

The Meaning of Article XIII  
Of The  
1836 Treaty of Washington

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to grant,” and ordered him to make no “individual reservations.” He noted that the goal of the proceeding was to “keep the Indians beyond our borders” and he warned that no specific claims for debts be included in the final document. He suggested a commissioner could be appointed to hear these claims at a later date.<sup>106</sup> Schoolcraft’s instructions made no mention of forced removal or of specific anticipated changes in the lives of Michigan Indians. “The great object” Cass wrote, “will be to do full justice to the Indians, and, at the same time, to procure the land upon proper and reasonable terms for the United States.”

The treaty proceedings opened on March 15 with a speech by Commissioner Schoolcraft in which the agent repeated the story of delegates from Manitoulin Island who sought to sell Drummond Island. He also recalled Agustin Hamlin’s offer to sell land on the north side of the Straits and an offer from the Chippewas of Sault St. Marie to sell land near Lake Superior. He also reported that there had been interest from Indians living near Michilimackinac in selling land on the west side of the Straits, but he acknowledged their offer was never received. The treaty commissioner was painting his own version of reality. He then went on to respond to these “requests,” by proposing “to extend the cession south ...[to] Grand River on Lake Michigan, and northwest to Chocolate River on Lake Superior.”<sup>107</sup> In exchange for what must have been a shocking and breathtaking proposal even for this hand-picked group—that is the sudden suggestion that the assembled chiefs sell all of the tribes’ landholdings—Schoolcraft offered “the most liberal” terms. He offered to settle debts with a commission, to establish reservations, and to grant “the usual privilege of residing and hunting on the lands sold till they are wanted....”

After this first day of formal proceedings, the delegates adjourned for three days of private deliberation. When they reassembled, the principal speaker at that session rose

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<sup>106</sup> Cass to Schoolcraft, March 14, 1836, Exhibit D 16, U.S. v. Michigan.

<sup>107</sup> “Records of a Treaty Concluded with the Ottawa and Chippewa Nations at Washington, D.C., March 28, 1836, Exhibit p-17, U.S. v. Michigan. Many of the documents in this exhibit are also contained in the Papers of Henry Rowe Schoolcraft, Container 40.



to question Hamlin's presence at the proceedings and to reject the idea of parting with any land. "One reason why we do not wish to dispose of our lands," he noted was "we fear that the whites ... will come into our country and trouble us ...". Others objected to the prohibition against land grants to mixed-race kinsmen. Schoolcraft responded by saying "he was very sorry that the Ottawas should object to the treaty" and noted that he would "now call the minds of the Chippewa's chief north of the straits" and would propose to purchase the lands north of the straits from them. Adopting the ancient tactic of "divide and conquer," commissioner Schoolcraft warned the Ottawas they would not participate in a sale of the northern territories since the government would deal only with the "rightful owners of the soil"—presumably the Chippewas, represented by his wife's uncle, Waishkee. In response to this threat, Augustin Hamlin switched to the government's side. The young Catholic convert rose and accused the opponents of land sales of being manipulated by outsiders. The secretary noted that Hamlin "closed by saying if the Indians were left alone, they would sell...."<sup>108</sup> Despite the delegates' opposition, observers were still confident of the outcome. Senator Lyon wrote a business associate after the opening session that "the Indians answer yesterday was that they would not sell and the present prospect is discouraging. Yet I think their objections will be overcome and that the United States will get the lands."<sup>109</sup>

Schoolcraft had Hamlin's comments translated for the group and adjourned the meeting until March 22. In a letter to his wife later that day the agent accused the traders of organizing opposition to the sale.<sup>110</sup> Once again, Schoolcraft's version of events was self-serving. It is difficult to credit the idea that the traders opposed the new treaty given their active role in assembling the "suitable" delegates for the Washington meeting and their common goal of securing a treaty that contained payments for past debts—both to the American Fur Company and to individual traders such as Schoolcraft's in laws.

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<sup>108</sup> "Records of Treaty Council," Exhibit P-17, U.S. v. Michigan.

<sup>109</sup> Lucius Lyon to A.E. Wing, Monroe, Michigan, March 19, 1836, "Lucius Lyon Letters," 486.

<sup>110</sup> See Bremer, Indian Agent, Wilderness Scholar, 167.

