

The Meaning of Article 13 of the Treaty of Washington, March 28, 1836

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INTRODUCTION

This report investigates the history of Indian land use and inland lake and river fishing before, during, and after the signing of the Treaty of Washington, March 28, 1836, a treaty made between the United States of America on the one side and the Ottawas and Chippewas of Northwestern Lower Michigan and the Eastern Upper Peninsula on the other. The report provides historical context for understanding the usufructuary rights retained by the Ottawas and Chippewas in Article 13 of that treaty. Most importantly, the report explores the meaning that Ottawas, Chippewas, and their neighbors assigned to the phrase “until the land is required for settlement.”

My expertise as a researcher comes from over twenty years of graduate and professional work. I received my Ph.D. in American History from Princeton University in 1986, an M.A. from Princeton in 1982, and a B.A. from the University of Connecticut, Storrs, in 1978. My primary field in graduate school was early American History, and my dissertation focused on Native American religious movements that formed throughout the Eastern Woodlands, from the Great Lakes to the Gulf of Mexico, in the face of colonization and settlement between 1745 and 1815. I held the temporary position of Lecturer at Princeton University in 1986-1987. I taught United States History at the University of Notre Dame from 1987 to 2002, rising to Associate Professor and Associate Dean. I visited, for a year each, the University of the Witwatersrand in South Africa (on a Fulbright Fellowship in 1994), and the University of Connecticut, Storrs, my alma mater, where I was a Visiting Associate Professor, 1996-1997. I am now Professor of History and American Culture, and Director of Native American Studies, at the University of

Michigan, Ann Arbor. At Michigan since the fall of 2002, my teaching includes graduate and undergraduate courses in Native American History and early American History, including the large undergraduate survey of the history of the United States to 1865.

My published work in Native American History has won awards from the Western History Association, the Gustavus Myers Center for Human Rights, and the Association of American University Publishers. While working on the dissertation, I held a six-week fellowship at the Newberry Library in Chicago and a one-year fellowship at the Philadelphia Center for Early American Studies at the University of Pennsylvania. While preparing my first book, I held a year-long postdoctoral fellowship at the Smithsonian Institution's Department of Anthropology. While preparing my most recent book, I held an NEH-Lloyd Lewis fellowship at the Newberry Library, home of the D'Arcy McNickle Center for the History of the American Indian. My first book touches on the history of Indians in Michigan; my second book is a history of Pontiac's War (1763-1766), which deeply involved and concerned Michigan's Indians, including Ottawas and Chippewas. I have had books favorably reviewed in the major academic journals in my field and in such mainstream outlets as The New York Times, The Washington Post, The Times Literary Supplement (London), and The Atlantic. My essays have been anthologized in readers designed for courses in both American Indian History and U.S. History to 1877. I currently serve as a councilor for the American Society of Ethnohistory, an organization that has, for almost a half century, both been devoted to the anthropological study of history and been at the forefront of Native American historical studies.

This report rests on my investigation of Indian office and war department correspondence, missionary records, traders' correspondence, travelers' journals, newspaper accounts, and

personal letters and memoirs -- the kinds of primary sources scholars rely on to reconstitute Native American history. Additionally, several sources are histories written in the nineteenth century by Ottawa and Chippewa authors. I have read extensively in the secondary literature of the archaeology, anthropology, and history of Michigan, including the dissertation literature. Published local histories have also been of some value. I have worked, therefore, with materials from university libraries, local public libraries, governmental archives, and state and regional historical associations. The richest sources are in the National Archives' holdings of Indian Office correspondence.

At the outset of this project, attorneys requested that I investigate the following issues stemming from the treaty:

1. What would the parties to the treaty have understood by Article 13; in particular, what did the Indians who assented to it understand it to mean?

It is my opinion that the Indians understood that Article 13 protected their usufructuary rights to the land as long as it was not actually occupied residentially by Americans. For lands to be settled, people would have to make lives and futures upon them, improve them, build upon them, and make them productive. Generally, settlement meant the establishment of farms or villages. Ottawas and Chippewas saw settlements as places inhabited not only by young men, but by families, including elders, women, and children. This meant that Ottawas and Chippewas retained the right not only to hunt, but to fish, gather, collect and process sugar, travel freely across, and even (without guarantee of permanence) to reside on lands that had been ceded but were as yet unsettled by American nationals. The phrase, "usual privileges of occupancy,"

implies customary uses, but that would not have restricted Ottawas and Chippewas to the technologies available in 1836. By that year, the adoption of new and imported goods – woolen clothing, metal kettles, firearms, metal traps, and metal and imported fishing gear (to name a few) – was already customary among these Indian peoples.

2. What was the scope and extent of the Indians' usufructuary activity prior to, during, and after the Treaty of 1836?

My conclusion is that Indians frequently resorted to the inland areas of Michigan for a wide variety of many essential activities, both subsistence and commercial, before, during, and after 1836. These included but were not limited to hunting, fishing, trapping, sugaring, plant and other resource gathering (for food, shelter, medicinal, artistic and religious purposes), material goods gathering, transportation work, and worship or celebration. Not only were Indians employing European and US hunting, fishing, and trapping techniques and tools by 1836, they were also embracing newer technologies, such as the barreling of salted fish and cranberries. There were by 1836 communities of Ottawas or Chippewas that displayed a history of and manifest interest in increasing their economic productivity. The Indians' white neighbors and the governmental and religious officials who dealt with the tribes expected them to continue to both engage in commerce and to adopt new technologies.

3. When, in Article 13, the Indians stipulated for "the right of hunting on the lands ceded," what did they mean? What meaning did they assign to that right?

My opinion is that in 1836 Indians accurately expected hunting and trapping to remain as

important activities for the foreseeable future. Hunting and trapping were expected to continue to provide Indians with meat, skins, and furs, on the one hand, and with access to imported goods or cash, on the other. What is more, many Indians expected hunting and trapping to remain important to the Indians' religious relationship with animals and animal spirits. Hunting, primarily a male activity, was important, to male identity. In 1836 and after, the U. S. government acted in a manner that reinforced Indian expectations.

4. What did they mean by "until . . . required for settlement"?

I conclude that Ottawas and Chippewas understood settlement, as it is written in English in the treaty, to imply residential or agricultural occupation of the land. Villages, farmsteads, and farms were the markers of settlement. Lands under cultivation, lands made productive, built upon, and permanently inhabited, were settled lands. Additionally, the Indians understood that as long as the land remained unoccupied by American settlements (then generally understood to be farms or villages), they retained the right to resort to the interior of the state and continue to exploit its resources, as they long had. Most importantly, they did not anticipate that most lands in the northern reaches of the Lower Peninsula or the great majority of the Upper Peninsula would be settled soon, if ever, by Americans. They knew that north of the Grand River Valley drainage, which includes lands drained by waters flowing into the Grand River from the north, there was not a great deal of attractive farming land. Ottawas, and many bands of Chippewas, had a long history of agricultural experience. They knew, especially, the capacity of the land for crops such as fruits, corn, and potatoes. By 1836, many had experience with animal husbandry. Ottawas and Chippewas knew the quality of the lands, and they knew that productive agricultural

lands, while present throughout the territory, formed only a small portion of the total lands. They could in 1836 expect much, perhaps most, of the ceded lands to remain unsettled.

Settlement, with all its implications of permanence and family life, is the critical concept in Article 13. The English phrase, "until the land is required," would not have been well understood by Ottawas and Chippewas any more than it can be well understood by modern readers. How that phrase was translated into Ottawa and Chippewa is unknowable. The United States did not make a practice of providing indigenous-language copies of its treaties with Indians, even when a mission orthography or a native written language existed. The article's passive construction, with all its lack of clarity regarding the party that might require settlement, is obvious. The indefinite character of the temporal limitation, "until the land is required," was even reported by the chief American negotiator, Henry Rowe Schoolcraft, to his superiors. It is my opinion that the Indians understood that they could use the land until and unless American settlers were coming upon it to establish permanent settlements. This would have been consistent with Ottawa and Chippewa practices.

The particular, unique language of Article 13 may be obscure as to who requires settlement, but its wording is not otherwise vague. American officials faced Ottawas and Chippewas who were determined both to remain permanently by right in Michigan and to provide for their posterity. To gain a vast cession for a bargain price, the American officials offered non-monetary concessions, including Article 13. Schoolcraft's various and contradictory reports on the Indians' understanding of the article support these conclusions.

5. How would "settlement" affect the "usual privileges of occupancy"?

The record suggests that neither Indians nor U.S. citizens anticipated in 1836 much actual settlement in the ceded lands north of the fertile Grand River Valley. Indians therefore did not anticipate a great deal of friction with settlers, and they hoped to continue to work the lands ceded where the citizens' farms and residences were not in the way. They did not expect to exploit resources on lands that were farmed or resided upon. The "usual privileges of occupancy" included, but were not limited to, fishing, trapping, the gathering of both wild foods and material goods, sugaring, and gardening; indeed, they even included residing upon the lands, though Indians retained no clear title to any improvements they made upon such lands, and they had no right to unusually damage the land or to interfere with any American uses of the land. All such occupancy was without property title or right to exclude others.

It is my opinion that Indians were, in effect, offering to share the resources of the interior with the numerous Americans and to have Americans come settle the lands when needed for the rapidly growing U. S. population.

Ottawas and Chippewas, like many of their American neighbors, rejected the idea that settlers could have only violent relations with their Indian neighbors. It is my opinion that Ottawas and Chippewas enjoyed relatively good relations with the citizens of Michigan and the United States in the period surrounding the making of the treaty.

The potential for violence between Michigan's Indians and citizens of the United States remained a possibility, to be sure. The American republic's most powerful neighbor and most consistent historical enemy at that time, the British Empire, reached to Michigan's borders. The Black Hawk War in Illinois and the far more destructive Seminole War still troubled America's

frontier. Treaty-makers were mindful of these facts. For several important Americans, from the president to the governor to Schoolcraft, the safest course would be to separate Indians from citizens by removing the Indians westward. Ottawas and Chippewas (with considerable American support) soundly rejected this solution. They believed, accurately as it turned out, that mutually peaceful relations were the norm. This was the way of alliance.

If settlement did not mean war, it did mean that settled lands were closed to Ottawa and Chippewa use under Article 13. American settlers had the exclusive right to use the lands they had settled. Settlement also meant that American settlers would have access to the ceded but unsettled lands. It is my opinion, based largely on the absence of Indian complaints following the treaty, that the Ottawas and Chippewas understood that American citizens now had rights to the ceded grounds. When Indians did object to such American use, it was never about the lone hunter or fisherman. It was instead about either the theft of Indian improvements made before the treaty agreement or the destruction of an important band resource, such as the leveling of a sugar maple grove for fuel, or the damming of a productive fishing stream for a lumber mill. Interestingly, Indians challenged the theft of improvements not as violations of Article 13, but as a violation of Article 8. Whether Indians saw other such actions as violations, in particular, of Article 13, is not clear in the record. What is clear is that they saw them as more general violations of good fellowship, and American citizens sometimes agreed.

6. What were the Indians' objectives in making the treaty? What did they hope to accomplish, and how did Article 13 relate to their other goals in the treaty?

There are many reasons to question the moral legitimacy of the Treaty of Washington;

they range from the apparent inadequacy of the delegations representing the various bands at both the Washington meeting and the Mackinac meeting that followed, to the influence of money on the individuals involved. Putting such considerations aside, it is my opinion that various Indian delegates concluded by July, 1836, that the treaty presented their only opportunity to both firm up their good relations with the United States and provide for the well-being of their people and their descendants. The Indians surrendered to the United States sovereign title to what was then estimated to be 13,734,000 acres of land. In return they were to receive relief from their debts, steady funds in annuities and bonds, schools, goods, supplies, and the right to use the ceded waters and the ceded lands until they were settled. The sums were to be substantial: \$29,000 in hard currency annually for twenty years; \$5,000 annually for schools for twenty years; \$3,000 for missions; \$10,000 for tools and livestock; a small annual medical fund; and such annual goods as salt, tobacco and barrels. The United States would deliver a lump sum of \$150,000 when the treaty was finally ratified by the parties; it would add \$30,000 in total to certain, specified chiefs; and it would pay \$200,000 when the Indians surrendered their five-year reservations. Interest on that last sum, in the meantime, would be paid annually by the federal government to the Indians.

The treaty also provided for total debt relief, which would free Indians to invest earnings in land. From permanent dwellings and villages, secured by future purchase, Indians believed that they would retain the right to resort to both the Great Lakes and to the unsettled interior of the state. The usufructuary rights they held under Article 13 would provide continued hunting, fishing, gathering, trapping, collecting, and rights of way extending far beyond the village boundaries. The services established by the treaty would aid in the education of children and the material prosperity of the people. The funds would provide primarily for the purchase of more

lands, both for additional Ottawa or Chippewa "colonies" and for the securing of certain, key locations in the event of American settlement. Indians therefore saw in their own annuities and other government payments the possibility of securing and expanding their land tenure in Michigan after the treaty.

This is putting the treaty in its best light. The United States secured title to over 13,000,000 acres of land for a low price, a price "rateably disproportionate," as Schoolcraft would put it, to the price the Indians were expecting at the opening of negotiations. That many Indian signatories, federal negotiators, and mediating interpreters could all also expect to gain direct federal payments as a result of the treaty is a matter of disturbing fact.

7. Was this a removal treaty, in which case the stipulation contained in Article 13 was expected to be short-lived?

Federal policy in the 1830's drove many Indian peoples west of the Mississippi in a process then called "removal." Michigan Indians, fully aware of this policy and fearful of its wretched consequences, overwhelmingly opposed it. The threat of removal hung over the head of every Ottawa and Chippewa man attending the council in Washington in 1836. Each man knew that he faced a federal power that was then employing force in its efforts to clear other Indian nations from the neighborhood of the states.

American officials sought removal, but they had reasons not to demand it of the Ottawas and Chippewas. Among those reasons was the desire to avoid war at a time of costly military operations in the South. Federal officials also feared that Ottawas and Chippewas would escape to the North, to British territories, where they might constitute a threat to future American

security.

This treaty discusses voluntary removal as an option; it does not mandate removal. Schoolcraft dearly hoped that the Ottawas and Chippewas would voluntarily remove westward sometime in the near future, but few if any Ottawas and Chippewas shared his hope, and even he understood that removal was but a possibility, a possibility that dimmed when the Senate modified the treaty in May, 1836, restricting removal to southwest of the Missouri River, a place to which Michigan's Ottawas and Chippewas had no desire to emigrate. The treaty does not mandate removal; had it done so, it would not have provided for the Indians' indefinitely continuing usufructuary rights. No mandatory removal treaty provides for retained usufructuary rights on ceded lands.

8. What were the different tribes and bands and what were their differing views?

The United States came to agreement in 1836 with the "Ottawa and Chippewa Nations" on two separate occasions: first, at Washington in March, when the original treaty was negotiated, and second at Mackinac Island in July, when the United States had Ottawas and Chippewas mark the Articles of Agreement to the Senate's amendments. At neither time was the representation of Ottawas and Chippewas adequate.

