

The Death of Chief Wabukayne

The Mississauga people had one other very clear example of what they felt was injustice in the English legal system. Their collective memory of the death of their beloved Chief Wabukayne¹ was still fresh, even eight years after the event. Chief Wabakinine was a very popular chief of the Mississauga people. While the year of his birth is unknown, by 1781, he was a prominent chief who was present at several major treaty negotiations. He was involved in the first land negotiations, when the British asked the Mississauga to surrender some of their land in order to provide the Mohawks with a homeland in Upper Canada.²

There are various spellings of this man's name, and one of them is Wabakinine, which we see in his biographical sketch. The spelling Wabikane is used in the Indian Land Surrender document, which was created by the Canadian government in 1984. If we go back to his own time, we see that his name is shown as Wabukanyne on the Toronto Purchase document in 1787, where this name was written beside the sketch of a bird, representing the Eagle totem he belonged to. Peter Russell spelled it Waipykanine in his letters after the death of the chief. This respected Indigenous leader is remembered today in the name of Lake Wabukayne, in Meadowvale, Ontario, where a public park and trail provide recreation and enjoyment for visitors.³ In light of all these variations, the author decided to use the currently identifiable name of Wabukayne. Other spellings will be from quotes found in historical documents.

Wabukayne became a chief due to his prowess as a warrior but he remained an influential force in difficult times because he was respected and trusted by his people. He worked to maintain a moderate position in spite of the anger of his younger men. He recognized the threat of American invasion, and encouraged his people to remain an ally of the British, ready to fight for the crown if necessary. The authorities at York saw Chief Wabukayne as a positive element in the tense situation in Upper Canada.

However, things changed dramatically on the muggy night of August 20th, 1796, at the town of York. Chief Wabukayne, with his wife and sister, had come to York to sell some salmon they had caught. They set up a tent in the green sward along the shoreline, as was common at that time. After they sold the fish at the market in York, they had some money, which allowed them to buy liquor. A party ensued and, at some point during the party, a soldier of the Queen's Rangers, Charles McEwan, demanded that the chief return a dollar and some rum that he said belonged to him.

The later testimony of Charles McEwan would, quite naturally, favour his own position, and it was recorded as "... about the hour of Eight in the Evening, of the said day—during which time the Prisoner was heard to declare that the said Indians had got a Dollar and some rum of his, and insisted upon having it from them, upon being advised by Patrick Mealey, a Sergeant of the Queens Rangers, then present, not to proceed in his intentions, he still persisted, and demanded the dollar of the Indians, at the same time knocked the said Waipykanine down with something like a Stone—which blow has since occasioned the death of the said Waipykanine."⁴

On the other hand, Peter Russell, Administrator of Upper Canada, now that Simcoe had left less than a month before, wrote to Simcoe on September 28, 1796 as follows "... one of your Excellency's Regiment (McKewen) having given a dollar and some rum to the Chiefs sister to induce her to grant him certain favors, came after dark when the Chief was asleep under his canoe opposite Berry's, and took the Squaw from thence to a little distance. This being perceived by Wabikanyn's wife, she roused her husband and told him the Whites were going to kill his sister, upon which he got up and staggering from under the canoe, half asleep and half drunk. A scuffle ensued between him and McKewen who knocked him down and left him senseless on the ground."⁵



Russell continues “The women making a great noise at this brought thither the other Indians who carried the Chief and them over to the Peninsula and removing early the next morning to the River Credit; he died in the course of that day.”⁶

The Mississauga people were devastated by the death of their chief. To make matters even worse, within a few days, Chief Wabukayne’s wife died from injuries sustained in the altercation.⁷ According to custom, both bodies were buried respectfully, with all proper ceremony and grieving, in the area of the large Mississauga settlement at the Credit River, west of York. They believed that the spirits demanded quick burial. As a result, there were no bodies to see when the authorities from York came to investigate.

News of this disaster spread quickly. Anger grew just as fast. Augustus Jones, who was conducting a survey for Joseph Brant in the area of the Mohawk settlement near present day Brantford, was confronted by a group of Mississauga chiefs. He had to stop his survey and tried to persuade the group not to go on the war path, as they were proposing. He managed to convince them to go to Niagara, which was still seen as the functioning seat of government, even though the capital had moved to York three years before. Jones was a trusted figure among the Mississauga and Mohawk and his words calmed the situation and directed the men toward Niagara, where they expected to meet with officials and receive some satisfaction.⁸

Russell saw this episode as a major threat to stability in the province. Anxiety ran high about the potential for the indigenous people rising up and massacring the whites and there was credible threat of American invasion as well. Something needed to be done quickly to mitigate the damage. As a result, Peter Russell hurried to Niagara and, on September 26th, held a meeting with the chiefs and officials from the Indian Department, including Augustus Jones.