At the next session on March 23, Schoolcraft reported that Hamlin's delegation from Little Traverse was now willing to sell lands south of a point midway between the Muskegon and Grand Rivers. The Grand River delegation—led by Rix Robinson's brother in law—agreed to sell as well and appointed the trader "to act for them." Schoolcraft then proposed a reservation of 100,000 acres north of the Grand River "to be located in two places, by the chiefs after their return home." The next day other delegates—Big Sail from Cheboigan (though listed as hailing from L'Arbre Croche) and Wassangaso, a second level chief from Muskegon, added their assent. Big Sail also wrote a separate letter to Schoolcraft, witnessed by Rix Robinson, in which he agreed to the creation of a reservation and urged the government to reward Robinson. "Some chiefs love their traders, Big Sail (Kitchy Ingosimon) wrote; "and wish to let them have a piece of land. I also, Father, love mine," he added, "I desire you to let him and his daughter have a good piece of land...."<sup>111</sup> Aince, a Chippewa leader from a village on the north shore of Lake Michigan near the Straits, sent a similar note, witnessed by trader John Drew, in which he thanked Schoolcraft for preventing the Ottawas from selling his tribe's lands. "When I first heard that the Ottawa nation was about to sell our Chippewa land I was very much displeased," he wrote. He was glad, as he put it, when "our trader sent for me and informed me I was wanted in Washington." He also asked for a grant of land to John Drew's son, Samuel.<sup>112</sup>

When the entire group reassembled on March 24<sup>th</sup>, most of the delegations asked one of the traders present to represent them. Big Sail asked Stuart to represent his community; Wassangaso asked for William Lasley and the L'Arbre Croche group designated Hamlin. Wassaubeguum protested on behalf of the Grand River delegation but was turned aside. (Interestingly, Wassaubeguum was not recognized in the final treaty as a chief.)

The delegates, commissioners, traders and other parties reassembled on March 28

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<sup>111</sup> Big Sail (Kitchy Ingosimon) to Schoolcraft, March 24, 1836, PHRS.

<sup>112</sup> Aince to Schoolcraft, March 24 1836, PHRS.

and the document was signed by Schoolcraft and “all the Chiefs and Delegates of the Ottawa and Chippewa nations who attended for the purpose of concluding the treaty. In exchange for the lands ceded, the final document promised \$150,000 in goods to be distributed at Mackinac once the treaty was ratified by the Senate and \$30,000 as a payment to the chiefs of the two groups. The treaty also promised a blacksmith shop “on the reservation north of the Grand River” and at Sault St. Marie, annual payments of \$5,000 and \$3,000 respectively for “education” and “missions,” and an annual annuity of \$30,000. The treaty set aside \$300,000 to settle the outstanding claims of the traders, and generous payments totaling \$150,000 to mixed-race relatives and prominent individuals. Most of the whites present received land grants or cash payments—including Rix Robinson, Leonard Slater, John Drew, John Holiday, Mary Holiday, Henry Levake, George and Louis Moran and Augustin Hamlin. (Hamlin received two sections of land—1280 acres.)<sup>113</sup>

Two days after the treaty signing, Schoolcraft wrote to Cass, reporting that he had fulfilled the Secretary of War’s instructions with regard to Michigan’s Indians and noting that “their removal ... is contemplated and under the present impulse of emigration the incipient steps for this measure may be anticipated within a few years.”<sup>114</sup> Once again, Schoolcraft was presenting his superior with an attractive version of reality. The agent and treaty commissioner had not mentioned this possibility in the formal treaty sessions but the signed treaty had mentioned that “as soon as the Indians desire it” they could select a new homeland in the West. The agreement also indicated that the United States would assist with this relocation “when the Indians wish it.” Schoolcraft’s letter to Cass suggested how the ambiguities and unspoken provisions of the negotiated agreement would be sharpened and defined in the ratification and implementation process.

The United States Senate placed its own stamp on the treaty proceedings. When it took up the agreement eight weeks after the March conference had adjourned, the

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<sup>113</sup> Treaty of Washington, Article 9; **\*\*Not produced; see HRA010744 in the DB for the Kappler.**

<sup>114</sup> Schoolcraft to Cass, March 30, 1836, Exhibit P 56, U.S. v. Michigan.