Twenty-six Ottawas and Chippewas signed the original treaty. The eighteen Ottawa signatories far outnumber the Chippewa signatories, and there are few signatures from the Upper Peninsula. The original treaty has signers hailing from the six named locales: Muskegon River, Grand River, Straits of Mackinac, L'Arbre Croche, Grand Traverse Bay, and Sault Ste. Marie, though the last delegation's legitimacy has been called into question.

The overlap is slender between the twenty-six signers of the original treaty and the ninety-six signers of the articles of assent. Little better than half of the original signers applied their names to the latter document. While the original treaty breaks down the "Ottawa and Chippewa Nations" by six geographic regions, the articles of assent deploy twenty-five divisions, some of them smaller, some not. Such discrepancies further confuse the nature of Indian representation.

Chippewas on the Upper Peninsula from Sault Ste. Marie west to Grand Island were not well represented in Washington and evinced some opposition to the treaty. Months later, at Mackinac, Schoolcraft revealed his willingness to bend the truth in his eagerness to see the cession accomplished when he declared the assent to the Senates' dramatic amendments to the treaty as obtained before the full delegations from Little Traverse Bay or the Manistee south to Grand River areas had even arrived.

At Washington, Schoolcraft had told Indian delegates that if they did not agree to the basic American offer, the United States would make deals with Ottawas and Chippewas separately, raising the possibility that delegates' individual bands might not benefit at all. At Mackinac, some Indian delegates were presented with the articles of agreement as a fait accompli, leaving them, too, with the alternative of either signing or losing both lands and compensation.

The Ottawas of the Grand River Valley, those most in the path of American settlement, were highly reluctant to agree to terms and manifested considerable opposition to the treaty.

9. How much urgency was there to make this treaty?

The treaty came on the heels of a land boom in the southern portions of the lower

peninsula, so the United States had a strong desire for the lands immediately to the north of the Grand River. Under Andrew Jackson, moreover, there was retrenchment in government services, such as the provision of federal blacksmiths to repair Indian goods. Such retrenchment in federal services led Indians from northern Michigan to offer small land cessions on islands and on the Upper Peninsula. Schoolcraft saw in such offers the opportunity for greater cessions, and his superiors eventually agreed, seeking even greater cessions than Schoolcraft had anticipated. Tensions with Great Britain, the outbreak of the Second Seminole War, and the recent eruption of the Black Hawk War contributed to the sense, on both Indian and federal parts, that negotiation was important. Michigan was poised for statehood, and there was a federal desire to gain public control over the disposition of most of Michigan's lands. Still, it is my opinion that the vast extent of this land cession caught most people by surprise; few could have anticipated it just a few years before. There had been some friction between citizens and Indians over fishing and over the American removal of timber for steamboat fuel, but there was as late as 1836 very little real pressure by U.S. settlers on the soon-to-be ceded lands, at least north of the Grand Valley (where, again, the pressure was real).

10. When the Senate ratified the treaty, it limited the tenure of the reservations from permanent to merely five years. It did not modify Article 13. What role did Article 13 play in securing the Indians' assent?

The Senate's modifications alarmed the Indian signers of the treaty and greatly disturbed the Indian peoples. Leaders agreed to the revisions for several reasons. They had reason to hope that the increased funding that came with that modification would increase their power to

purchase agricultural tracts, village sites, and satellite plots (containing particularly valuable resources, such as sugar groves) that lay within regions that might attract U.S. settlement. Since the treaty would free their peoples from debt and provide funds and services, there was some reason to anticipate economic benefit. Article 13 was critical to all of this. The Indians expected, under express encouragement from the American agent, that the article would indefinitely protect their continued use of much of the ceded land, large portions of which Indians did not expect to attract citizen-settlers.

11. What was the Indians' experience with white settlement and land ownership? How did that understanding affect their view of the treaty and the rights they retained?

It is my opinion that some Indians, one at least, who participated in the treaty council understood American settlement and land ownership. The most informed would have been an Ottawa-affiliated participant in the discussions at Washington: twenty-two year old Augustine Hamelin, Jr.. Hamelin was well-educated by any contemporary standard. He was also a young man. Grand River Ottawa peoples may also have had good notions about what Americans meant by land sales. The southern reaches of the state of Michigan were rapidly being settled; a land boom was cresting just south of their river. This may help explain the Grand River Ottawas' opposition. The areas around St. Ignace and Sault Ste. Marie had been inhabited by people of European descent and culture for well over a century. Perhaps here, too, some European concepts of property might have "rubbed off." Ottawas and Chippewas had centuries of experience with European Americans (not much yet, however, with settler colonies), and they had relatives and friends among American citizens. At the same time, the Europeans of these

regions had long conformed themselves to certain Indian practices, and many had married into Indian families. Hamelin himself was the product of such unions, as was Jane Schoolcraft, wife of the American treaty commissioner. With such a history of relations, Indians could reasonably expect that their conceptions of property might be accommodated by American officials.

It is not the case, however, that the Indian delegates spoke much English or had much knowledge of American property law. Most Indians would have held views of land title that did not involve a conception of the ownership of the land itself, but rather of the ownership of the rights to inhabit and use the land.

The signing Indians understood, and the American negotiators encouraged them to understand, that they would be able to use the lands indefinitely, until the lands were settled. The Indians agreed to a treaty that partook not solely of the American conception of exclusive possession of the soil, but of a Native American conception that provided allies with rights to share the use of the land and its resources. Schoolcraft and his superiors had initially desired much more from the Indians; they initially desired to end the usufructuary rights when the United States disposed of the lands in sales. But the Indians did not meet this desire.

12. What would the Indians have understood regarding the relationship of the term "settlement" to speculative lands, timber lands, and mining lands, as opposed to agricultural land?

Neither Indians nor, for that matter, American citizens understood traders' establishments, scattered throughout Indian country in early 1836, to be settlements. A trading post was an outpost, beyond settlement in the American mind, and in Indian opinion it would have been, at most, part of an Indian community, particularly if the trader had married into an Indian family.

Similarly, neither Indians nor American citizens generally conceived of military garrisons as settlements. They, too, were outposts, beyond settlement.

Temporary camps, such as fishing stations, or logging or mining camps, did not qualify as settlements, nor did the surrounding lands mined or logged. Places where men (but few women and children) congregated to work temporarily and/or seasonally were not settlements any more than a military garrison or a naval vessel was a settlement. Fishing, logging, and mining villages, on the other hand, places with a sense of permanence, where families raised children and where communities built futures, were settled. Settlement implies more than extracting resources from the land. It implies building upon the land and rendering it productive, or better, reproductive. It implies raising families and/or crops. It is my opinion that Indians and Americans generally shared this view. This report provides evidence attesting to this point.

This cannot mean, however, that Indians would have possessed a right to hunt in a logging camp, a mining camp, a fishing station, or a U.S. army encampment. Endangering the peace and safety of allies would have been contrary to the spirit of the treaty itself.

Land did not become settled by virtue of its disposition from public into private ownership. Simply holding the land against settlement until its value rises in the market was not construed as settlement itself. Ownership was not construed as settlement in the common sense of either American citizens or Indians who understood American concepts of property. Ownership and settlement were also clearly distinguished in nineteenth-century federal land policy, as this report will show.

13. Would "land title" have had meaning as opposed to the physical marking and bounding of the land?

It is my opinion that in 1836 some Ottawa and Chippewa signers would have had some familiarity with basic European concepts of private-property holding. This does not mean that they accepted such concepts as normative, nor does it mean that most Indians of Northern Michigan could have appreciated the meaning of American property. Most in 1836 did not even speak English or French. Nonetheless, several leaders did seek in 1836 to purchase lands with the moneys provided by the treaty (although they usually did so with an Indian intent: that is, to place communities, not nuclear families, upon them). Indians also, according to their own conceptions of territoriality, understood that their bands, under band leaders, exercised rights to territories that were not marked or bounded in any artificial sense, but that were clearly marked or bounded by physical features in the land.

It is difficult to know how well they would have understood the meaning of lines on a map at the General Land office, but they would have had no way of understanding the surveying system deployed in establishing the coordinates of property. The leaders who marked the treaty for Indian communities (Augustine Hamelin signed only as a witness) were illiterate. They marked, did not sign, the treaty. Assuming some of the leaders would have had some understanding of American property, neither lines on a map nor even blazes on trees marking claimed but unimproved and uninhabited lands would have implied settlement. For those who understood American conceptions of ownership, ownership itself could not have meant settlement. This was (and is) also the common American understanding, as this report will conclude.

14. Many treaties possess language regarding usufructuary rights. The rights often expire when the United States sells the land. Is that what is understood in Article 13?

Article 13 has no exact equivalent in the history of United States-American Indian treaty making, and it is my opinion that the article's uniqueness underscores its proper interpretation. Where other treaties stipulate for retained usufructuary rights until the United States disposes of the lands, this article is different; the rights expire when the lands are required for actual settlement, not when they are sold. In this, the article bears a relationship to Ottawa and Chippewa practices that allow allies to share the resources of the land. The agreeing Indians believed that the United States would protect their rights to use any lands that American settlers had not actually come to occupy.

15. What happened after the treaty to usufructuary rights? Were Indians still exercising rights, and on what lands or waters, and under what kinds of land ownership?

I find that in the decades that followed the treaty, Indians in most of the region continued to work resources in the ceded area. Only in the area immediately to the north of the Grand River did Indians anticipate a rapid loss of access to the lands, and even there, the loss came about more slowly than they had expected. The United States, moreover, promoted the Indians' continued hunting and fishing by providing blacksmiths (and a gunsmith) who worked the tools of hunting and fishing as much as they worked agricultural tools. Following the treaty, the United States also provided to the Indians much hunting, fishing, and sugaring equipment, again signaling the expectation that such goods and activities were of continued importance. There is some evidence, moreover, that both U.S. citizen-settlers and Ottawas and Chippewas commonly

understood the propriety of the Indians' unregulated (by the state) hunting and fishing well into the latter half of the nineteenth century.

Reluctantly accepting American offers and ceding enormous acreage in the Treaty of 1836, Ottawas and Chippewas were peoples to whom hunting, fishing, and other resource use in the interior of Michigan constituted important facets of their economic, cultural, and even religious lives. The Indians reasonably expected to pursue these activities into the indefinite future. American officials supported this expectation, as does the language of Article 13. This is the case on the surface of the article; it is far more the case when the article is read within the contexts of nineteenth-century federal land policy and Ottawa and Chippewa understandings of property and alliance.

The first four chapters of this report discuss hunting, fishing, and other resource use as they concern Ottawa and Chippewa cultures. Chapters five through nine explore the history of the Treaty of Washington and the meaning of Article 13. The final chapter briefly examines Ottawa and Chippewa hunting, fishing, and other resource use in the decades that followed the treaty.

Gregory Evans Dowd

List of Abbreviations

AIC, PHS	American Indian Correspondence, microfilm, Presbyterian Historical Society (Westport, CT, 1978) at State Historical Society of Wisconsin
AFCP 23	American Fur Company Papers, 1834-1845, microfilm, 35 reels (New York: New York Historical Society 1952), at the University of Chicago, Reel 23
AFCP 24	American Fur Company Papers, 1834-1845, microfilm, 35 reels (New York: New York Historical Society 1952), at the State Historical Society of Wisconsin, Reel 24
AFCR	American Fur Company Records
ALF	American Leopoldine Foundation
Bayliss	Steere Special Collections, Bayliss Public Library, Sault Ste. Marie, Michigan
Bentley	Michigan Historical Collections, Bentley Historical Library, University of Michigan, Ann Arbor, Michigan
CHL	Clarke Historical Library, Central Michigan State University, Mt. Pleasant, Michigan
DLC	Library of Congress
ff.	following (to end of document)
fr./frs.	frame/frames (for NAM 234, NAMT 494, and HRSP/DLC/SHSW containers 41 and 42). Note: many microfilm publications enumerate each "frame" photographed; others paginate; still others rely for referencing merely on the dates of the documents.
HRS	Henry Rowe Schoolcraft
HRSP/DLC	The Papers of Henry Rowe Schoolcraft, 1782-1878, Microfilm edition, Manuscript Division, United States Library of Congress (Washington, D.C., 1962). These papers are organized in "Containers" [or Boxes], published in microfilm reels. Some institutions number the reels; others

do not. For consistency's sake, this report uses the container numbers. They were read in the State Historical Society of Wisconsin; they were read again, and photocopied, in the Archives and Regional History Library at Western Michigan University, Kalamazoo, at Michigan State University, and through interlibrary loan by Penn State University at the University of Michigan.

<u>JPHS</u>	<u>Journal of the Presbyterian Historical Society</u>
MSUL	Michigan State University Library, East Lansing, Michigan
NA	United States National Archives
NAM1R15	National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs: Letters Received by the Superintendents, Lewis Cass (1819-1831), George B. Porter (1831-1834), Stevens T. Mason (1834-1835), and John L. Horner (1835), 1819-1835 (Washington, 1940), Roll 15
NAM1R19	National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs: Letters Received by the Superintendents, Lewis Cass (1819-1831), George B. Porter (1831-1834), Stevens T. Mason (1834-1835), and John L. Horner (1835), 1819-1835 (Washington, 1940), Roll 19
NAM1R27	National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs: Letters Received by the Superintendents, Lewis Cass (1819-1831), George B. Porter (1831-1834), Stevens T. Mason (1834-1835), and John L. Horner (1835), 1819-1835 (Washington, 1940), Roll 27
NAM1R29	National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs: Letters Received by the Superintendents, Lewis Cass (1819-1831), George B. Porter (1831-1834), Stevens T. Mason (1834-1835), and John L. Horner (1835), 1819-1835 (Washington, 1940), Roll 29
NAM1R30	National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs: Letters Received by the Superintendents, Lewis Cass (1819-1831), George B. Porter (1831-1834), Stevens T. Mason (1834-1835), and John L. Horner (1835), 1819-1835 (Washington, 1941), Roll 30

- NAM1R33 National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs: Letters Received by the Superintendents, Lewis Cass (1819-1831), George B. Porter (1831-1834), Stevens T. Mason (1834-1835), and John L. Horner (1835), 1819-1835 (Washington, 1941), Roll 33
- NAM1R34 National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs: Letters Received by the Superintendents, Lewis Cass (1819-1831), George B. Porter (1831-1834), Stevens T. Mason (1834-1835), and John L. Horner (1835), 1819-1835 (Washington, 1941), Roll 34
- NAM1R36 National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs: Letters Received by the Superintendents Lewis Cass (1819-1831), George B. Porter (1831-1834), Stevens T. Mason (1834-1835), and John L. Horner (1835), 1819-1835 (Washington, 1941), Roll 36
- NAM1R37 National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs: Michigan Superintendency and Mackinac Agency, Letters Sent, 1836-1851 (Washington, 1942), Roll 37
- NAM1R38 National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Sent, 1836-1851 (Washington, 1942), Roll 38
- NAM1R40 National Archives Microfilm series M, number 1, Records of the Michigan Superintendency of Indian Affairs: Michigan Superintendency and Mackinac Agency, Letters Sent, 1836-1851 (Washington, 1942), Roll 40
- NAM1R41 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 41
- NAM1R44 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 44
- NAM1R48 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942),