The Administrator went out of his way to sympathize with the crowd. “Children, I am very unhappy at the present melancholy occasion of our meeting. Our Father the Governor is gone over the Great Lake to see his & our Great Father the King, he has left me here to represent him. I was very unhappy to hear of the death of your Chief, he was our very good friend, and more so to hear of the manner of his death.”⁹

He went on to address the solemn agreements between their two peoples, which were solidly established by wampum belts. “Children, I have been told that Colonel Johnson gave you a great Belt which was to be the bond of friendship between you & us. I hope you have ever found us kind to you in consequence, we have a regard for you & wish to have you amongst us. I was very sorry to hear that you saw that belt received a cut by that unfortunate accident. I do assure you it has received neither cut nor bruise which we will not endeavour to heal by our kindness. And to confirm our former friendship I give you this string.”¹⁰

With that, Peter Russell presented the chiefs with an elaborate wampum belt which represented a confirmation and strengthening of the ties between them. He also arranged to have quantities of food, clothing, tools and utensils, delivered as gifts to solemnize this gesture. In this manner, Peter Russell managed a dangerous situation with moderation and sensitivity. By using the cultural practices so dear to the Mississauga people, he had cooled the hottest heads and calmed injured hearts.

At the same time, Russell tried to address their demand for justice. “I received a letter from the Chief Warrior at York last night, he says that a man has been suspected & taken up as the guilty person, that he is now in irons & on his way to this place but the vessel in which he is has been by the violence of the wind blown to Kingston. Enquiries are also making for the other men who are said to have assisted, if they are discovered they will also undergo the severities of the law, but by our Laws no man can be convicted of a crime till he has been tried by his Country.”¹¹

There was an inquiry into the matter, and we can review the testimony today. It demonstrates the difficult task of convicting an Englishman for the death of an indigenous person at that time. The facts of the case were fairly consistent across half a dozen witnesses who testified, but doubt was brought into the proceedings when it was suggested that the chief had been seen alive at the Credit River the day after the events. Was the chief actually dead?

The case came apart completely when a request for the exhumation of the body of Chief Wabukayne was rejected by Chief Wapenip who responded “Father, the dead man is in the ground, we would not wish to have the body dug out of

it. He is now in the ground, he never will be able to rise again, or lift his knife. The Great Spirit above has placed him in the ground, he might be displeased were he removed.”¹² The chiefs were simply following the long-established practices of their ancestors.

From the point of view of the Grand Jury, evidence was required to confirm the death of Chief Wabukayne. However, the Mississauga people would not allow an exhumation, so there was no evidence on which to proceed. The Grand Jury found no bill against Charles McEwan and he was set free.¹³ One can only imagine the outrage and disgust that this result created in the Mississauga communities of Upper Canada. We can also expect that this memory came to the surface in 1804 as the English legal system churned quickly and efficiently toward the objective of sending Ogetonicut on his last boat ride down the lake, in the name of justice.

“One legal problem in early York was the protection of the rights of the Indian. Contemporaries emphasized the need of protection for the European from the Indian, but it was the Indian who was in greater danger. York lay on the frontier between the two civilizations and was exposed to the friction created by the first attempts of the two races to live together amicably.”¹⁴

In practice, the law worked for the English and not the indigenous people. Residents of Ontario today should be under no illusions about our ancestors, “... the average citizen’s attitude to the Indians was a compound of fear and contempt.”¹⁵ This was the context in which Ogetonicut languished in the Home District Jail in York and the authorities scrambled to send a ship to Newcastle to conduct his trial.

Note: The text here was, for the most part, an original chapter in the Speedy book, but was edited out early in the process of producing a commercial book. The topic is interesting in the context of the Speedy story, but not really an integral part of the story.

Notes

1. Donald B. Smith, "WABAKININE," in Dictionary of Canadian Biography, vol. 4, University of Toronto/Université Laval, 2003–, accessed October 21, 2018, http://www.biographi.ca/en/bio/wabakinine_4E.html.
2. R. Surtees, Land Surrenders in Ontario 1763-1867, Department of Indian Affairs and Northern Development, February 1984, page 39, http://publications.gc.ca/collections/collection_2017/aanc-inac/R5-350-1983-eng.pdf.
3. Friends of Lake Wabukayne, <http://wabukayne.com/>.
4. The Town of York 1793-1815, A Collection of Document of Early Toronto, Edited with an Introduction by Edith G. Firth, Law and Order, State of Case Against Charles McEwan for Murder, 1796, page 84, PDF from UTP.
5. The Correspondence of the Honourable Peter Russell, Toronto, Ontario Historical Society, 1936, Volume I, 1796-1797, Page 49.
6. Ibid.
7. Ibid.
8. The Correspondence of the Honourable Peter Russell, Toronto, Ontario Historical Society, 1936, Volume I, 1796-1797, Page 50.
9. The Correspondence of the Honourable Peter Russell, Toronto, Ontario Historical Society, 1936, Volume I, 1796-1797, Page 44.
10. The Correspondence of the Honourable Peter Russell, Toronto, Ontario Historical Society, 1936, Volume I, 1796-1797, Page 45.
11. Ibid.
12. The Correspondence of the Honourable Peter Russell, Toronto, Ontario Historical Society, 1936, Volume I, 1796-1797, Page 44.
13. The Town of York 1793-1815, A Collection of Document of Early Toronto, Edited with an Introduction by Edith G. Firth, Law and Order, State of Case Against Charles McEwan for Murder, 1796, page 84, PDF from UTP.
14. The Town of York 1793-1815, A Collection of Document of Early Toronto, Edited with an Introduction by Edith G. Firth, Introduction, page xviii, PDF from UTP.
15. Ibid.