Upper House unilaterally altered the agreement. Instead of the fifty-year limit set in the original treaty, the reservations to be located in Michigan would exist only “for the term of five years from the date of ratification of this treaty and no longer.” The amendments further provided for the possibility that federal authorities would grant them permission to remain in Michigan beyond the five year time limit as well as for a cash payment for the reservations once ceded. Nevertheless, the Senate’s goal was clear: that Michigan’s Indians would voluntarily migrate west like the tribes in the lower Midwest and the Southeast. While pleasing to Michigan’s boosters, these changes could present a challenge to Schoolcraft when he attempted to secure the tribe’s approval of the agreement’s final language.<sup>115</sup>

Schoolcraft was not the only interested party worried about ratification. As soon as he heard about the Senate’s revisions, AFC president Ramsay Crooks wrote to Rix Robinson, now back on the Grand River, that “if the Indians will not consent to the modifications in their treaty, the whole affair will be at an end.” He urged Robinson to persuade the Grand River group to accept the treaty. Crooks also wrote to his traders at the Sault and Mackinac with a similar warning.<sup>116</sup> Schoolcraft’s allies in Michigan were also worried. His brother in law William wrote from Michilimackinac on May 10—before the Senate’s actions were known—that the returning chiefs appeared happy but “some dissatisfaction was manifested by some of the Ottawas....”<sup>117</sup> James Schoolcraft wrote in June—after the amendments were known—that the Sault St. Marie group was also unhappy.<sup>118</sup>

In the face of these rumblings, Schoolcraft and his associates prepared for the ratification meeting to be held at Mackinac in July. The agent stopped in New York on his way home to confer with Crooks and to rally the AFC behind the effort to win

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<sup>115</sup> Senate Amendments, May 25, 1836, Exhibit D17, U.S. v. Michigan.

<sup>116</sup> Crooks to Robinson, June 3; Crooks to Franchere, June 7; Crooks to Samuel Abbott, July 30. All in AFC Papers, items 1657, 1672 and 3397; **\*\*Not produced and not available in the DB.**

<sup>117</sup> William Johnston to Schoolcraft, May 10, 1836, PHRS.

<sup>118</sup> James Schoolcraft to Henry Schoolcraft, June 29, 1836, PHRS.

ratification. Crooks urged his subordinates to cooperate with Schoolcraft. He reported to the Indian agent in June that he had requested Abbott and Franchere at Sault St. Marie “to do all they can in asking you to persuade the Indians to accept the modifications made by the Senate.” He added that Robinson “will readily assist of his own free will, but I have nevertheless written him also to the same effect....”<sup>119</sup> Crooks was right; Robinson was among the most supportive of the fur traders. He wrote Schoolcraft that he would be at Mackinac between the 10<sup>th</sup> and 20<sup>th</sup> of the month and assured the agent that “I shall have no difficulty in bringing on with me such a delegation as will meet your approbation.” The trader went on to advise protesting Indians to trust his leadership and not to believe “unfounded reports.”<sup>120</sup> Events were also moving forward rapidly in the Grand River valley. Kent County, which included Grand Rapids (the location of significant real estate investments by both Robinson and Lyon), was officially organized on April 4, 1836. Ionia County came into existence in April, 1837, and Ottawa County (which included Robinson’s headquarters at Grand Haven) the following December.<sup>121</sup>

Schoolcraft held the first ratification session on July 11, despite the fact that the Grand River delegation (and others) had not yet arrived. Apparently he believed the prospects for approval of the revised treaty would be higher if he met separately with smaller groups instead of presenting the senate’s changes before a general meeting of delegates. (Appendix B also indicates, despite the incompleteness of the records, that many of the Washington delegates did not attend the July gathering. Apart from the Grand River delegates whose names were not recorded, only six individuals attended both meetings. Two of those six were Jane Schoolcraft’s uncle and cousin.)

Schoolcraft reported to his superiors that he presented the representatives present with a document which proposed to explain the amended treaty. It assured the Indians the right “to reside upon their reservations after the period herein mentioned, until the

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<sup>119</sup> Ramsay Crooks to Henry Schoolcraft, June 7, 1836, PRHS, Container 41, Part 2.

<sup>120</sup> Robinson to Schoolcraft, June 27, 1836, PHRS.