Roll 48

- NAM1R50 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 50
- NAM1R51 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 51
- NAM1R54 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 54
- NAM1R56 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 56
- NAM1R57 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 57
- NAM1R58 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 58
- NAM1R60 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 60
- NAM1R61 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 61
- NAM1R62 National Archives Microfilm, series M, number 1, Records of the

Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 62

- NAM1R63 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 63
- NAM1R64 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Michigan Superintendency and Mackinac Agency, Letters Received, 1836-1851 (Washington, 1942), Roll 64
- NAM1R68 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, Sault Ste. Marie Agency Records, Letters Received, 1829-1833 (Washington, 1942), Roll 68
- NAM1R69 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, 1814-1851, Letters Sent by the Agent at Mackinac (Washington, 1942), Roll 69
- NAM1R71 National Archives Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, 1814-1851, Mackinac Agency Records, Letters Received (Washington, 1942), Roll 71
- NAM1R72 National Archives, Microfilm, series M, number 1, Records of the Michigan Superintendency of Indian Affairs, 1814-1851, Mackinac Agency Records, Letters Received (Washington, 1942), Roll 72
- NAM21R11 National Archives, Microfilm, series M, number 21, Records of the Office of Indian Affairs: Letters Sent; transcripts of outgoing communications (Washington, 1942), Roll 11
- NAM21R17 National Archives, Microfilm, series M, number 21, Records of the Office of Indian Affairs: Letters Sent; transcripts of outgoing communications (Washington, 1942), Roll 17 (read and photocopied at MSUL)
- NAM21R18 National Archives, Microfilm, series M, number 21, Records of the Office of Indian Affairs: Letters Sent; transcripts of outgoing communications (Washington, 1942), Roll 18 (read and photocopied at MSUL)
- NAM21R19 National Archives, Microfilm, series M, number 21, Records of the Office

- of Indian Affairs: Letters Sent; transcripts of outgoing communications (Washington, 1942), Roll 19
- NAM21R20 National Archives, Microfilm, series M, number 21, Records of the Office of Indian Affairs: Letters Sent; transcripts of outgoing communications (Washington, 1942), Roll 20
- NAM21R24 National Archives, Microfilm, series M, number 21, Records of the Office of Indian Affairs: Letters Sent; transcripts of outgoing communications (Washington, 1942), Roll 24
- NAM21R26 National Archives, Microfilm, series M, number 21, Records of the Office of Indian Affairs: Letters Sent; transcripts of outgoing communications (Washington, 1942), Roll 26
- NAM21R34 National Archives, Microfilm, series M, number 21, Records of the Office of Indian Affairs: Letters Sent; transcripts of outgoing communications (Washington, 1942), Roll 34
- NAM21R42 National Archives, Microfilm, series M, number 21, Records of the Office of Indian Affairs: Letters Sent; transcripts of outgoing communications (Washington, 1942), Roll 42
- NAM21R45 National Archives, Microfilm, series M, number 21, Records of the Office of Indian Affairs: Letters Sent; transcripts of outgoing communications (Washington, 1942), Roll 45
- NAM234R402 National Archives, Microfilm, series M, number 234, Mackinac Agency, Letters Received by the Office of Indian Affairs (Washington, 1959), Roll 402
- NAM234R403 National Archives, Microfilm, series M, number 234, Mackinac Agency, Letters Received by the Office of Indian Affairs (Washington, 1959), Roll 403
- NAM234R404 National Archives, Microfilm, series M, number 234, Mackinac Agency, Letters Received by the Office of Indian Affairs (Washington, 1959), Roll 404
- NAM234R407 National Archives, Microfilm, series M, number 234, Mackinac Agency, Letters Received by the Office of Indian Affairs (Washington, 1959), Roll 407

- NAM234R415 National Archives, Microfilm, series M, number 234, Letters Recieved by the Office of Indian Affairs, 1824-1881, Mackinac Agency, 1880, and Mackinac Agency Emigration, 1838-1839 (Washington, 1959), Roll 415
- NAM234R421 National Archives Microfilm, series M, number 234, Michigan Superintendency, 1824-1851, Letters Received by the Office of Indian Affairs, 1824-1881 (Washington, 1959), Roll 421
- NAM234R422 National Archives Microfilm, series M, number 234, Michigan Superintendency, 1824-1851, Letters Received by the Office of Indian Affairs, 1824-1881 (Washington, 1959), Roll 422
- NAM234R423 National Archives Microfilm, series M, number 234, Michigan Superintendency, 1824-1851, Letters Received by the Office of Indian Affairs, 1824-1881 (Washington, 1959), Roll 423
- NAM234R424 National Archives Microfilm, series M, number 234, Michigan Superintendency, 1824-1851, Letters Received by the Office of Indian Affairs, 1824-1881 (Washington, 1959), Roll 424
- NAM234R425 National Archives Microfilm, series M, number 234, Michigan Superintendency, 1824-1851, Letters Received by the Office of Indian Affairs, 1824-1881 (Washington, 1959), Roll 425
- NAM234R426 National Archives Microfilm, series M, number 234, Michigan Superintendency, 1824-1851, Letters Received by the Office of Indian Affairs, 1824-1881 (Washington, 1959), Roll 426
- NAM234R427 National Archives Microfilm, series M, number 234, Michigan Superintendency Emigration, 1838-1848, and Michigan Superintendency Reserves, 1837-1848, Letters Received by the Office of Indian Affairs, 1824-1881 (Washington, 1959) Roll 427
- NAM234R598 National Archives Microfilm, series M, number 234, Northern Superintendency, 1851-1876 (Washington, 1958) Roll 598
- NAM234R770 National Archives Microfilm, series M, number 234, Sault Ste. Marie Agency, 1824-1852, Roll 770 (read and photocopied at MSUL)
- NAM668R8 National Archives Microfilm, series M, number 668, Ratified Indian Treaties, 1722-1869 (Washington, 1966) Roll 8
- NAT94R3 National Archives Microfilm, series T, number 494, Documents Relating

to the Negotiation of Ratified and Unratified Treaties with various tribes of Indians, 1801-1869 (Washington, 1960) Roll 3

- NAM668R11 National Archives Microfilm, series M, number 668, Ratified Indian Treaties, 1722-1869 (Washington, 1960) Roll 11
- NASPIA Thomas C. Cochran, gen. ed., The New American State Papers: Indian Affairs, vols. 1-4 (Wilmington, Del., 1972)
- ND University of Notre Dame, Hesburgh Library, Special Collections, South Bend, Indiana
- NDA University of Notre Dame, Archives, South Bend, Indiana
- PSU Penn State University
- Richmond Family Papers Richmond Family Papers, Special Collections, Grand Rapids Public Library, Collection #94, Grand Rapids, Michigan
- SHSW State Historical Society of Wisconsin, Madison, Wisconsin
- WMU Archives and Regional History Library, Western Michigan University, Kalamazoo, Michigan

CHAPTER ONE: HISTORICAL AND CULTURAL CONTEXT OF THE TREATY OF 1836

The first four chapters of this report provide a brief background history of the Ottawa and Chippewa experience in what is now the state of Michigan. They emphasize those aspects of these peoples' history that have most relevance to Article 13: the economic lifeways and the patterns of settlement and land possession. They also deal with cultural aspects of the land that are important to peoples, such as the religious resonance of the land and its evocation of the sense of place. Because Article 13 guarantees Indian rights to the "usual privileges of occupancy" as well as to hunting until the lands were "required for settlement," the chapters cover a wide variety of reasons that Ottawas and Chippewas visited the world that lay beyond the edges of their villages. In order to understand what usufructuary rights these Indians sought to protect, the four chapters examine the ways Ottawas and Chippewas used the lands before they ceded them. This first chapter focuses on the Ottawas' and Chippewas' seasonal pattern of land use.

The languages and traditional cultures of Chippewas and Ottawas (Ojibwas and Odawas) are very similar. As a language, Ottawa is essentially a dialect of the Chippewa language (Ojibwa).¹ The two peoples have long recognized a relationship. Intermarriage, common religious celebrations (such as the Feast of the Dead and the Midewiwin), trade, and alliance have been strong features of Ottawa and Chippewa relations, the latter for as long as we have records to document them. In the face of the challenges brought by European colonization, these

¹ Ives Goddard, "Central Algonquian Languages," in Northeast: Handbook of North American Indians, 15 (1978): 583.

relationships were important to the survival of both peoples, providing reservoirs of goodwill that could be tapped in periods of local subsistence crisis or foreign war.²

Neither people had a single central political organization to draw clear markers around the issue of belonging or identity, any more than do the several peoples that go under the names Ottawa and Chippewa today. Instead, organization was, at the arrival of the first colonists, based on the village or band. Nonetheless, on the eve of contact, Chippewas, and probably Ottawas, each possessed their own clan structures that transcended the bands, uniting different bands under structures of kinship, that is, under the understanding of family, an understanding that reinforced the sense of what it meant to be an Ottawa or a Chippewa.

For outside observers, what most distinguished Ottawas from Chippewas in the first century of contact was that the former were somewhat more engaged in agriculture. Ottawas tended to live where there were enough frost-free days for successful cultivation. Their core settlements -- on Drummond Island (now in Michigan), Manitoulin Island, and in the neighborhood of the Bruce Peninsula (both now in Ontario) -- flourished mainly in the transitional zone between the so-called "Canadian" or "sub-arctic boreal" forests and the "Carolinian" or "temperate broadleaf" forests. Ottawas generally maintained villages the year round. They also planted their crops and stored their harvest near the villages. Francis Assikinack, an Ottawa historian writing in the mid-nineteenth century, noted that Ottawas placed their villages at "eminences on the borders of lakes, and along the banks of rivers...."³ Still, the

² Beverly Ann Smith, "Systems of Subsistence and Networks of Exchange in the Terminal Woodland and Early Historic Periods in the Upper Great Lakes," Ph.D. dissertation, Michigan State University, 1996, 25-26.

³ F. Assikinack, "Legends and Traditions of the Odahwah Indians," Canadian Journal of Industry, Science, and Art 3 (1858), 119.

village was not their world. Much of the population would regularly depart to satellite camps, some at a very great distance, for such activities as hunting, fishing, gathering, trading, and warfare. Samuel de Champlain's 1632 map notes that the Ottawas "are great hunters, fishermen, and rovers; cultivate the land and sow Indian corn: dry blueberries and raspberries, in which they make a great trade with other tribes, taking in exchange pelts, wampum, nets, and other commodities." Ottawas, living on the margins of the two forest provinces (Carolinian and Canadian), were well-situated for trade between the more agricultural peoples of the south and those peoples who inhabited the great fur-bearing country to the north.⁴ As Champlain's passage just quoted indicates, Ottawas were well-noted for trade. As archaeologist Beverly Smith explains,

The system was predicated upon the desire by the southern horticulturalists for products from the north and by the advantages conferred upon northern populations when they were supplied with maize. The Odawa [Ottawas] may have contributed fish, reed mats, berries and possibly other products in this system, but these contributions were probably not essential at either end of the economic network. Their most important contribution may have lain in their willingness to travel.⁵

The Ottawas' superb canoes, no doubt, contributed to this pattern.

Chippewas also maintained villages at permanent sites, most notably at the rapids of the St. Mary's River, but their seasonal division between shoreline summer villages and winter hunting camps was probably more marked. Diamond Jenness (writing in 1935) provides a

⁴ Quoted in Smith, "Systems of Subsistence," 92; see also 19-20, 60.

⁵ Smith, "Systems of Subsistence, 278; see also 94-96.

detailed ethnographic summary of the then “traditional” Chippewa seasonal round, through which he essays a picture of ancient ways. His work deals with Ojibwas (Chippewas) living in the nearby Canadian Georgian bay region, across Lake Huron from Michigan. Writing more directly and recently of the Chippewas in the area of Sault Ste. Marie, historian Janet E. Chute reconstitutes the pattern as it was practiced in the 1820's.

According to Jenness, December through March constituted the major hunting season, when small family groups inhabited hunting camps and the men searched for "moose, deer, porcupine, and other game," while women and children snared "rabbits and grouse" and "occasionally fished through holes in the ice of the frozen lakes." Chute's depiction is similar. She notes that winter hunting took place considerably "inland." Chute adds woodland caribou to the list of animals hunted. The great intensification of the fur trade that accompanied colonization modified but did not eradicate the older system. Chute writes that "In the mid-1830's, as in the 1820's, heads of nodal core groups 'owned' individual hunting territories.... Large game was distributed within the hunting group, although individuals usually retained the proceeds of their own fur catches." Trapping must therefore have intensified, as beaver, "mink, marten, fisher, muskrat, and especially foxes," brought in good material returns. Chute notes that traditional dead falls, snares, and baiting practices "remained unchanged" by colonialism, which added new technologies, such as steel traps, muskets, and rifles.

With March and April came sugar season, as the Ojibwas moved in slightly larger family groups to their sugar bushes. There, says Jenness, women "collected the sugar." While doing so, they also "in spare moments stripped off the inside of the bark of the cedar tree to make bags," a practice that, along with the making of birch vessels for the maple sugar, continued well beyond

the treaty period. Metal goods facilitated both the process of harvesting sugar and intensified its production; by the eighteenth century sugar was a trade item. Although there is disagreement among scholars about whether maple sugar was anciently produced in the Great Lakes, there is no question about the high importance of sugaring to Ottawas and Chippewas by the eighteenth century and throughout the treaty period.

Of Chippewas, Chute writes, they "planted corn and, during the historic period, potatoes and other root crops in the sugar bush." This points to a feature of Chippewa life that differs from that of the Ottawas, at least in the portions of Michigan under consideration here in the eighteenth and nineteenth centuries: Chippewas tended to plant near the sugar bushes, while Ottawas tended to plant in their villages. (It should be noted that Saginaw and Grand Traverse Bay Chippewas were then, like the Ottawas, agricultural villagers.) Jenness points out that men were not idle during sugar season; they also "speared fish through the ice of the lakes." Chute, in a parallel finding, notes that maple sugar bush "camps were established near a body of water where trout could be taken in nets." Well before the arrival of Europeans, the Chippewas took their dried fish, furs, and perhaps their sugar to trade with more southerly peoples.⁶

Leaving their winter camps or sugar groves, Chippewas dispersed to family camps to hunt "beaver, deer, and smaller animals like the muskrat and the woodchuck." Jenness adds, though, that many headed to the rivers, where fish became the "chief mainstay of the Indians throughout the spring and summer."

⁶ Diamond Jenness, The Ojibwa Indians of Parry Island and the Social and Religious Life (National Museum of Canada, Anthropological Series, No. 17), 13-14; Janet E. Chute, The Legacy of Shingwaukonse: A Century of Native Leadership (Toronto, 1998), 11, 74. For Saginaw Chippewas see John Tanner, The Falcon: A Narrative of the Captivity and Adventures of John Tanner, Louise Erdrich, intro. (1830; New York: Penguin, 1994), 10-11.

