Despite the treaty commitments, parliament did as they were asked. Despite the treaty commitments, parliament did as they were asked. Oral and archival records of treaty negotiations and promises describe sharing lands, jurisdiction and mutual aid. Oral and archival records of treaty negotiations and promises describe sharing lands, jurisdiction and mutual aid. The concept of surrender is an imposed one. The concept of surrender is an imposed one. As more research is undertaken and land claims are filed, it is clear that treaties—as they have been written, interpreted and enforced by Canada—were not the versions that any said Indian Chief ever subscribed. AN ANNOTATED GUIDE TO THE (MAL)INTERPRETATION OF CONFEDERATION ERA TREATIES IN CANADA (1) **THE INDIANS** inhabiting the district do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada, for Her Majesty the Queen and Her successors forever, their rights, titles and privileges, whatsoever, to the lands included within the territory. (2) The tract comprised within the lines above described (are for Her Majesty the Queen and Her successors) to have and to hold forever. (3) AND HER MAJESTY THE QUEEN hereby agrees and undertakes to lay aside reserves for farming lands, for the benefit of the said Indians, to be administered and dealt with for them by Her Majesty’s Government of the Dominion of Canada, provided, all such reserves shall not exceed in all one square mile for each family of five. (4) Her Majesty reserves the right to deal with any settlers within the bounds of any lands reserved for any Band as She shall deem fit, and also that the aforesaid reserves of land, or any interest therein, may be sold or otherwise disposed of by Her Majesty Government for the use and benefit of the said Indians entitled thereto, with their consent first had and obtained; and with a view to show the satisfaction of Her Majesty with the behaviour and good conduct of Her Indians, Her Majesty agrees to maintain schools for instruction in such reserves hereby made as to Her Government of the Dominion of Canada may seem advisable, whenever the Indians of the reserve shall desire it. (5) Her Majesty further agrees with Her said Indians that such sections of the reserves may at any time be required for public works or buildings, of what nature soever, may be appropriated for that purpose by Her Majesty’s Government of the Dominion of Canada, no intoxicating liquor shall be allowed to be introduced or sold to preserve Her Indian subjects from the evil influence of the use of intoxicating liquors. (6) It is further agreed between Her Majesty and Her said Indians, that such sections of the reserves may at any time be required for public works or buildings, of what nature soever, may be appropriated for that purpose by Her Majesty’s Government of the Dominion of Canada, no intoxicating liquor shall be allowed to be introduced or sold to preserve Her Indian subjects from the evil influence of the use of intoxicating liquors. (7) It is further agreed between Her Majesty and Her said Indians, that the following articles shall be supplied to any Band of the said Indians who are now cultivating the land, hoes, scythes, whetstone, spades hay forks, reaping hooks, axes, saws, the necessary files also. For each Chief for the use of his Band, a chest of ordinary carpenter’s tools; also, for each Band a sufficient quantity of wheat, barley, potatoes and oats to plant the land actually broken up for cultivation by such Band. (8) And further, that Her Majesty’s Commissioners shall, as soon as possible after the execution of this treaty, cause to be taken an accurate census of all the Indians inhabiting the tract, and pay to each Indian person the sum of $4 per head yearly. (9) It is further agreed between Her Majesty and the said Indians, that the following articles shall be supplied to any Band of the said Indians who are now cultivating the land, hoes, scythes, whetstone, spades hay forks, reaping hooks, axes, saws, the necessary files also. For each Chief for the use of his Band, a chest of ordinary carpenter’s tools; also, for each Band a sufficient quantity of wheat, barley, potatoes and oats to plant the land actually broken up for cultivation by such Band. (10) That in the event hereafter of the Indians comprised within this treaty being overtaken by any pestilence, or by a general famine, the Queen, on being satisfied and certified thereof by Her Indian Agent or Agents, will grant to the Indians assistance of such character and to such extent as Her Chief Superintendent of Indian Affairs shall deem necessary and sufficient to relieve the Indians from the calamity that shall have befallen them. A medicine chest shall be kept at the house of each Indian Agent for the use and benefit of the Indians at the direction of such agent. (11) They promise and engage that they will in all respects obey and abide by the law, and they will maintain peace and good order between each other, and also between themselves and other tribes of Indians, and between themselves and others of Her Majesty’s subjects, whether Indians or whites, now inhabiting or hereafter to inhabit any part of the said ceded tracts, and that they will not molest the person or property of any inhabitant of such ceded tracts, or the property of Her Majesty the Queen and Her successors, or trouble any person of any description travelling through the said tracts, or any part thereof, and that they will aid and assist the officers of Her Majesty in bringing to justice and punishment any Indian offending against the stipulations of this treaty, or infringing the laws in force in the country so ceded. (12) IN WITNESS WHEREOF, Her Majesty’s said Commissioners and the said Indian Chiefs have hereunto subscribed and set their hands.

SOURCES


WHITTEN BY KHAYOGI KINS

(1) “hobby cede, release, surrender and yield” | The concept of surrender is an imposed one. (2) “hold forever” | First Nations used concepts such as, “as long as the world stands” or “the sun shines” and “rivers flow” as references to our obligations to the land, water and future generations. (3) “reserves for farming” | In the initial negotiations of most treaties, reserves were lands set aside for exclusive First Nation use (for farming or otherwise), not areas for permanent settlement or the zones of exclusion that they become post-confederation. In earlier treaties First Nations chose the location of reserves but as treaties moved westward, their input was not considered. (4) “enforce” | In many cases, Indigenous peoples expected settlers to abide by Indigenous laws and relationships when they entered into treaties, meaning that consent for activities in a given area was the lowest possible threshold for using or selling any lands or resources. Instead, from Confederation into the present, the notion of consent has been evacuated all-together by the Crown and replaced by paternalism, coercion, and a “duty to consult.”