

## The Treaty of 1804

By Roger Ruthhart

Perhaps you have walked past a stone on the way to a cookout, Singing Bird Lodge, the park's trails or the outdoor restrooms, and wondered what it was. That was the point, according to Beth Carvey, retired curator of the John Hauberg Indian Museum. She was the brains behind the rock idea and the plan was always to put it where people would see it and remember or ask questions.

The stone was placed there at the Pow Wow in 2004 as a reminder that 2004 was the bicentennial year of the Lewis and Clark Expedition and a great day for America," Carvey recalled. "But there are other folks who remembered 1804 for different reasons. In the case of the Sauk and Meskwaki, it was the fraudulent Treaty of 1804 whereby the two tribes were ripped off of their Illinois lands."

The symbol at the top of the stone depicts the Mississippi River with two otters swimming alongside. That is an ancient Meskwaki territorial symbol. And while the stone was her idea, Carvey said she ran it past Preston Duncan, a Meskwaki elder who lived at the Meskwaki settlement in Tama, Iowa, to make sure the tribe wouldn't be upset about it. "He was totally behind it," she recalled. The Sauk (sometimes Sac) and the Fox, a clan of the Meskwaki, both had settlements here – the Meskwaki where downtown Rock Island is today and the Sauk near the State Historic Site on the Rock River.

Once the idea was hatched, she said, she stepped back and let the Indians take control. "It's their tragic story and I wasn't looking for any credit," Carvey said. Les Miller, who was head of the local Indian group at the time, made all of the arrangements for the memorial.

"I believe the stone was donated. I'm not sure who engraved it but the work may have been donated also. The location was chosen because of its high visibility area -- right off the main parking lot and on the path to the trails and bathrooms. We wanted maximum exposure!" Carvey explained.

So what was the fraudulent treaty that deserved such a memorial?

On Nov. 3, 1804, four Sauk and one Meskwaki signed a treaty with the United States ceding over 50 million acres of land -- tribal lands in Illinois, southwestern Wisconsin, and northeastern Missouri. The payment received in exchange was \$2,234.50 in goods at the time of signing and a \$1,000 annuity to be paid to the tribes in perpetuity, according to historical accounts. This was far less than the \$60,000 the Sauk reportedly made annually from fur sales.

The United States had repeatedly invited the Sauk and Meskwaki to treaty councils, but the tribes refused. They were not interested. Many were still alive who remembered the Americans burning Saukenuk (the main Sauk village in Rock Island) to the ground in 1780 in what is still considered the western-most battle of the Revolutionary War. The government wanted their lands because the two tribes controlled the Mississippi River valley from Prairie du Chien in what is now Wisconsin, to St. Louis. The tribes had moved to the Mississippi River valley around 1760 and

their tribal lands extended east to the Illinois River, north to the Wisconsin River, south to St. Louis, and west along the Missouri River.

The Sauk and Meskwaki traded with British fur traders in their northern territory and French and Spanish fur traders in their southern and western territories. The relationship with their European trading partners was a good one and the tribes were content with the alliances. But on April 30, 1803, France sold the Louisiana Territory to the United States. The transaction nearly doubled the size of the nation and brought the Indian nations living on that land under its control. White settlers flooded onto the land previously controlled by the tribes.

In 1804, four Sauk hunters encountered some whites living illegally north of St. Louis along the Cuivre River and a battle resulted in the killing of three of the white men. The killings sent shock waves across the frontier and settlers moved to stockades and called for support from the government. The Sauk hunters who had killed the whites at first were jubilant, but their chiefs were not.

On October 27, four Sauk and one Meskwaki leader, accompanied by one of the Cuivre River killers, arrived in St. Louis. The Tribal Council had charged the leaders with settling the dispute between their nations and the United States. They came prepared to give satisfaction to the victim's families by "covering the dead." This custom offered compensation, usually horses and other goods, to the families of murder victims. If the families accepted the gifts, the issue was settled and no retaliation could be expected. A pardon would be given to the murderer and all would be well. The delegation was also charged with making friends with the United States government.

"This being the only means with us of saving a person who had killed another—and we then thought it was the same way with the whites," Black Hawk said in his autobiography. "The relatives of the prisoner blacked their faces, and fasted – hoping the Great Spirit would take pity on them and return the husband and father to his wife and children," he wrote.

William Henry Harrison had been sent to St. Louis to convince the Sauk to cede small pieces of land along the Illinois River to the United States. Harrison saw a better opportunity and invited the four Sauk Indians to remain in St. Louis for a week of treaty talks and drinking. By the end of the week, the four Indians, who had no authority to speak for the entire Sauk Nation and were drunk and hung over, had supposedly ceded away their Illinois, Wisconsin, and Iowa lands for an allowance of \$1,000 a year.