Large shoals of pickerel and suckers began to ascend the rivers in May, and the men speared them in thousands, or caught them by hand in stone weirs, for the women to skin and dry. The birds were nesting at this time, and the Indians gathered many eggs of ducks, geese, and even seagulls.⁷

Chute also has the Sault-area Chippewas fishing in the spring. Most impressive were the large gatherings of Indians at the "spring and fall fish runs" along the St. Mary's rapids, a pattern replicated at some other places, such as the Straits of Mackinac. She mentions river fishing, with lines and lures, "spears, shallow seines, and stone and brush weirs." She writes mostly here of the Canadian side, but we shall see that the pattern was replicated in Michigan as well. Fishing was not only a subsistence activity by the nineteenth century. It was also a "thriving native commercial enterprise," and had been "since the early French era."⁸

George Johnston, whose mother was a prominent Chippewa and whose father was an Anglo-Irish trader, wrote that the Sault village (located on the American side) was in 1815

a metropolis during the summer months, where the Indians living on the southern and northern shore of Lake Superior and its interior portions of the country, congregated to meet on friendly relations, and to spend their time in amusements and in the performance of their grand medicine dance, and to enjoy the abundance of the rapids, yielding such a plentiful supply of whitefish, to warrant sufficient daily food for such assemblages. . . .⁹

Five years later, Johnston was at the Sault when the United States arrived in force in 1820. The Americans came in July, when the Indian village was "well populated by Indians who had arrived from the different regions of the country from their winter hunting excursions." Johnston estimates that the twenty American soldiers and other members of the United States party faced

⁷ Jenness, The Ojibwa Indians, 14.

⁸ Chute, Legacy of Shingwaukonse, 10, 73.

⁹ George Johnston, "Reminiscences by George Johnston, of Sault de Ste Marie, 1815," Michigan Pioneer and Historical Society Collections, 2nd ed. 12 (1908), 606.

not "less than fifteen hundred men capable of bearing arms." Since men would have been accompanied by many women and children, the total number was in the thousands.¹⁰

Throughout the region, summer provided the most opportunities for gathering wild plant foods and material goods. It was a time in which

women gathered wild roots and berries, some of which they stored away for the early winter; blueberries they crushed raw and dried in the sun on sheets of birch bark, but thimble-berries they cooked into cakes before drying. In midsummer they gathered reeds for making mats, cedar bark for both bags and mats, and basswood bark for twine. At the same time they helped their husbands to build canoes of birch bark, and laid in an extra store of bark for making baskets. Then there were skins to tan, ropes to cut out of rawhide, and snow-shoe frames to fashion from the white ash. In August, the Ojibwa from the northern end of Georgian bay traveled south to obtain good hickory for making arrows.¹¹

John Tanner, a captive boy living among the Saginaw Chippewas in the late eighteenth century, recalls at this season gathering "beach-nuts," and finding them to be "very good."¹²

Late summer and early fall were more general times for hunting the passenger pigeons and ducks. As the autumn approached, food was stored in "boxes made of elm bark, with elm-bark or birch-bark bottoms and covers," and in "basswood bags." These were often buried, and if it was important to prevent freezing, the boxes were covered with "flags from a neighboring swamp" and the provident owners then "piled earth over the top."¹³

In October, many Chippewas and Ottawas would move to the places along the shores of the Great Lakes where "trout and whitefish were spawning" in the shallows. For fishing, the

¹⁰ George Johnston, "Reminiscences by George Johnston," 609.

¹¹ Jenness, The Ojibwa Indians, 14.

¹² John Tanner, The Falcon, 11.

¹³ Jenness, The Ojibwa Indians, 15.

Indians used "nets, stone weirs, and spears." Jenness says that before contact they did not use hooks and line, something contradicted by his earlier remark about fishing with a basswood line. In any case, the nets were made of "false nettle with sinkers of stone." Sturgeon, spring spawners, were often harpooned. Torches of birch bark or pine knots were used to attract fish at night, and during the day the fishermen deployed lures of wood. With the onset of winter, as the ground hardened but before thick snowfalls, the families moved to their hunting camps. Perhaps they carried with them the dried leaves and roots they had gathered for their teas. These included wintergreen, Labrador tea, and creeping juniper.¹⁴

Andrew Blackbird, the Ottawa historian of the community of L'Arbre Croche, wrote in the late nineteenth century about the distances his fellow-villagers would travel in the winter hunting season. After they had stored their "corn, potatoes, and other vegetables," he writes,

they would start all together towards the south, going to different points, some going as far as Chicago expressly to trap the muskrats, beavers, and many other kinds of furs, and others to the St. Joe [Joseph's] River, Black River [Now Macatawa River], Grand River, or Muskegon River, there to trap and hunt all winter, and make sugar in the spring. After sugar making they would come back again to Waw-gaw-naw-ke-zee, or Arbor [L'Arbre] Croche, to spend the summer and to raise their crops again as before.¹⁵

Blackbird noted that his father's "favorite winter quarters were somewhere above the Big Rapids on Muskegon River. He hunted and trapped there all winter and made sugar." This was probably northwest of what is now Newaygo, placing the lands in the Manistee National Forest.¹⁶ Not far from this place, on the White River, is where one Main aingwea, an Ottawa, "usually

¹⁴ Jenness, The Ojibwa Indians, 15-16.

¹⁵ Andrew J. Blackbird, History of the Ottawa and Chippewa Indians of Michigan (Ypsilanti: the Ypsilanti Job Printing House, 1887), 32.

¹⁶ Blackbird, History, 33.

hunted," according to his report to Henry Rowe Schoolcraft.¹⁷

Ethnohistorian James McClurken sums up the cycle of the Ottawas in his dissertation, echoing Blackbird and demonstrating the similarity of Ottawa and Chippewa lifeways.

The seasonal cycle that had been established in the eighteenth century continued into the opening decades of the American period. Throughout the British regime, the Ottawa continued to maintain large villages on major waterways where the climate was suitable for corn production and where there was seasonal abundance of fish. The year began with the collection and processing of maple sap for sugar which was used for food and exchange. For this activity, a number of extended families left large villages to occupy their regular territories. Fishing and gathering spring plants were predominant activities until the threat of frost ended. At this point, the Ottawa extended families who had left the major village once again rejoined those who had remained behind; planting took place in the late spring. During the summer months, small groups of related males left the large villages for local hunts, visiting and trading in other regions, and for war. Women, children, and those not able to travel remained at the home village to tend crops. Following fall harvest of crops and fishing, small parties--sometimes entire extended families--once again left the larger villages for winter hunts."¹⁸

Reviewing archaeological findings from nine sites on Drummond Island, Manitoulin Island, and the Bruce Peninsula, regions ancestral to the Ottawas, Smith concludes that, in addition to cultivating corn maize, sunflower seeds, and perhaps squash, the Ottawas hunted, fished, and gathered enough for a varied diet. The Ottawas' hunting and trapping bagged them a great many small mammals: snowshoe hare, eastern chipmunk, woodchuck, raccoon, red squirrel, mink, beaver, river otter, lynx, muskrat, fox, and even skunk. Large mammals taken included black bear, white tailed deer, elk, caribou and moose. When fowling, they killed grouse, duck, common loon, great blue heron, passenger pigeon, osprey, eagle, owl, raven, and Canada goose. Shellfish gathering raked in clam and snail. Blandings turtle, snapping turtle,

¹⁷ HRS to William Woodbridge, Michilimackinac, Sept. 14, 1840, in NAM1R38 344-345.

¹⁸ James McClurken, "We Wish to be Civilized: Ottawa-American Political Contests on the Michigan Frontier," Ph.D. Dissertation, Michigan State University, 1988, 53-54.

painted turtle, frog, toad, and even garter snake remains suggest part of the Ottawa subsistence. Fishing, especially important, netted the Ottawas lake sturgeon, yellow walleye, walleye, white and/or yellow bass, rock bass, bowfin, sauger, redhorse sucker, white sucker, sucker, bullhead catfish, common pike, yellow perch, and muskellunge (all spring spawners); whitefish, lake whitefish, and lake trout (fall spawners); and, finally burbot (a late-winter spawner).¹⁹ Spring spawners, especially the white sucker, which ascended shallow streams in great abundance, and sturgeon, which could be enormous and ascended larger rivers, were particularly important.²⁰

Archaeological finds indicate that gathering and fishing took place at regular and established sites. The Bolthouse site, located in the ceded lands on the western side of the Grand River, near where the river is now crossed by highway M-45, was not a village, but a "special function site ancillary to the nearby Zemaitis village" on the same side of the river, but upstream by over a mile. The Bolthouse site, a "middle and late woodland" site used by Indians before contact with Europeans, was a place to which villagers temporarily resorted for the plant foods and materials that they could harvest: walnuts, hack berries, acorns, firewood, and birch bark. The general area was a good source of fish, mussels, wild fowl, black bears, elk, white-tailed deer and smaller mammals, but procuring animal flesh was not the site's principal function. The Zemaitis village, on the other hand, benefitted from the spring-time spawning of sturgeon in the Grand River.²¹ A similar late woodland site occupies a much smaller stream, the Little Rabbit River, some twenty miles south of the Grand River. Known as the De Boer site, it is also place

¹⁹ Smith, "Systems of Subsistence," 107-133.

²⁰ Cleland, "The Inland Shore Fishery of the Northern Great Lakes," American Antiquity 47 (1982), 766-767.

²¹ Margaret B. Holman, "The Bolthouse Site and Woodland Settlement in the Grand Valley," Michigan Archaeologist 36 (1990), 171-189.

to which Indians resorted for specialized activities. Not a village, not a hunting or fishing camp, it was instead a place for maple sugaring or nut collecting.²² Charles Cleland cites several late woodland sites in northwest Michigan: Wycamp Creek, Pine River Channel, the O'Neil site at the opening of Inwood Creek, and Round Lake near Lake Charlevoix.²³ Ottawa villages, then, were supplemented with satellite sites for important economic activities.

The antiquity of Ottawa and Chippewa subsistence strategies and the Indians' seasonal patterns of life are reflected in language itself. Jenness notes that they had "six seasons in their year," which included between winter and spring "the maple sugar time (sigun)," and between fall and winter "trout fishing season (nimegsikang)." Frances Densmore and Lucille Winberg note that summer has been called the "berrying season." Among the months Jenness found named were: "moon of the suckers" and "bear moon," both for January to February; "sugar making moon" for March to April; "moon of blossoms" and "moon when suckers spawn" for April to May; "planting moon," "strawberry moon" and "gardening moon" for May to June; "moon of the berries" for June to July; "moon of the ripening berries" and "blackberry moon" for July to August; "moon of the ripening corn" and "harvest moon" for August to September; and "trout-fishing moon" and "moon of the falling leaves" for September to October.²⁴ Charles Kawbawgam, a prominent Sault-Ste. Marie-born Chippewa, and the interpreter Jacques Le Pique

²² Robert G. Kingsley and Elizabeth B. Garland, "The De Boer Site: A Late Allegan Phase Site in Allegan County, Michigan," The Michigan Archaeologist 26 (1980) 3-37.

²³ Cleland, "Inland Shore Fishery," 771.

²⁴ Jenness, The Ojibwa Indians, 12. Densmore and Winberg are cited in Sean B. Dunham, "Cache Pits: Ethnohistory, Archaeology, and the Continuity of Tradition," in Interpretations of Native North American Life: Material Contributions to Ethnohistory ed. Michael S. Nassaney and Eric S. Johnson (Gainesville, University Press of Florida, 2000), 244-245.

(of European and Chippewa heritage) reported toward the end of the nineteenth century that the months included: "sucker or carp moon" (February); "moon of crust on the snow" (March); and "snow shoe breaking moon" (April). The last two would have had strong implications for hunting and traveling. The list continues: "moon of flowers" (May); "moon of strawberries" (June); "moon of raspberries" (July); "little huckleberry moon" (August); "big huckleberry moon" (September); "moon of trout" (October); and "moon of white fish" (November). Most of these month-names have strong subsistence orientations. The last, for December, is "little spirit moon." Perhaps this refers to the belief that the spirits were far less active in the dead of winter, which is one reason why winter was the time to tell stories, when the spirits would not hear anything offensive that might be said of them.²⁵

Ottawas and Chippewas: Brief Early History

Indians of the Upper Great Lakes region had at least 11,000 years of history before the Treaty of Washington, 1836. None of the groups now known as Ottawa and Chippewa has ever existed as a centrally organized polity. Nor did bands of one fear blending with an allied neighbor. For the Ottawas, Chippewas, and Potawatomis, it may be as proper to speak of the peoples together as "Anishinabeg," a term very much still in use, as it is to speak of them separately as distinct peoples. Although these peoples did not each form a clearly defined nation (as in a single Ottawa Nation) or a mutual confederacy in any political sense, as allies operating mostly on the band level they recognized common bonds, traded, and intermarried. They kept general peace with one another. Menominees spoke a similar language, and shared much in the

²⁵ Arthur P. Bourgeois, ed., Ojibwa Narratives of Charles and Charlotte Kawbawgam and Jacques LePique, 1893-1895 Recorded with Notes by Homer H. Kidder (Detroit, Wayne State University Press, 1994), 158.

way of worldview.²⁶

The name "Chippewa" (and its often-preferred variants: Ojibwa, Ojibwe, Ojibway) is of uncertain meaning. It is related to a word for "pucker," suggesting to some that it has to do with a style of moccasin. The name "Ottawa" means, quite simply, "to trade." Exchange, and Ottawa thinking about it, would characterize their history throughout the colonial period. Indeed, Archaeologist James Fitting has suggested that ethnic groups among the Anishinabeg were defined less by heredity than by "settlement and subsistence activities.... To be an Ottawa was," he writes, "to trade and to follow a [characteristically Ottawa] way of life."²⁷ The Ottawas' situation between the northern hunting and fishing peoples (like the Chippewas) and the Hurons to the south, whom archaeologist Bruce Trigger has called the "Farmers of the North," put them in an opportune position to trade in meat, fish, pelts, and agricultural foodstuffs.²⁸

Chippewas and Ottawas fished, farmed, hunted, gathered, traded, and traveled extensively. Rivers and lakes provided good passage into the interior of what is now Northern Ontario, the Upper Peninsula, and Northern Lower Michigan. Little Traverse Bay Indians, for example, seeking a shortcut to Mackinac Island might travel across a series of inland rivers and lakes to what is now Cheboygan. The local resources of cedar and northern white birch allowed

²⁶ See, e.g., Charles Cleland, Rites of Conquest: The History and Culture of Michigan's Native Americans (Ann Arbor, 1992), 11, 14, 39, 41, 86; Goddard, "Central Algonquian Languages," 483-486. Spellings of Anishinabeg vary. In this report, Anishinabeg is the plural form, and Anishinabe is both the singular and adjectival form.

²⁷ James Michael McClurken, "We Wish to be Civilized," 12-14; James Fitting, The Archaeology of Michigan: A Guide to the Prehistory of the Great Lakes Region (Bloomfield Hills, Michigan, 1975), 196-197; Cleland, Rites of Conquest, 86.

²⁸ Bruce Trigger, The Huron: Farmers of the North 2nd. ed. (N.Y., 1990), 1; Cleland, Rites of Conquest, 86-87.