<sup>121</sup> Atlas of Historical County Boundaries, Michigan; **\*\*Not produced and not available in the DB.**

lands shall be required for actual survey and settlements (as the white population advances from the south to the north)” and it stated that “no parts or provision of said treaty ... which is not specified in the general resolution is in any manner affected or altered thereby....” He reported that by July 12, twenty seven delegates had signed the ratification agreement, led by a trio from Sault St. Marie that included Waishkee.<sup>122</sup> Two more sessions were held on July 15 and July 16. In a letter written on July 18, Schoolcraft told Secretary Cass that at these sessions the “strenuous” opposition of the assembled delegates was overcome by referring to the hunting right that had remained untouched in the revised agreement. The Indians’ resistance, he wrote, “has finally yielded, on a consideration of the practical operation of the provision, contained in the 13<sup>th</sup> article of the Treaty, which secures to them indefinitely, the right of hunting on the lands ceded, with the other privileges of occupancy, until the land is required for settlement.” The agent reminded Cass that the cash payments should proceed as quickly as possible, no doubt because of the Indians’ suspicions as well as “the lateness of the season.” He also urged “early action” on all outstanding claims.<sup>123</sup>

The delegates at Mackinac in July had one further statement to make. Enclosed with Schoolcraft’s letter to Cass was a memorial, dated July 14, and signed by thirty-one Ottawas and Chippewas who had presumably been present at one of the ratification sessions (Robinson and his Grand River delegates had not yet arrived). The memorial declared a desire to relocate to the western Great Lakes if their removal were required at the end of the five year time limit. They stated: “we think the location would be permanent and not subject to disturbance by white settlers, because it is not probable that white men will want to live higher north on the waters of the Mississippi than the good limestone lands extend.”<sup>124</sup> The document expressed a desire to avoid “disturbance” by whites and to sustain their traditional lives. (It also revealed that the delegates did not

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<sup>122</sup> Schoolcraft to Cass, July 13, 1836. M234, Reel 422, Frame 162.

<sup>123</sup> Schoolcraft to Cass, July 18, 1836, Exhibit D-23, U.S. v. Michigan.

<sup>124</sup> To the President of the United States, July 14, 1836, Documents Relating to Ratified Treaties, T494, Roll 3.

realize that much of the land they referred to in modern Minnesota would be ceded to the United States in July, 1837.)

Rix Robinson and the Grand River Ottawas finally arrived on July 22. Clearly the trader had fulfilled his promise to bring a delegation to Mackinac that would meet Schoolcraft's "approbation." No protests were noted and the agent reported that he "permitted ... the southern chiefs and principal men ... to affix their names" to the agreement.<sup>125</sup> On August 2, agent Schoolcraft reported that a total of ninety-six people had agreed to the revised agreement, "embracing the principal and secondary chiefs of the upper and lower peninsula of Michigan. Nothing of an unfriendly, far less of a hostile, feeling was manifested in any of their recorded speeches."<sup>126</sup> Without a complete roster of the ninety-six individuals mentioned in Schoolcraft's letter, it is impossible to know exactly how many tribal delegates attended these sessions and how representative they were of the tribal leadership. Only five of the six individuals who attended both the Washington and Mackinac sessions can be identified with certainty. Two of these were Schoolcraft relatives, two were leaders from nearby Oak Point and Chenos and one was from Grand Traverse.

In September Schoolcraft reported more than 4,000 Indians had come to Mackinac to receive their new annuities and other payments under the treaty. Indian leaders understood that this distribution would not have taken place if the revised treaty had not been approved in July. Schoolcraft soon departed for Detroit to take up his new position of Indian Superintendent for the State of Michigan. The agent's lobbying efforts in Washington, D.C. had failed to win him the governorship of Wisconsin Territory, but thanks to support from Lyon, Cass and others, he had been rewarded with a promotion that would make him the principal Indian Office representative in the new state.<sup>127</sup>

During the fall of 1836, the commission on traders' claims took action on more

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<sup>125</sup> U.S. v. Michigan, Exhibit P-18.