**(Optional text)**

**According to a previous story on the Black Hawk State Historic Site website, the protocols were significant. First, an invitation to treat must be sent to the Tribal Council. After discussion, the Tribal Council would send back an affirmative or negative reply. If the council decided to move forward with the negotiations, a full tribal meeting of men, women, and children was held. They would decide how much land would be sold and at what price. If the women opposed the sale, or were not consulted, however, no land sale could be valid. If a sale was agreed to, then a large tribal delegation attended the treaty signing where many speeches were made and wampum belts exchanged.**

**But the Treaty of 1804 had no formal invitations, no consultations with the Tribal Council, no approval by the women. Those who were present were just asked to sign on the dotted line. Since no journal was kept, historians aren't sure what happened. Most suspect that the five men who signed the treaty had no idea they were selling so much of their tribal lands. According to historical accounts, they denied that they had sold any land higher than the Des Moines River.**

**(end optional text)**

**(Optional text)**

**According to the Tribal Treaties Database at Oklahoma State University, the treaty stated that “This treaty shall take effect and be obligatory on the contracting parties as soon as the same shall have been ratified by the President by and with the advice and consent of the Senate of the United States.”**

**The treaty had 12 Articles which outlined the list of agreements the two sides had reached. Article 2 provided a detailed description of the boundary lines between lands that would be those of the United States and those belonging to the tribes, but no effort was made in the treaty to attempt to describe the extent of the lands changing hands.**

**“In testimony whereof, the said William Henry Harrison, and the chiefs and head men of the said Sac and Fox tribes, have hereunto set their hands and affixed their seals. Done at Saint Louis, in the district of Louisiana, on the third day of November, one thousand eight hundred and four, and of the independence of the United States the twenty-ninth.**

**Signed: William Henry Harrison – also: Layauvois, or Lalyurva, his x mark; Pashepaho, or “The Giger” his x mark; Outchequaka, or Sun Fish, his x mark; Hahshequarhiqua, or The Bear, his x mark.**

**(end optional text)**

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The treaty was ratified by the U.S. Senate in January 1805, so from there it was legal from the government's perspective.

For the next 28 years the Treaty of 1804 dogged the relationship between the Sauk and Meskwaki and the United States, leading ultimately to the Black Hawk War. Black Hawk never recognized the treaty as valid and this led him to side with the British against settlers in the area during the War of 1812. The treaty was upheld again in the Treaties of Portage des Sioux in 1815 at the end of the war. In 1816 Fort Armstrong was built on Rock Island in the Mississippi River where the Arsenal is today.

Years later, in 1828, the agent of the Sauk and Fox, Thomas Forsyth, informed the tribal chiefs that they should prepare to leave their villages and farms east of the Mississippi. The chiefs responded by denying they ever had ceded the land, thereby straining relations with both the federal government, which wanted to start selling the land on the Rock River, and the state government.

By the spring of 1829, Black Hawk had become a forceful spokesman for the view that the tribes had never knowingly ceded their Illinois lands. Others, notably Black Hawk's main rival, Chief

Keokuk, concluded that because the Sauk and Fox could not possibly resist the United States by force, moving was necessary. In the fall of 1829, Keokuk and his people abandoned their principal settlement, Saukenuk (in modern-day Rock Island near the Black Hawk State Historic Site), and crossed the Mississippi River, vowing never to return. It's an action Black Hawk never agreed to and later resulted in the Black Hawk War.

**(optional text)**

**Despite warnings from Keokuk that the tribal council would not support them, Black Hawk and other Sauk and Fox warriors and families returned from their winter quarters in Iowa to Saukenuk in the spring of 1830. The few hundred who returned again in 1831 realized that the white settlers had come to stay but refused to leave the sacred home of their ancestors without being removed by force. Black Hawk's band also tried to use the 1804 treaty to their advantage, saying that they were entitled to return to the land because it was not sold.**

**In his autobiography, Black Hawk recalled: "Quashquame, Pashepaho, Ouchequaka and Hashequarhiqua were sent by the Sacs (Sauk) to St. Louis to try and free a prisoner who had killed an American. The Sac tradition was to see if the Americans would release their friend. They were willing to pay for the person killed, thus covering the blood and satisfying the relations of the murdered man. Upon return, Quashquame and party came up and gave us the following account of their mission:**

**"On our arrival at St. Louis we met our American father and explained to him our business, urging the release of our friend. The American chief told us he wanted land. We agreed to give him some on the west side of the Mississippi, likewise more on the Illinois side opposite Jeffreon. When the business was all arranged, we expected to have our friend released to come home with us. About the time we were ready to start, our brother was let out of the prison. He started and ran a short distance when he was SHOT DEAD!**

**"This was all they could remember of what had been said and done. It subsequently appeared that they had been drunk the greater part of the time while at St. Louis. This was all myself and nation knew of the treaty of 1804. It has since been explained to me. I found by that treaty, that all of the country east of the Mississippi, and south of Jeffreon was ceded to the United States for one thousand dollars a year. I will leave it to the people of the United States to say whether our nation was properly represented in this treaty? Or whether we received a fair compensation for the extent of country ceded by these four individuals? I could say much more about this treaty, but I will not at this time. It has been the origin of all our difficulties."**

**(end optional text)**

As planned, the stone at Black Hawk State Historic site serves as a constant reminder of this "Fraudulent Treaty of 1804."

“There was a lovely dedication ceremony (in 2004) where Preston Duncan gave the blessing in Meskwaki. The drum group sang an honor song. Everyone was very touched. (They) never forget this land was once theirs. In fact, my take was that since the property is owned by the state, the land is STILL theirs,” Beth Carvey said.

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