Ottawas and Chippewas to craft some of the best canoes in America.²⁹

It was not an easy life, not with winters of seven months that sometimes exhausted food supplies, not with seasonal infestations of insects in some of the northern regions, not with the human problem of war. However difficult the life on the eve of colonization, the century that followed contact with Europeans brought greater challenges, in the form of sickness, war, flight, and hunger. Of diseases, smallpox, more virulent than any known disease and unknown in the Americas before contact, is most famous for its devastation. But flu, measles, and whooping cough also produced killings, and by the 1640's estimates place the neighboring Hurons' losses at about one-third to one-half their pre-colonial population. War with the Five Nations Iroquois in the 1630's through 1660's led the Hurons to disperse, and some Ottawas joined them as groups of both migrated to the Chippewa shores of Lake Superior. Ottawas, Chippewas, and Potawatomis generally, and against setbacks, firmed up their alliances with one another and with the French.³⁰

St. Ignace and Sault Ste. Marie formed centers of the colonial Ottawa and Chippewa trading networks. In the third quarter of the seventeenth century, trading convoys would paddle and portage from the Upper Great Lakes communities to the French communities on the St. Lawrence. With 50 to 100 canoes, the Indian traders and canoe men would ply and portage the French River-Lake Nipissing-Ottawa River route to Montreal and other towns.³¹

Indian traders sought power and prestige every bit as much as did colonial merchants--but

²⁹ See James Michael McClurken, "We Wish to be Civilized," 12-14; Fitting, Archaeology of Michigan, 196-197; Cleland, Rites of Conquest, 86; Trigger, The Huron, 27, 28; Richard White, The Middle Ground: Indians Empires and Republics in the Great Lakes Region, 1650-1815 (New York, 1991), 106; ****Not provided and not available in the DB.**

³⁰ Cleland, Rites of Conquest, 88; McClurken, "We Wish to be Civilized," 28-33; Helen Hornbeck Tanner, et al., Atlas of Great Lakes Indian History (Norman, Ok., 1987), 29-31; White, Middle Ground, 1, 40-49; ****Not provided and not available in the DB.**

³¹ McClurken, "We Wish to be Civilized," 32-33.

they reckoned power in terms of relations, in terms of the security provided by alliance, not in terms of personal wealth and investment capital, the latter itself a relatively new source of power on the European scene. Debts for the Indian trader were of a personal, not a monetary, nature; interest was a personal, not an actuarial, affair. To borrow a good example, in 1660, Ottawa traders headed north in a group, carrying French goods "past service": knives, kettles, awls, and so on, to meet Cree hunters who lacked access to the French. There was no bargaining. The Ottawas gave the goods, and the Crees made a present of "many packages of peltries" in return, declaring "that they were under great obligation to the Outaouias for having had compassion upon them and having shared with them the merchandise which they had obtained from the French."³² Notes of compassion and obligation among allies would still sound in the nineteenth century.

French traders at the posts, many of whom were nothing more than soldiers in the king's service, joined in this trade, and though they often sought profit in material terms, they intelligently modified their practices according to Indian circumstances, much as Ottawas and Chippewas learned to haggle when dealing with Europeans. Far from resenting the French presence as new competition, Ottawas and Chippewas saw it as a chance to deepen the alliance. The traders and the French voyageurs who powered the trade canoes adapted to their Indian surroundings and created new sources of material wealth as they purchased provisions with goods. Ottawas and Chippewas also adapted, incorporating the features of European trade, war, and sometimes religion, into their world. Catholics established a mission, St. Ignatius (St. Ignace, Michigan) in 1671. From its environs the French officer Claude Charles Le Roy,

³² Emma Blair, ed., Indian Tribes of the Upper Mississippi Valley and Region of the Great Lakes (Cleveland, 1911) 1: 173-74; White, The Middle Ground, 98.

Bacqueville de la Potherie, wrote that the resident Ottawas of the region earned a healthy living, building canoes and cabins for the traders and their men. They sold everything from corn to whitefish to strawberries. He thought that had it not been for their -- to him odd -- propensity to give away food to strangers, "they would be exceedingly well-to-do."³³

As Ottawas and Chippewas expanded southward across Michigan in the colonial period, they did so in a spirit of intermarriage and cohabitation with one another, with Potawatomis, Frenchmen, and others. There were exceptions: a minor Ottawa rupture with Miamis in 1705-1706 and a major war with with the Foxes [Meskwakes] and their allies (1712-1730's) stand as examples. Ottawas and Chippewas established towns in the vicinity of Detroit, the Maumee Valley and Grand Traverse Bay, and Ottawas secured their places along the eastern shores of Lake Michigan even as far south as the St. Joseph River. They would often mingle with Potawatomis, Miamis, and others.³⁴ The Ottawas, Chippewas, and Potawatomis generally found the alliance with France fruitful, and until the Seven Years' War they stood among France's best allies in the New World.

The alliance served Ottawas and Chippewas well, bringing them trade, goods, blacksmiths, gunsmiths, and, most importantly, good allies among French soldiers, Potawatomis, and many other Indian peoples. These useful relations strengthened the Ottawas and Chippewas, even as European colonization brought them into conflict with the British in the 1750s. The French traders, officers, soldiers, priests, farmers, and allied Indians who resided in or near

³³ Claude Charles Le Roy, Bacqueville de la Potherie, "History of the Savage Peoples who are allies of New France," in Blair, ed., 1: 282-283.

³⁴ McClurken, "We Wish to be Civilized," 45, 47, 48, 49.

Indian villages across Michigan gave the villagers new economic opportunities, which had grown over the course of the eighteenth century. Increasingly dependent on European goods, Ottawas and Chippewas were not dependent on fur production alone. Women produced and traded in foodstuffs from corn to maple sugar. They dried meat and fish, provisioning garrisons, visiting warriors, and voyageurs. The Ottawa and Chippewa economies diversified; hunting, farming, sugar-making, fishing, fighting, and trading all brought European goods into the villages. A bad season for beaver meant little to a people not wholly dependent on a single export.

Religion

While social scientists describe Ottawa and Chippewa history in such terms as adaptation to the environment or to European colonization, Ottawa and Chippewa stories of the past can be very different. Anthropologist Melissa Pflug has recently examined a tradition of the Great Lakes Indian past, a portion of which is summarized and paraphrased below in order to suggest the importance of place and power to the Ottawas and Chippewas.

Coming from the East, the Anishinabe people were searching for the center of the earth. This was the place where the Great Spirit (Kitche Manitou) first formed the earth. He did so with the help of the Great Turtle, who gathered from the Great Waters a set of sacred shells. With these, and upon the turtle's back, Kitche Manitou made the earth. The searching Anishinabeg, knowing it would be impossible to undertake their pilgrimage without assistance, carried with them their own sacred shells, which guided them to the spot. Settling down, their descendants formed the Ottawa, Potawatomi, and Ojibwa Peoples.³⁵

The Ottawa tellers see their homeland in the Upper Great Lakes as at the very root of

³⁵ Melissa A. Pflug, Ritual and Myth in Odawa Revitalization (Norman, Oklahoma, 1998), 69.

their world. Chippewas share and have shared this view. At the most obvious level the myth renders the homeland as a place of belonging, a place even worth fighting for.

The revelation that the world rests upon the back of a swimming turtle, moreover, is no peculiar Ottawa notion; it is instead a widespread belief among woodland Indians, and is indeed today tightly interwoven with the popular image of Native Americans. In the Turtle's support for the world we begin to glimpse an Ottawa and Chippewa attitude toward other life forms, an attitude of dependence upon the generosity of other beings, an attitude of exchange. And in the sacred shells we find the need for spiritual assistance in any quest, for without access to the sacred, one was without power, without hope. Such an understanding helps us to see why many Indians value hunting and fishing, among many other interactions with the natural world. The attitudes stem from ancient faith.

France established relations with the Ottawas and Chippewas in the seventeenth century. Predominantly and officially Roman Catholic, France permitted the Jesuits and other religious orders to send missions to the American interior. The Jesuits were especially active, and they wrote extensively about their efforts. Father Jean-Claude Allouez, one of the best known to work among the Ottawas, reflected in 1665 that "the savages of these regions recognize no sovereign master of heaven and earth, but believe there are many spirits--some of whom are beneficent, as the sun, the moon, the lake, rivers, and woods; others malevolent, as the adder, the dragon, cold and storms. And, in general, whatever seems to them either helpful or hurtful, they call a manitou and pay it the worship and veneration which we render only to the true God."³⁶

Allouez may have dismissed the beliefs as disorganized and evil, but he did correctly

³⁶ Cleland, Rites of Conquest, 96; JR 50:285** MELISSA???

identify one or two of the key manitous (roughly, sacred powers). The Ottawas and Chippewas offered gifts, prayers, and respect to a variety of powers, each of which was a manitou. Some, like the sun, the moon, the thunderers, were benevolent. Others, like the great serpents of the deep or the icy monsters of the North, were malevolent.³⁷

A critical sacred person was the highly complicated figure, Nanabush, who, it is said, once stealthily destroyed the leader of malevolent serpents. Seeking retaliation, other enraged serpents generated a flood that destroyed the world, but Nanabush escaped it by climbing a tall tree atop a high mountain. As the flood crested, he called upon animals to help him regenerate the world, and a lowly muskrat succeeded, diving to the bottom, returning to the surface with mud. From this, Nanabush "created a new earth as large as the former had been, with all living animals, fowls and plants."³⁸

Such a sacred story serves, in part, to reveal the terrible consequences of disrespect for powerful spirits. It is also a story of world renewal. In ceremony Indians honor and entreat the manitous. Indeed, there are Ottawas and Chippewas today who hope that the primordial world will be restored when all Anishinabeg follow the correct path, as they currently define it.³⁹ Most importantly for this report, the story has animals play crucial roles in the restoration of the earth.

Even in daily practice Ottawas and Chippewas have attended to more ordinary manitous,

³⁷ For a seventeenth-century report that the spirits were categorized into "Those of the air.... Those which are on the land... [and] those that are within the earth," see Nicolas Perrot in Emma Blair, ed., Indian Tribes of the Upper Mississippi and the Great Lakes Region, 1: 49; ****Not produced and not available in the DB.**

³⁸ Mentor L. Williams, ed., Schoolcraft's Indian Legends, from Algic Researches, the Myth of Hiawatha, Oneóta, The Race in America, and Historical and Statistical Information Respecting...the Indian Tribes of the United States (East Lansing, 1991), 76-77.

³⁹ Pflug, Ritual and Myth in Odawa Revitalization, 128-130.

often called "owners of the animals" or "keepers of the game": those who control the people's access to game. Belief in these sacred powers was widespread throughout eastern North American Indian country. These spiritual masters insisted on the performance of rituals of respect.⁴⁰

The relationship between people and animals has always been a matter of vital concern to Ottawa and Chippewa hunters who take their traditions seriously. These hunters have mostly been men, though women also participated in the ceremonials surrounding the hunt and historically accompanied hunting expeditions and tended traps. As anthropologists have made abundantly clear, animals in this traditional Anishinabe world are "persons," even if they are not people. Not humans, but like humans, for example, animals possess essential attributes that we can perhaps call souls. Christopher Vecsey, modern student of Chippewa religion, agrees that "Almost all persons, including animals, went to the same afterworld, ruled by Nanabozho [Nanabush]."⁴¹ Anciently, moreover, there lived animal and human-like beings that could freely converse. Beavers, Ottawas told Alexander Henry in 1764, "were formerly a people endowed with speech, not less than with other noble faculties they now possess; but, the Great Spirit has taken this away from them." Even if one cannot converse with animals, however, the spiritual guardians of the animals may still be appealed to, and animal spirits can still speak to certain skilled religious specialists.⁴²

⁴⁰ Ake Hultkrantz, "The Owners of the Animals in the Religion of the North American Indians," in Belief and Worship in Native North America, ed. Christopher Vecsey, (Syracuse, 1981), 136-137.

⁴¹ Vecsey, Traditional Ojibwa Religion and its Historical Changes (Philadelphia, 1983), 63-64.

⁴² Alexander Henry, Travels and Adventures in Canada and the Indian Territories Between the Years 1760 and 1776 between the years 1760 and 1776 ed. James Bain (Toronto, 1901, first published 1809), 126.

Traditional Indian hunting is not alone a matter of stalking, trapping, and surprising prey. Hunters seek sacred permission and assistance. Schoolcraft wrote of the Great Lakes Algonquians (including Ottawas and Chippewas), that their hunting rituals were "supposed to operate in such manner on the animal sought for, that he voluntarily enters the hunter's path."⁴³ The owners of the animals watch over their species, but they also respond to the sacred formulas of purified hunters.

A good example from the treaty period comes from the remarkable life of John Tanner. In 1789, Shawnees captured the nine-year-old at his family's Kentucky farmstead. He was taken in, adopted, and raised by Chippewas of the Saginaw region of what is now Michigan, and as a boy and young man he hunted and fished, sometimes far into what is now Western Ontario and even Manitoba. Tanner later lived among the American citizens of Michigan, worked as a government interpreter at Sault Ste. Marie, and wrote a difficult but fascinating narrative of his experiences. Tanner's youthful hunting was aided by a sacred bundle, a small package containing items determined to be of ritual importance to him. Net-no-kwa, his Indian mother (she was Ottawa by birth but lived among the Chippewas), attended carefully to the young Tanner's standing among the animal spirits, performing rites and making feasts whenever Tanner first brought in a particular kind of animal -- whether a mammal like an elk or a fish like a sturgeon. This would provide for his future success in securing these beings.⁴⁴ Net-no-kwa had a reputation for spirituality, and her dreams were a part of her sacred repertoire. Once, for example, at Tanner's hunting camp, she told him: "Nearly all night I prayed and sung, and when I

⁴³ Schoolcraft, Historical and Statistical Information...., 6 vols. (Philadelphia, 1852-1857), 6: 661.

⁴⁴ Tanner, The Falcon, 34, 39.

fell asleep near morning, the spirit came to me, and gave me a bear to feed my hungry children." It is reasonable to suppose that the "spirit" that promised her the bear was the keeper or guardian of bears.⁴⁵ The Baptist missionary and proponent of removal, Rev. Isaac McCoy, also noticed an Indian's ceremonial regard for his prey in 1828. Noonday, an important Ottawa of the Grand River, had accompanied McCoy as a purely private member of an expedition to explore lands west of the Missouri. Late in August, 1828, the party killed some bears.

On leaving camp, Noonday placed the feet of the bears, and such other pieces as had been left, at the root of a tree, and carefully covered them with brush and leaves. When I inquired the reason for this, I was answered, "that the form of the bear so much resembled that of man, that it was thought there might be some relationship between men and bears; and on this account, some respect in regard to funerals, was due the latter." He pronounced a brief address over the deceased, the substance of which was, that he had now respectfully performed the last services which could be rendered to the dead, by which he would have the latter to understand that he desired to perpetuate the good will which had long existed between the bear family and that of the Ottawas, and hoped that no offence would be taken on account of what had happened in this case.⁴⁶

Other sacred powers might also influence hunting. Father Allouez described a hunter who ritually thanked the sun "for having lighted him so that he could successfully kill some animal."⁴⁷ According to Northeastern Indian traditions, successful hunting has as much to do with good spiritual relations with the targeted animals' spiritual guardians as with acquired skill, physical prowess, agility, technology, observation, and determination. Like many of the fundamental activities of Indian men and women, hunting, as a relationship between "our people" on the one hand and the animals and their spiritual guardians on the other, involved

⁴⁵ Tanner, The Falcon, 47-48; see also 32-34.