<sup>126</sup> Henry Schoolcraft to General Hugh Brady, PHRS, Container 41, Part 2

<sup>127</sup> See Bremer, Indian Agent, Wilderness Scholar, 173.

than \$400,000 in requests. Schoolcraft was one of three commissioners but he did not act officially on his relatives' claims. Nevertheless, his relatives (brothers in law William and George Johnston and John Hulbert, brother James, and mother in law Susan Johnston on behalf of herself and her late husband) received a total of \$56,885.61 from the claims commission. Rix Robinson received nearly \$29,000, Stuart received \$17,000, and Biddle and Drew \$46,000. These individuals, all represented at the treaty proceedings in Washington, D.C., received nearly two-thirds of the \$220,000 awarded under the agreement for traders' claims.<sup>128</sup>

In the aftermath of the treaty ratification and the settlement of the traders' claims, two areas of inquiry emerged among the public and the government officials involved with Indian affairs in Michigan. First, because of the new treaty and Congress' almost simultaneous decision to attach the Upper Peninsula to the new state, there was curiosity surrounding the nature of the north country that so few whites had visited and which was so poorly understood. In August, Senator-elect Norvell wrote agent Schoolcraft requesting "information concerning the nature and extent of the territory thus attached to the state .... [that] may enable the people of Michigan to appreciate the importance of the acquisition...."<sup>129</sup> Schoolcraft responded to inquiries of this kind by pointing out the timber and other resources that were available. He was also hopeful about agriculture.<sup>130</sup>

In a letter dated August 13, Schoolcraft reminded his correspondent that for most of the past generation the American public had maintained a "total misconception" of the land in southern Michigan. He recalled that as late as 1823 a surveyor had questioned the "expediency" of opening the territory to settlers. While Schoolcraft admitted that "neither observations nor information, justify high expectations of ... general agricultural capacities" in the northern sections, "a more considerable proportion of it than has heretofore been deemed usable will be found suitable for cultivation." He added:

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<sup>128</sup> Ibid., 173-4.

<sup>129</sup> John Norvell to Henry Schoolcraft, August 2, 1836, PHRS, Container 41, Part 2.

<sup>130</sup> Henry Schoolcraft to Norvell, August 5, 2004, PHRS, Container 41, Part 2.



The pressure of population, the occupation and absorption of the contiguous lands on the south, the spirit of enterprise, and the eliciting of its natural resources, may ... within a few years ... exhibit the true value of this portion of the state ... a considerable portion of it is superior, even for farming purposes, to large parts of the north eastern sections of New England.<sup>131</sup>

Schoolcraft's rosy view of the north country's potential reflected a general sense that agricultural communities would continue to expand northward as they had over the past decade. As he told the ratification gathering in Mackinac in July, he expected to see the white population eventually advance "from the south to the north."

The second area of concern was less theoretical. Because of its proximity to the rapidly developing agricultural settlements in southwestern Michigan, the Grand River valley had become the special focus of potential settlers and land developers. Their interest in the newly-ceded Indian lands created immediate concern among the Ottawas in the area, many of whom had opposed the treaty and had resented Rix Robinson's dominant role in its negotiation and ratification. Schoolcraft was eager to avoid confrontation in the area and he urged the Grand River bands to relocate north to the Grand Traverse region. Schoolcraft wrote the subagent in southern Michigan on September 24, 1836 that it was essential that the tribe begin exploring a new home. "It will be proper for you to use such argument as you deem just to convince them of the impossibility of their remaining in their present position...."<sup>132</sup> But the Ottawas did not respond and within a few months, conflicts arose.

On February 20<sup>th</sup>, 1837, a committee of four who had been appointed by a meeting of settlers in the new "Grand River District" wrote to Schoolcraft in Detroit in his capacity as Superintendent of Indian Affairs for the state of Michigan. The settlers wanted to know exactly what rights the Indians in their area had prior to the sale of their former homeland to the public. The committee wanted to know, for example, if the

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<sup>131</sup> Schoolcraft to ???, August 13, 1836, PHRS, Container 41, Part 2.

<sup>132</sup> Henry Schoolcraft to Agent, Grand River, September 24, 1836, Letters Received by the Superintendent of Indian Affairs, Mackinac, Roll 27, Frame 12; **\*\*Not produced; see HRA003242 in the DB for an alternate copy.**

Indians could legally “drive off” squatters and demolish their buildings.<sup>133</sup> Schoolcraft must have been deeply concerned about possible violence on the Grand River. Once again his version of reality—the peaceful transition from Indian country to settled farmland—was being challenged by events. Schoolcraft and Secretary Cass had long promised that the removal of Indians from areas of white settlement could proceed peacefully; trouble in Michigan would be embarrassing for both men and would risk creating the kind of extended confrontation that was already absorbing Indian Office personnel in Georgia and Florida.