⁴⁶ Isaac McCoy, History of the Baptist Missions: Embracing Remarks on the Former and Present Condition of the Aboriginal Tribes; Their Settlement within the Indian Territory, and their Future Prospects (Washington: William M. Morrison, 1840), 339.

⁴⁷ JR 50: 287; ****MELISSA???**.

communication, a kind of ritual diplomacy accompanied by gifts, that smoothed the exchanges among the people, the spirits, and the beasts.⁴⁸

Scholars have reported that fishing is not named on the Ottawa and Chippewa ceremonial calendar; nor was it connected to large, public celebrations. Unlike many animal parts, it was permissible to throw fish refuse to the dogs. Johan Georg Kohl reported in 1860 that the Lake Superior Chippewas paid little direct religious attention to fishing, at least not on a large scale. "Nor did I ever come across any magic song for catching fish, although I have them for animals of the chase." But fishing did, as Kohl and others have recognized, carry sacred significance.⁴⁹

Charles Cleland has pointed out that while hunting was more deeply involved with the identity of these peoples, fishing was a major prop of their economies. Cleland explains the discrepancy between fishing's apparent religious marginality and its clear economic centrality by suggesting that fishing and hunting were considered to be related to each other; fishing was seen as an aspect of hunting. Referring to those who lived at such places as Sault Ste. Marie or Point St. Ignace, he explains that the very word used for "whitefish, the cornerstone of their subsistence, is Atikameg, a variant of the word for caribou, Atik. Even as the Ojibwa fish, they hunt."⁵⁰ Schoolcraft similarly reported well over a century before that the word for whitefish was atikumaig, which he said meant "deer of the water." Schoolcraft saw this as "an evident

⁴⁸ Robin Ridington, "Northern Hunters," in Alvin M. Josephy, Jr., ed., America in 1492: The World of the Indian Peoples Before the Arrival of Columbus (New York, Vintage, 1993), 34, 37.

⁴⁹ Johann Georg Kohl, Kitche Gami: Life among the Lake Superior Ojibway, trans. Ralf Neufang and Ulrike Böcker (St. Paul, 1985), 327.

⁵⁰ Cleland, Rites of Conquest, 45.

acknowledgment of its importance as an item in their subsistence."⁵¹ Moreover, both Kohl and Schoolcraft discussed sacred stories surrounding fish, even if they found no elaborate ceremonial or musical fishing customs.

According to a Chippewa sacred story related by Schoolcraft, the whitefish originated at Sault Ste. Marie: "They say the fish itself sprang from the brain of a female, whose skull fell into these rapids, and was dashed out among the rocks."⁵² Kohl informs us that the Chippewas understood their cultural hero, Nanabush (Menaboju in Kohl's rendering), to have once been swallowed, "canoe and all," by a great sturgeon. Kohl saw in the sturgeon the Chippewas' equivalent to the Christian devil, or, as he put it, "the representation of the evil principle." This is undoubtedly inexact, but it does point to the place of the sturgeon in Chippewa lore.⁵³

Two centuries earlier, Nicolas Perrot also noted Nanabush's association with fishing, when he pointed out that, at the Straits of Mackinac, Nanabush taught humans how to make nets, and he also placed a great many fish in the waters. Perrot, in what might be an indication that the scholarship about the absence of fish ceremonies is mistaken, further observed that when Indians of the region "make a feast of fish, they invoke those spirits, who they say live under this island [Mackinac], thanking them for their liberality, and entreating them to take care always of their families; and asking them to keep their nets from harm and to preserve their canoes from surging

⁵¹ HRS, Personal Memoirs, 124. According to cultural geographer Alan Hartley, "atikkamek is a compound of attikw- 'caribou,' a prime source of meat, and -amekw, 'fish.'" Alan H. Hartley, "The Expansion of Ojibway and French Place-names into the Lake Superior Region in the Seventeenth Century," Names 8 (1980), 55. Hartley, Cleland, and Schoolcraft use different spellings of the same Ojibwa words.

⁵² HRS, Personal Memoirs, 124.

⁵³ Kohl, Life among the Lake Superior Ojibway, 325.

waves.”⁵⁴

Chippewa and Ottawa Lifeways: Early Nineteenth Century

By 1836, the Ottawa and Chippewa economies had become integrated with those of the Atlantic societies of Great Britain and the United States. Ottawas and Chippewas still produced most of their own food, and they regularly shared the surplus with or sold it to the missionaries, traders, soldiers, and officials who inhabited their region. Indeed fishing, sugaring, hunting, tanning, trapping, and gathering were all in some measure commercialized and intensified by the late eighteenth century. Many Indians still dwelt in their conventional dwellings, but much of their clothing and many of their implements were now imported.

The process of intensifying certain activities at the expense of others (such as ceramics) took place gradually, and it began with the advent of the French trade. Native Americans did not remember their increasing trade with Europe, however, as being a process driven entirely by colonists. They knew that they, too, played a role in the emerging trade. In 1827, McCoy recorded a Grand River Ottawa tradition concerning the beginning of the trade. In it, it is the Ottawas who seek out the French, not the other way around.

Three ages ago, that is, when the grandfather of him who is now an old man was born, some Ottawas at this place (Rapids of Grand River, Michigan) experienced great inconvenience on account of having no vessel in which they could prepare their food, [and they] set about making a pot of earth. The vessel being placed over the fire, broke. Other trials were made to construct a substantial vessel, all of which were unsuccessful; none yet could be made impervious to fluids, or that would resist the action of fire. After two days' fruitless labour, and when the workmen were hungry for want of a vessel in which to prepare their food, they sat down in despair and wept. On a night, not long after, a spirit appeared to one of them in a dream, and inquired, "Why do you weep;?" The sleeper answered, "Because I am poor-I have no pot. Why did you create me and place

⁵⁴ Perot, in Blair, ed., The Indian Tribes of the Upper Mississippi Valley and Region of the Great Lakes, 1: 283-288.

me here, to suffer poverty and disappointment, without remedy?" The spirit pointed down the lakes, and said, "Go in that direction, and I will accompany you, and you shall find relief." They set off, and the spirit, unperceived by day, accompanied them, and conversed with them every night. They passed the islands of Mackinaw and Montreal, and reached Quebec. At the latter place they found the French, who extended to them the hand of friendship, and who furnished them with an iron pot, to which were added other useful articles of which they had previously been destitute. Their spiritual guardian having fulfilled his errand of kindness, now discontinued his communion.⁵⁵

In this manner, Ottawas incorporated the new and dynamic Atlantic market within their traditional understandings. Trade in objects secured from a great distance was not new in the colonial and early national periods, and Indians continued to trade, indigenously among themselves, over great distances well into the American period. Henry Schoolcraft, for example, noted in 1827, "an Indian pouch" in the neighborhood of Sault Ste. Marie. The pouch's decoration caught his eye, for it contained the "species of small elongated univalve sea shell." He observed that the pouch was "regarded, by the native owner, as possessing a magic virtue, which is generally attributed to shells from the ocean. From close inspection, it proved to be the *Dentalium eliphanticum*, with the lip removed. It had been originally derived, from the Indians at the mouth of the Columbia river, and passed from hand to hand, and transmitted in their traffic with each other, to this distant point."⁵⁶

Much as trade with Europeans can be seen as an extension of trade with other Indians, so would Indians, as long as possible, incorporate the securing of the new goods within folkways familiar to them. Well into the treaty period, it might even be argued well into the present,

⁵⁵ Isaac McCoy, History of the Baptist Missions: Embracing Remarks on the Former and Present Condition of the Aboriginal Tribes; Their Settlement within the Indian Territory, and their Future Prospects (Washington: William M. Morrison, 1840), 304-305.

⁵⁶ Philip P. Mason, Schoolcraft's Ojibwa Lodge Stories: Life on the Lake Superior Frontier (Michigan State, 1997 [1962]), 86.

Indians have found ways in which, as Chute has put it, "aboriginal values and western technology and expertise might be combined to furnish native people a secure place. . . ."57

It is easy to find evidence of Ottawas and Chippewas having adopted new materials, practices, and technologies by 1836. Several Grand River Ottawas rode ponies and some raised cattle.⁵⁸ Chippewas at the Sault and Indians throughout the region raised potatoes.⁵⁹ Prominent Indians might use hearing aids and wear eyeglasses for close work, including reading--which some had mastered. They might sport pantaloons, silk handkerchiefs, red caps, or suspenders. Or they might, as did one Sassaba at the Sault in 1822, live in a tent of canvas duck, own silver place settings and a tea set with imported cups and saucers, and wear, in addition to a cape of a wolf's skin, a military coat with epaulets and sash, along with ruffled linen shirts, gloves, stockings, and an umbrella. Even ordinary Indians regularly used blankets, cotton shawls, shirts, tin kettles, pans, and cups.⁶⁰

After having already engaged in several treaties with the United States, Ottawas and Chippewas were also receiving material goods annually from the Federal government. In addition to cash, which they used to pay off debts, hire craftsman, or purchase goods, they received the services of two blacksmiths and two assistants (whose shops were supplied with iron

⁵⁷ Janet E. Chute, "Shingwaukonse: A Nineteenth-Century Innovative Ojibwa Leader," Ethnohistory 45 (1998): 66.

⁵⁸ John M. Gordon, "A Speculator's Diary," in Justin L. Kestenbaum, ed., The Making of Michigan, 1820-1860: A Pioneer Anthology (Detroit, Wayne State University Press, 1990), 150; McCoy, History of the Baptist Missions, 283.

⁵⁹ Schoolcraft, Personal Memoirs, 123; John Askin, Jr. to John Askin Sr., Oct. 13, 1807, St. Joseph's Island, Milo Milton Quaife, ed., The John Askin Papers 2 vols. (Detroit, Detroit Library Commission, 1931) 2: 578.

⁶⁰ Katawabota to Henry Rowe Schoolcraft, La Point, August 9, 1836, P 79-1998, Container 41, Part 2: General Correspondence, Frames 14482-83, HRSP/DLC/SHSW; John Clitz to Henry Rowe Schoolcraft, Mackinac, Feb. 16, 1836, NAM1R69 160; Schoolcraft, Personal Memoirs, 119.

and steel). The Federal government annually delivered to them fifty bushels of salt, the great nineteenth-century food preservative.⁶¹ Salt was important as a feature of the emerging commercial fish industry. In 1836, the American Fur Company factor at Sault Ste. Marie promised, after some barrels of fish that he had shipped out proved "tainted," to redouble his efforts. In the meantime, he pointed out that he had recently received bad barrels of salt.⁶² Within two years of the treaty of 1836, Chippewas of the Upper Peninsula, from the Chocolate River to Drummond Island, sought the fulfillment of a Federal promise for a yoke of oxen and a cart, so that they could "transport our fish, as the whites do, at the different places and portages...."⁶³

It was through a combination of annuities and commerce that Ottawas and Chippewas managed to import tropical goods unknown to their ancestors. Baptist missionary Abel Bingham reported an 1836 visit to a Sault band. March, the leanest time of the year, saw this group well supplied not only with corn but with wheat flour "and other provisions. And the principle men had tea and coffee and sugar." These Chippewas were planning to export their surplus: they had "Barreled up and sold to the merchants of our place about 140 Barrels fish since the opening of Navigation the present season...." Bingham could not guess how many barrels they had sold the previous fall.⁶⁴ Many leaders had in mind not simply the preservation of old ways, but the incorporation of new technologies and the intensification of trade with the Atlantic world,

⁶¹ Elbert Herring, Report of the Commissioner of Indian Affairs, Nov. 25, 1834, in NASPIA, 1: 359, 361.

⁶² Gabriel Franchere to Lyman Warren, Sault Ste. Marie, Aug. 12, 1836, AFRCR, Box 2, Folder 2, Bayliss; ****MELISSA???**.

⁶³ Chiefs of Chocolate River, Drummonds Island and Grand Island to HRS in presence of Achille Cadotte, March 1, 1838, NAM1R44 141.

⁶⁴ A. Bingham to HRS Sault Ste Marie, July 31, 1838, NAM234R423 frames (hereafter frs.) 203-205.

something their peoples had been engaged in since the 1600s.

For all the changes that had taken place in Ottawa and Chippewa history before 1836, and for all their commercial engagement with the wider world, much of the Indians' economic life still remained oriented around the traditional ways of getting things done. The peoples, while dependent upon Euro-Americans in the United States and British North America for trade goods, were not dependent on them for food; indeed, they generally provisioned visiting and resident traders, missionaries, and officials. The same birds, fish, amphibians, mammals, and plants provided "the core of both prehistoric and historic diets." Cleland asserts that ecological disruptions remained very limited in the areas of Northern Michigan and the Upper Peninsula in the early nineteenth century, save for some over-hunting in the 1820's of beaver, deer, moose, and caribou, a pattern that corrected itself in the late 1830's. He asserts that the "Ottawa, and particularly Ojibwa [Chippewa], represent societies that had not undergone substantive cultural change by the end of the first third of the 19th century."⁶⁵

There is much in the historical record to support the general thrust of Cleland's remarks. In 1827, Schoolcraft opined very strongly on the conservative nature of Indians. Indeed, his remarks today would strike many scholars as an effort to make the Indians seem unchangeable and exotic. But he was an intelligent observer, and while his prose reveals obvious and striking prejudicial content, his remarks cannot be entirely dismissed. After describing the Indians as "impoverished, feeble, and erratic," as smitten with a "moral problem," as the remnants of once flourishing hunter and warrior peoples, as fettered by religious traditions he found wanting, he

⁶⁵ Charles E. Cleland, "From Ethnohistory to Archaeology: Ottawa and Ojibwa Band Territories of the Northern Great Lakes," in *Text-Aided Archaeology*, ed. Barbara J. Little (CRC Press), 97-98.

stated with great exaggeration: "In all this, there is little to distinguish the Indian of 1827, from the Indian of 1534." The long history of missions, he said, "has not cause to exult in the extent of its achievements." And,

As respects the mere exterior man, we have effected, all that has been effected. We have clothed him in a robe of woolens, instead of skins, and we have put a gun into his hands . . . But, with every means and appliance, we have wrought far less change in the native constitution of his mind, and made far less advances in his good opinion, than it is consolatory to our pride to admit.⁶⁶

It is likely that Peter Dougherty, a long-serving nineteenth-century Presbyterian missionary to the Ottawas and Chippewas of Grand Traverse Bay, would have reluctantly concurred with Cleland and Schoolcraft on this one point, which we can describe as the persistence of Indian culture, if given the chance. Dougherty found himself in a struggle against the "seasonal annoyances," as historian Virgil Vogel has put it, of Michigan Indian life. "Not only the winter hunt, but the resort in spring to maple syrup camps, and the trips to Mackinac for trading and to receive annuities were an impediment to regular attendance" at school or religious services.⁶⁷ Vogel notes Dougherty's discomfort with Indian lifeways in 1839, the second year of his mission, and the minister's discomfort continued well into the 1850's. In 1841 Dougherty attributed school truancy to "the precarious mode of subsistence depending much on fishing and hunting."⁶⁸ For a time in the late 1840's and into the next decade, Dougherty sought to have families live in nuclear units on isolated farmsteads, but this was anathema to peoples who

⁶⁶ Philip P. Mason, ed., Schoolcraft's Ojibwa Lodge Stories: Life on the Lake Superior Frontier (Michigan State University Press, 1997 [1962]), 108-109.

⁶⁷ Virgil J. Vogel, "The Missionary as Acculturation Agent: Peter Dougherty and the Indians of Grand Traverse," Michigan History 51 (1967), 192-193.

⁶⁸ Peter Dougherty to Robert Stuart, Grand Traverse, August 27, 1841, NAM1R51 225-229.

avored "clustering together in small villages," who sought to maintain their settlement patterns, even if it meant "shrinking back from civilization and seeking refuge in the more secluded locations a few families together"69

McCoy noted that one of his subordinates had, in November, 1826, found a village on the Lower Grand River that was almost empty, since most of the villagers were "absent on their winter's hunt." Two years later at the Sault, Schoolcraft noted casually that several leaders came to visit him before their people departed "on their fall hunts." In the early 1830's, according to an account made in 1836 by Henry Schoolcraft's brother James, who traded at Sault Ste. Marie, Indians regularly brought in a good many marten pelts, each of which could earn them four barrels of flour.⁷⁰ In 1832, Henry Schoolcraft thought that furs and pelts formed "by far the most valuable product of" Lake Superior's "present commerce." From Grand River to Grand Traverse to the Upper Peninsula, hunting remained a vital part of Indian life on the eve of the Treaty of 1836.⁷¹

Other missionaries, also noting the strong tendency toward cultural persistence, took a different view of Indian lifeways. Edward R. Baierlein, Lutheran missionary for five and one-half years to a group of Saginaw Chippewas who lived in the middle of the nineteenth century in a

⁶⁹ The first quotation is in Peter Dougherty to Charles Babcock, Grand Traverse, September 12, 1849, NAM234R426: frs. 445-451; the second is in Dougherty, "To the Board of Foreign Missions of the Pres. Church," nd., np., Peter Dougherty Papers, 1838-1870, microfilm at Bentley, Reel 1 of 2; this document, the first in the reel, precedes one dated 14 January 1860.

⁷⁰ McCoy, History of the Baptist Missions, 297; HRS, Personal Memoirs, 303; James L. Schoolcraft, July 5, 1836, in HRSP/DLC/SHSW, P 79-1998, Container 41, Part 2, General Correspondence, frames 14546-14549. References to trading abound in the record. For an 1820 record at Mackinac Island see Henry Rowe Schoolcraft, Travels through the Northwestern Regions of the United States (Ann Arbor, University Microfilms, 1966), 122; for the Upper Peninsula in 1828 see HRS Personal Memoirs, 289.

⁷¹ Philip P. Mason, ed., Schoolcraft's Expedition to Lake Itasca: The Discovery of the Source of the Mississippi (East Lansing, 1958/1993), 9.

village three miles north of what is now St. Louis, Michigan, could, like Dougherty, complain of the strains Chippewa seasonality placed on his school. But Baierlein also praised the Indians' life as generally

well disciplined and orderly. The men supply the family with game and fish. The women raise and harvest the corn in the fall and make maple sugar in the spring. They tan the skins of the deer with water, smoke, and hard work. Moccasins are made of leather for themselves, their husbands, and children. These are nicely embroidered and decorated. They also make clothing for the family. So there is always plenty of work.⁷²

These Chippewas were not party to the treaty, but it is worth noting that they lived, farmed, hunted, and fished deep in the interior of the lower peninsula.

This chapter has outlined in broad terms the seasonal round and early histories of the Ottawas and Chippewas. It suggests that the trade with the colonial powers and the young United States, however much it did alter Indian lifeways, did not completely disrupt that pattern, which instead endured well into the period of treaty-making between these peoples and the United States.

⁷² E. R. Baierlein, In the Wilderness with the Red Indians, Anita Z. Boldt, trans. (Detroit, Wayne State University Press, 1996), 64, 106.

CHAPTER TWO: OTTAWA AND CHIPPEWA LAND USE BEFORE 1836

Hunting was central to the identity of Ottawa and Chippewa males, though women might trap and participate in hunting expeditions. Hunting provided an important part of the diet well into modern times. As Beverly Smith has put it, the Indians improved their dietary security both by hunting and by the "complex system of extraction, processing, storage and exchange" that accompanied it.¹ The location of Michigan in the transitional region between subarctic and the temperate climates meant that northern species, such as the moose, snowshoe hare, and porcupine, cohabited with southern species, such as raccoon, deer, and chipmunk. There were also black bears, red squirrels, beavers, muskrats, fox, lynx, gray squirrels, martens, otters, wolves, passenger pigeons, ducks, cranes, geese, and falcons. These animals provided many things: meat for food; skins and hair for shelter, clothing, and cordage; and bones for tools, weapons, fishing gear, and ornaments.

Hunting

The late fall and early winter were the primary seasons for hunting deer, elk, moose, and caribou. It was on January 24, 1823, that Henry Rowe Schoolcraft, at Sault Ste. Marie, "first tasted the flesh of the cariboo [sic]." He later noted that the animal inhabited the country around Sault Ste. Marie, and later still, in January, 1834, that a certain type of crusted snow rendered caribou and moose, with bleeding ankles and encumbered by snow and crust, very vulnerable to snowshoed Indian hunters. Schoolcraft noted these conditions around Mackinac.² Though

¹ Smith, "Systems of Subsistence," 13.

² HRS, Personal Memoirs, 149, 310, 462.

mainly hunted in the fall and early winter, when their hides were thick and their flesh was still fat, moose and deer might be hunted in other seasons.³ The colonial range of moose within the ceded area, according to historian Virgil Vogel, appears in the names Moose Lake in Alger County and Moose Lakes in Luce County.⁴ By 1836, caribou, elk, and moose were in steep decline in what is now the state of Michigan. In their place, Indians hunted deer. Deer, common in the Lower Peninsula, were replacing the over-hunted larger bovines in the Upper Peninsula during the period that followed the American occupation of the Sault. The Rev. William Boutewell noted, after seeing a red deer near what is now Marquette, that "It is but a few years since this species of deer have been taken so far north."⁵ Deer were so plentiful in the region in the late nineteenth century that the village of Deerton, in Alger County, is "named from its location in deer country." Similar, Deer Park in Luce County takes its name "from the numerous deer in the area."⁶ Elk Rapids gained its name from a pair of elk horns found at the river mouth in the middle of the nineteenth century; elk had been hunted in the Lower Peninsula as well.⁷

The dead of winter was the best season for hunting bears. The hunts were conducted with great ceremony, including the hunters' feasting of their relatives while they themselves fasted.⁸ Andrew Blackbird recalled childhood days of returning from the winter hunt, floating down the

³ William James Newbigging, "The History of the French-Ottawa Alliance, 1613-1763," Ph.D. dissertation, University of Toronto (1995), 57.

⁴ Virgil J. Vogel, Indian Names in Michigan (Ann Arbor: University of Michigan Press, 1986), 105.

⁵ Rev. William Boutewell, June 13, 1832, in Mason, ed., Expedition to Lake Itasca, 310.

⁶ Walter Romig, Michigan Place Names (Grosse Point, Michigan, 1977 [?, n.d.]), 151.

⁷ Romig, Michigan Place Names, 179.

⁸ Newbigging, "The History of the French-Ottawa Alliance," 57.

Muskegon River from his father's camp at Big Rapids, in Mecosta County, "loaded with sugar, furs, deerskins, prepared venison for summer use, bear's oil, and bear meat prepared in oil, deer tallow, and sometimes a lot of honey, etc...."⁹ Vogel states that, for the state as a whole, "eighty three places, mostly creeks and lakes, are named" for bears. In Lake County, he adds, Muckwa Creek is likely derived from the Chippewa word for bear, makwâ.¹⁰ These are indications of the importance of big game, and particularly deer and bear, to Michigan's Indian hunters.

The rivers, streams, and lakes of the Northern Lower Peninsula of Michigan provided relatively easy access through the difficult brush that could characterize the region's spruce and birch forests. "It is difficult to penetrate these locales," said a writer in 1836, as he described "the close and matted character of the brush and bramble. No large animals exist in such a portion of forest. It is the favorite resort of the small furred species, which are hunted by the Indians, through the openings of the streams and lakes."¹¹

On the Upper Peninsula, many species of small mammals formed the hunter's prey. Beaver and muskrat pelts were valuable. The Upper Peninsular Grand Island Chippewas, for example, who numbered under 60 people in 1832, nonetheless provided their trader with packs worth \$900 in beaver, martens, and muskrats. This was in addition to the abundant red deer that they killed in the Upper Peninsula. That much of this hunting was done on the mainland, not on the island, is evident from the fact that the main trader on the island, William Holiday, had an

⁹ Blackbird, History, 45.

¹⁰ Vogel, Indian Names in Michigan, 105.

¹¹ HRS letter to unknown recipient, Michilimackinac, Aug. 13, 1836, HRSP\DLC\SHSW, P79-1998, Container 41, Part 2, General Correspondence, Frames 14500-14502.

outpost on the mainland under the care of his employee, Mr. Louis Nolin.¹²

The English war refugee Alexander Henry hunted raccoons, martens, beaver, red deer, and white-tail deer in what is now Mason County in the Lower Peninsula. Raccoons are noted to have been collected by traders at the Grand River by the thousands in 1835 and 1836.¹³ Places named for racoons in the ceded area include Coon Lakes in Grand Traverse and Lake Counties.¹⁴ Young John Tanner, among the Saginaw Chippewas, set traps for martens.¹⁵

Chippewas hunted and resided on Lake Michigan's Beaver Island in the 1760's. The name is a translation of the Chippewa, Amikonkenda, "home of the beavers." Beavers were killed there into the late eighteenth century.¹⁶ Also in the ceded region is a place called Ahmikwan Lake, in Lake County, which is named for the "beaver lodges once located there," and Miramichi Lake in Osceola County, which one authority suggests means "ugly beaver."¹⁷ On the Upper Peninsula, a tiny junction in the ceded portion of Delta County is named "Beaver,"

¹² Lt. James Allen, "Journal of an Expedition, March 17, 1832, in New American State Papers: Indian Affairs 4: 274; note that this document is given as from the Journal of James Allen, 1832, in Mason, ed., Expedition to Lake Itasca, 170. For wolverines, which get little documentary attention, see HRS Personal Memoirs, 459. For Nolin's establishment see Mason, ed., "Journal of Reverend William Boutwell," in Mason, ed., Expedition to Lake Itasca, 309.

¹³ Henry, Travels and Adventures in Canada and the Indian Territories, Quaife ed., (Chicago, 1921), 126. Quaife notes: "It is clear that Henry's wintering place was in the vicinity of modern Ludington, Michigan, but whether on the Big Sable, the Notepseakan, or the Pentwater River, is uncertain," 124. For the Grand River see Benjamin Clapp to Ramsay Crooks, Mackinac, Sept. 14, 1836, AFCP, 24: fr. 1968.

¹⁴ Vogel, Indian Names in Michigan, 105.

¹⁵ Tanner, The Falcon, 18.

¹⁶ Charles Garrard, "Michabous and the Colonel's White Beaver," The Beaver 67 (Feb-Mar 1987), 50, 53; Vogel, Indian Names in Michian, 104, for the quotation.

¹⁷ Vogel, Indian Names in Michigan, 104.

because “of the many beaver dams on the nearby Days River.”¹⁸ Beaver hunting was more widespread and relentless in the seventeenth century than in the nineteenth, for it was the prime article of the colonial fur trade. The hunt generally took place in the winter, when the animals were in their lodges. Hunters broke into the lodges with axes and drove the beavers toward nets or snares. In later periods, Indians took most beavers with traps.¹⁹

Porcupines, though not themselves valued for the fur trade, nonetheless were highly valuable to Ottawas and Chippewas, who not only consumed the meat, but who crafted their quills into things of commercial and aesthetic value to the traders and tourists alike. In 1820, Schoolcraft recorded that Mackinac islanders were already buying Indian crafts, including "quilled mockasins, shot pouches, and other fancy goods of Indian fabric, which are generally in demand as objects of curiosity." He wrote further of the porcupine:

The porcupine is known to shed a great portion of its hair as the warm season approaches. This animal is called Caqua, by the Indians, by whom it is highly valued for its quills. The skin does not form an article of traffic, but it serves them as a vessel to hold bears oil, and as medicine bags or short[sic: shot] pouches. The quills are dyed, with indigenous plants, of various beautiful colours, and employed to trim the edges of their mockasins, leggons [leggings], skins, and dresses. The colors, which are red, blue, green, black, and yellow, are very bright and permanent, and a mockasin or Indian shoe, which has been thus ornamented may be worn any length of time, in mud or water, without perceiving that the colouring matter of the quills is any way obliterated or discharged. The Indians are also very fond of the flesh of this animal, which is said to be delicious....²⁰

The quills not only ornamented the skins, but rendered them water-repellant. Schoolcraft's brother-in-law, William Johnston, made him a gift of a box worked with quills in 1836, and the next year, the speculator John Gordon noted that many Grand River Ottawas wore "mockasins,

¹⁸ Romig, Michigan Place Names, 50.

¹⁹ Newbigging, "The History of the French-Ottawa Alliance," 54.

²⁰ HRS, Travels through the Northwestern Regions, 122, 127-128.

much trimmed and ornamented with beads and porcupine needles."²¹ Gogomain River and Gogomain swamp, in the Upper Peninsula's Chippewa county, may well be named for porcupines.²²

Jutting into Lake Michigan, toward the Beaver Island Group, is Waugoshance Point, with an island of the same name nearby. It was named, in Pottawatomi and Ottawa, for foxes.²³ Fox pelts became valuable to colonial traders.

Duck hunting was a late summer and fall activity. John Askin, Jr. told his father of the "great abundance of duck" that could be taken on St. Joseph's Island in October, 1807. Douglass Houghton wrote that near Grand Island in late August, 1832, Indians presented him with "blueberries and a duck." Later that summer, seeking temporary refuge from stormy Whitefish Bay by camping up the Shelldrake River, Houghton killed several pheasants and saw a good many shell drakes. He also noted the remains of "Indian lodges."²⁴ Summer was also the season for pigeon hunting²⁵ Schoolcraft observed that Indian hunters differed in sensibility from white hunters. He noted that Chippewas took great care not to let a wounded animal get away. Even hunting ducks, Indians pursued the wounded animals into their hiding places with much concern,

²¹ John M. Gordon, "A Speculator's Diary," in Justin L. Kestenbaum, ed., The Making of Michigan, 1820-1860: A Pioneer Anthology (Detroit, Wayne State University Press, 1990), 115-156; William Johnston to HRS, Michilimackinac, Feb. 16, 1836, in HRSP/DLC/SHSW P.79-1997, Container 41, pt. 1, fr. 13853, pt. 4.

²² Vogel, Indian Names in Michigan, 106.