In addition, all of the principal government officials involved in the 1836 treaty had a direct personal stake in the continued expansion of agricultural settlements in western Michigan. These men were not simply speculators. They were committed to the development of densely-settled agricultural communities that would not only increase land values, but provide customers for the region’s cities and banks. Senator Lyon was constructing a canal at Grand Rapids with the support of New York financier Arthur Bronson and promoting the sale of lots in the new town of “Lyons” on the south bank of the Grand because he expected the arrival of a large population in the area. (Upriver from the rapids at Grand Rapids, this new settlement would benefit from the completion of the canal around that barrier to river traffic.) Charles Butler was an early investor in the town of Lyons.<sup>134</sup> The American Land Company, which Charles Butler had organized in 1835, and which counted Bronson, Charles’s brother Benjamin and the Vice President’s son John among its stockholders, owned an estimated 41,000 acres of Michigan real estate.<sup>135</sup> Rix Robinson owned real estate in the new town of Grand Rapids as well as at Grand Haven. He not only planned to live in the new port city of Grand Haven, but he looked forward to a political career representing the area. These

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<sup>133</sup> D.A. Lyman, A.D. Rathbone and A. H. Finney to Schoolcraft, February 20, 1837, U.S. v. Michigan, Exhibit D-84; **\*\*Not produced; see CEC01741 in the DB for an alternate version.**

<sup>134</sup> Kit Lane, Lucius Lyon, 145-155, 162-178; **\*\*Not produced; see copy from Marie in DB at HRA016605.** See also the map of Lyon’s southern Michigan investments on p. 128.

<sup>135</sup> John Haeger, The Investment Frontier, 110. Haeger points out that because so many of the principles in the American Land Company also bought property in their own name or through trusts, it is impossible to know the exact extent of the investors’ interest in the new state.

expectations were also in line with the goals of stockholders in institutions such as the Bank of Michigan, so important to Secretary Cass and his longtime associate Charles Trowbridge. Like the developers of towns and canals, the bank's leaders sought a growth of population and agricultural commerce, not just a rise in land values.

Schoolcraft tried to defuse the situation with the white settlers. He replied immediately to the petitioners and assured them that the Indians' rights to land "ceases the moment any part of it becomes private property." Assuming the presence of agricultural settlers on former Indian lands, he observed that Indians usually did not act unless they received "strong and repeated provocations" and urged the settlers to adopt a "course of prudence and forbearance" while he consulted with his superiors."<sup>136</sup>

The superintendent explored the issue of hunting rights on ceded land more deeply in a letter written later the same day to the Indian Office. Schoolcraft addressed Commissioner Carey Harris, a close friend of Andrew Jackson's who had recently replaced Elbert Herring. Harris was a fierce proponent of removal and an avid investor in Alabama real estate.<sup>137</sup> Schoolcraft urged the commissioner to give the issue the "earliest consideration," but assured him that the conflict was "local and temporary" and would "probably pass away with ... the removal of the Indians." The superintendent did not press for a dramatic statement on the matter or any kind of overt action as he envisioned the process of rapid settlement in the Grand Valley that would eventually replace Indian settlements with farms and villages occupied by white people.

Schoolcraft explained to the commissioner that the Indians' cession in 1836 "may be said in a great measure to have turned on the right stipulated to be secured to them to hunt upon, and occupy the lands ceded until they were required for settlement." He proceeded to explain, however, an apparent ambiguity in the meaning of that provision. On the one hand he claimed that he had told the Indians at the Washington treaty

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<sup>136</sup> Schoolcraft D.A. Lyman et al, February 27, 1837, Exhibit D-33, U.S. v. Michigan.

<sup>137</sup> Ronald Satz, "Carey Allen Harris," in Robert Kvasnicka and Herman Viola, editors, The Commissioners of Indian Affairs, 17-22; **\*\*Not produced; see alternate copy at HRA014055 in the DB.**

negotiations that “as fast as the lands were surveyed and sold ... this right would cease.” On the other hand, Schoolcraft told the commissioner, “it was believed ... that portions of the large ... territory ceded were uninviting to agriculturalists ... and to these places the Indians adverted as places of temporary residence.” Schoolcraft was presenting two views of the “settlement” process: the rapid arrival of settlers and, later, survey crews on ceded land (the process that was taking place in the Grand Valley) or the eventual arrival of settler/agriculturalists moving “from the south to the north” (the interpretation the Indians had “adverted to” at the negotiations). It was clear which definition he had used in his correspondence with the Grand River settlers, but which had he used the previous year?

In his letter, Schoolcraft recalled his conversations at Mackinac the previous July. He reported that faced with the Senate’s unilateral revision of the treaty negotiated in March, the Indians gathered at the ratification meetings had “placed a high value” on the treaty’s guarantee of continued hunting rights and that they “resisted the idea of a general cession of their lands without it.” According to Schoolcraft he won the assent of the Indians at Mackinac by employing “the term ‘settlement’ in its ordinary meaning to denote the act or state of being settled, and as answering, as nearly as the terms of the two languages would permit, to the tenor of my agreement with them.” Finally, Schoolcraft reminded the commissioner that “in yielding ... this right another consideration had weight. They manifested a disposition to sell but a small portion of the country....” In Schoolcraft’s view, despite his cultivation of friendly leaders among the delegates, his use of fur traders as lobbyists prior to the gathering, and the use of his own relatives among the Indians to win agreement to the treaty, the 1836 cession had been possible only because he had been willing to yield to the tribes the “ordinary meaning” of the term settlement. “The right named,” he added, “combined with the principal of consolidated reservations, was found to be among the more efficacious [sic] reasons brought forward to induce them to enlarge the tract ceded....” Schoolcraft argued that the contradiction between this “ordinary meaning” and the language he had used with the Grand River

settlers—in which he had assumed that survey and settlement would occur close together—would not create a problem. “The Indians will gradually remove before the increasing circle of settlement, and keep out of the way of it...” The trouble in the Grand Valley was caused by “preemptionists,” he insisted, and Indians who were facing the “increasing circle of settlement.” He was confident the dispute would be resolved as settlers replaced Indians on the ceded lands.<sup>138</sup>

On March 23<sup>rd</sup>, Commissioner Harris formally requested an opinion from the Attorney General regarding the Grand River settlers.<sup>139</sup> On April 20, the Attorney General responded. Accepting the reasoning in Schoolcraft’s February letter, Benjamin Butler issued an opinion intended to settle matters on the Grand River. He opined that the 13<sup>th</sup> article of the treaty “must be regarded as reserving the use of the ceded lands ... until such lands shall have been actually disposed of to individuals.” His statement reflected the “ordinary meaning” of settlement Schoolcraft had described in his February letter. The Attorney General added that once this disposition had taken place, the Indians “usufructory right ... will cease.”<sup>140</sup> The Attorney General referred to one portion of the ceded territory where agricultural “settlement,” “surveys” and “sales” to individuals were happening simultaneously. His focus was the good agricultural acreage near the Grand River where settlers were moving in to clear and farm the former Indian land. Echoing Schoolcraft’s reasoning, he was viewing one part of the larger process he and his colleagues hoped would take place across the vast (and currently largely unknown) Michigan peninsula: the transformation of forests to settled and occupied farmland. If that process had reached this spot, then it would be clear that the 13<sup>th</sup> article would become operative. Schoolcraft’s and Butler’s expectations for the rest of the peninsula were based solely on hope.

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<sup>138</sup> Schoolcraft to Commissioner of Indian Affairs, February 27, 1837, Exhibit D-32, U.S. v. Michigan.

<sup>139</sup> C.A. Harris to Attorney General, March 23, 1837, Letters Received, Office of Indian Affairs, Reel 422, Frame 638; **\*\*Not produced; see HRA001634 in the DB for an alternate copy.**

<sup>140</sup> Attorney General to Secretary of War, April 20, 1837, Letters Received, Office of Indian Affairs, Reel 422, Frame 395-6. The Attorney General’s opinion was reprinted in the Detroit Daily Advertiser on May 4, 1837.