²³ Vogel, Indian Names in Michigan, 106.

²⁴ John Askin, Jr., to J.A. Sr., October 13, 1807, St. Joseph's Island, Askin Papers, 2: 578; Houghton, in Mason, ed. Expedition to Lake Itasca, 286.

²⁵ Smith, "Systems of Subsistence" 165.

where a "white man would have been nonplused."²⁶ In more recent times, in the early twentieth century, Diamond Jenness notes that duck, geese, and seagulls' eggs were gathered in the spring.²⁷

We have seen in the archaeological record, visited in the first chapter, that a variety of fowl remains have been found in the middens of Michigan; the scarcity of fowling in the early historical record has more to do with the fact that there was little commercial value to fowling in the period than with the value of birds to Indians as a source of food. On Michigan's map, however, we may get a better sense of the importance of fowling to Indians. There is a Meguzee Point in the Grand Traverse Bay region that may gain its name from the Chippewa word for eagle; there is a Duck Lake in Muskegon county; and there is a Pigeon River in Ottawa County.²⁸ Current roadmaps reveal the Shelldrake River in Chippewa County; Goose Lake at the headwaters of the Escanoaba River; Little Duck Lake; Duck Marsh and Black Mallard River (and Lake) in Cheboigan County; a Duck Lake in Presque Isle County; and a Duck Lake in Antrim County. There is also a White Goose Bay in Burt Lake, Emmet County.²⁹

Harvesting Amphibians

Turtles were gathered in the summertime³⁰ Three turtle shell fragments were found at the De

²⁶ Schoolcraft, Personal Memoirs, 194.

²⁷ Jenness, The Ojibwa Indians, 14.

²⁸ Vogel, Indian Names in Michigan, 107; Romig, Michigan Place Names, 164, 441.

²⁹ David M. Brown, Laura A. Valade, AAA Michigan's Northern Tip (1994); W. Cody/Corbis, AAA Michigan (2003); ****MELISSA???**.

³⁰ Smith, "Systems of Subsistence," 165.

Boer site, discussed above.³¹ At Sault Ste. Marie, dip nets were sometimes used to catch turtles,³² but they can also be caught by hand. An American, in June, 1832, watched three ethnic French voyageurs cook a turtle which they found at the Au Train River; they esteemed it "one of their luxuries."³³ Frogs were also harvested. If it is not clear that they were eaten, it is clear that they were used for bait in fishing.³⁴

Fishing

In 1839, Schoolcraft made a small note that foreshadowed the enormous ecological disruptions wrought in the Upper Great Lakes by the transportation revolutions. Here, in the dawning era of steamboats and canals, Schoolcraft observed: "A new species of whitefish appears in the St. Mary's this spring."³⁵ Of all the ecological changes that have occurred in the Great Lakes region in the years since the arrival of Europeans, changes in the regional lakes and streams have probably been the most extensive. Lengthy canals, great bilge-releasing ships, deeply dredged seaways, altered river flows, intensified commercial fishing, and the intentional and unintentional introduction of new species have all radically changed the waters, as has widespread industrial and agricultural pollution. Despite all this, the fishing and sport-fishing industries remain vital to the state, and Indians have played modern roles in each.

Before 1836, and for decades after, the Great Lakes region, with its multitude of smaller

³¹ Kingsley and Garland, "The De Boer Site," 24-25.

³² Newbigging, "The History of the French-Ottawa Alliance," 59.

³³ Philip Mason, ed., "Journal of Reverend William Boutwell," in Mason, ed., Expedition to Lake Itasca, 309.

³⁴ James Molnar, "Interpreting Fishing Strategies of the Odawa," PhD dissertation, University at Albany, SUNY, 1997, 24.

³⁵ HRS, Personal Memoirs, 663.

lakes and rivers, was one of the richest native fisheries in North America. Erhard Rostlund put it well in his 1952 Freshwater Fish and Fishing in Native North America:

Whitefishes, lake herrings, lake trout, and pikeperch constitute the bulk of the resource, which consequently is high in quality, for these species are all prime food fishes. Other important fishes are brook trout, common pike, muskellunge, sauger, yellow perch, and lake sturgeon; burbot and mooneye occur; there are suckers and members of the minnow family but not in so large number of species as in the Mississippian province; . . . and a number of Mississippian forms range northward into the Great Lakes province: catfishes, bowfin, gar pikes, white bass, black basses, crappies, sunfishes, and sheepshead.³⁶

Much Ojibwa and Ottawa fishing took place on the Great Lakes (not much material to this report) or on their shores. Indeed the leading authority on aboriginal fishing in North America, Erhard Rostlund, deems the Great Lakes region an "inland shore fishery rather than a river fishery."³⁷ Later he repeats the point, but with an important qualification: "The tribes around the Great Lakes to whom fish meant the most can be called interior coastal tribes; they lived near the coasts of those great inland seas, and their fishery was essentially a shore fishery."³⁸ Still, no careful reader of Rostlund would conclude that *all* of the fishing took place on Lakes Michigan, Huron, and Superior or along their shores. Rostlund carefully notes that "In the smaller waters tributary to the main lakes or in the narrow passages, such as the Straits of Mackinac and at Sault Ste. Marie, the fishes are seasonally highly available. . . ." ³⁹ In fact, the richest of the fisheries was on the St. Mary's River, an area that, along with the Straits of Mackinac, Rostlund ranks as possibly one of the very few areas in North America "in which fish

³⁶ Erhard Rostlund, Freshwater Fish and Fishing in Native North America (University of California Publications in Geography, 9 (1952), 73; see also 202-203.

³⁷ Rostlund, Freshwater Fish and Fishing in Native North America, 73.

³⁸ Rostlund, Freshwater Fish and Fishing in Native North America, 152.

³⁹ Rostlund, Freshwater Fish and Fishing in Native North America, 73.

was [the] most important staple in [the] yearly food economy."⁴⁰ "The abundance of fish in the early days in the Straits of Mackinac and the rapids of Sault Ste. Marie is proverbial. To judge from early reports, the tribes in these localities can be called true fishing peoples to whom fish was the mainstay of life."⁴¹ A few years after the adoption of the Treaty of 1836, a United States Indian agent speculated that the Indians' efficient combination of growing crops, manufacturing maple sugar, and taking "fine fish" might well "enable them to live very comfortably."⁴²

This does not mean that the Indians inhabited a paradise or that the fish runs were always reliable. Winter conditions could make it impossible to fish, and variations in the availability of fish could mean severe hardship. In 1831, Francis Audrain wrote to Henry Rowe Schoolcraft from Sault Ste. Marie to report a disaster along Lake Superior in the Upper Peninsula. The "Indians along the lake were all in a state of starvation." Part of the problem was that there had been "very few fish taken here this winter," and a report from the Grand Island area also indicated "a great scarcity of fish."⁴³ Such reports, though, are uncommon. European and non-Native American visitors and inhabitants of the region were generally enthusiastic about the quantities of fish taken throughout the periods leading up to the 1830's.

At the falls of the St. Mary's River, Indians annually gathered by the thousands to work the enormous whitefish fishery. The month of November was called "Moon of the Whitefish" by

⁴⁰ Rostlund, Freshwater Fish and Fishing in Native North America, 304, map 46.

⁴¹ Rostlund, Freshwater Fish and Fishing in Native North America, 152.

⁴² R. Stuart to T. H. Crawford, Detroit, October 18, 1841, NAM1R38 576-587.

⁴³ Francis Audrain to HRS, Sault, March 7, 1831, NAM1R68 222.

Upper Peninsular Chippewas in the late nineteenth century.⁴⁴ Although they are usually smaller, whitefish can achieve weights of up to twenty pounds. As late as the middle of the twentieth century they formed "more than one third of the present-day catch of fish in the Great Lakes and the Canadian fresh waters east of the Rocky Mountains. . . ." The taste is excellent, and the quantities taken during the fall spawning runs at Whitefish Point in the Upper Peninsula, at the Straits of Mackinac, and at the St. Mary's River were tremendous and well noted by many observers before 1836. Indians fished for whitefish primarily with dip nets in the St. Mary's River and with gill nets on the lakes.⁴⁵ But they also fished for the whitefish in "small streams, small lakes, or narrow passages between lakes," and when doing so, they sometimes deployed weirs and fish traps. Henry Rowe Schoolcraft witnessed an example of this on the Ontonagon River, just west of the ceded area under discussion.⁴⁶ Testimony from within the ceded area appears on Michigan's map: "The Fishdam River, a tributary of Big Bay de Noc in Delta County," is named for "Indian fish weir traps."⁴⁷ Whitefish exist in an inland lake form, as well as in a Great Lakes form.⁴⁸ That the Laughing Whitefish River is a translation of the Ojibwa name for the same watercourse suggests that Indians caught whitefish there.⁴⁹

Alexander Henry, in the eighteenth century, mentioned that three leagues above the

⁴⁴ Bourgeois, ed., Ojibwa Narratives, 158.

⁴⁵ Rostlund, Freshwater Fish and Fishing in Native North America, 28-29; Smith, "Systems of Subsistence," 151-152.

⁴⁶ Rostlund, Freshwater Fish and Fishing in Native North America, 29; Beverly Smith, "Systems of Subsistence," 153.

⁴⁷ Virgil J. Vogel, Indian Names in Michigan (Ann Arbor: University of Michigan Press, 1986), 93.

⁴⁸ Samuel Eddy and James C. Underhill, Northern Fishes (Minneapolis, 1977), 183-186; ****Not provided and not available in the DB.**

⁴⁹ Vogel, Indian Names in Michigan, 108.

mouth of the Onontagon River was "a fall, at the foot of which sturgeon were at this season so abundant that a month's subsistence for a regiment could have been taken in a few hours."⁵⁰ Sturgeon, as Henry suggested, was another highly important fish; it swam the lakes and the large rivers of the region. German ethnographer Kohl called this "the king of fish" for the Chippewas.⁵¹ The lake sturgeon is native to all the Great Lakes and all of Michigan. An ancient form of fish, it must be among the most ancient of Michigan's residents. As one naturalist has put it, "When dinosaurs were walking around in shallow waters, they were stepping on sturgeons." The sturgeon dwells not only in lakes as the name implies but also in large rivers as far north as the Hudson Bay and as far south as the Tennessee River. Sturgeon was fished from large islands in the Great Lakes, such as Beaver Island and St. Martin's Island, but it was also fished in the rivers and in the smaller lakes. In the spring and early summer, sturgeon "come into shallow water to spawn." This was the best time to net them, though they were also often speared, and occasionally caught with hook and line. During the winter, they could be speared or harpooned through holes in the ice, providing an important supplementary resource to Indians hunting near interior lakes.⁵² In January, 1808, trader John Askin, Jr., complained of the poverty of St. Joseph's Island, Ontario, opposite the Upper Peninsula, stating that "the Indians live entirely on fish. They even make their Moccasins with the skins of sturgeon and Lace their Snow

⁵⁰ Alexander Henry, Travels and Adventures in Canada and the Indian Territories, Quaiife, ed. (Chicago, 1921), 186; also quoted in Mason, ed., Expedition to Lake Itasca, 233 n.13.

⁵¹ Johann Georg Kohl, Kitchi-Gami: Life Among the Lake Superior Ojibway, trans. Ralf Neufang and Ulrike Böcker (St. Paul: Minnesota Historical Society Press, 1985), 325.

⁵² Rostlund, Freshwater Fish and Fishing in Native North America, 10-11, 248; Hartley, 58; Jenness, The Ojibwa Indians, 15-16, Smith, "Systems of Subsistence," 152-153; Samuel Eddy and James C. Underhill, Northern Fishes (Minneapolis, 1976), 125-129; McPhee, Founding Fish (New York, 2002), quotation on 42.

shoes with the same skin and skin the Maskelonge [muskellunge] for the same purpose."⁵³

Archaeologist Charles Cleland notes that an inland shore fishery along the Great Lakes concentrated peoples into shoreline villages from the Grand Traverse Bay Region around Northern Lake Michigan to Green Bay, around the entire Upper Peninsula as well as along the shores of Lake Huron in the region under consideration. He argues that the Late Woodland period (700-1600) saw a shift of settlements away from inland lakes and rivers and toward the Great Lakes shores, where Indians formed larger settlements using gill net technology to harvest fish. These observations do not seem to apply, however, to the region south of Grand Traverse Bay. Cleland does not preclude the continued occupation of smaller sites in the interior, nor does he doubt the presence of moderate villages "on the interior lakes and waterways," but he suggests that the larger villages had before colonization already formed on the Great Lakes shores. Susan Martin, studying the same general area, has moderately challenged Cleland's argument, suggesting that netting technology alone does not explain the shift from the interior waters to the Great Lakes. Instead she sees the people as increasingly harvesting a variety of fishing resources, and selecting their sites accordingly.⁵⁴ It is worth noting that while both scholars see the exploitation of inland regions as more important before the late woodland period than it would be during that period, they both also agree that inland fishing, if diminishing, nonetheless persisted throughout that period. James Molnar's recent study of Ottawa fishing in the Ontario portion of their homeland during the late pre-contact and early contact periods supports Martin's findings.

⁵³ John Askin Jr. to John Askin Sr., St. Joseph's Island, 13 January 1808, Askin Papers, 2: 589.

⁵⁴ Cleland, "Inland Shore Fishery," 765, 772; Martin, "A Reconsideration of Aboriginal Fishing Strategies," 594-604.

He suggests that Ottawas conducted a "regular early spring fishery and an opportunistic fishery" throughout the year.⁵⁵

Rostlund deems those Ojibwas and Ottawas who did not frequent the Straits of Mackinac or Sault Ste. Marie as inhabiting a "region in which fish was a staple food but no more important than game or plants (either wild plants or crops)."⁵⁶ He notes that "There was nowhere any objection to fish as food; indeed, in the latitudes of the upper Great Lakes and farther north the natural conditions were such that no one could afford to have aversion toward any food resource, and it was impossible for any tribe to rely solely on either hunting or fishing."⁵⁷ It is suggestive of the importance of inland fishing that "Places named for fish outnumber all other native names for fauna on the Michigan map. They are a testimonial to the importance of fish in the aboriginal economy."⁵⁸

River Fishing

Although the great runs up the Saint Mary's River and through the Straits of Mackinac were in the past complimented by great runs toward the shores of the Great Lakes at places such as Whitefish Bay and along the coast around Little Traverse, fish were also harvested as they ran upriver, and rivers, more generally, provided for some excellent fishing. Suckers, sturgeon, burbot, brook trout, catfish and even (in a few places) whitefish could be fished in many of the rivers and streams that course throughout Michigan. Archaeologist Beverly Smith notes

⁵⁵ James Molnar, "Interpreting Fishing Strategies of the Odawa," Ph.D. dissertation, State University of New York at Albany, 1997, iii.

⁵⁶ Rostlund, Freshwater Fish and Fishing in Native North America, 304.

⁵⁷ Rostlund, Freshwater Fish and Fishing in Native North America, 152.

⁵⁸ Vogel, Indian Names in Michigan, 108.

generally that "In the streams flowing into the upper Great Lakes, lake sturgeon and suckers were harvested."⁵⁹

The spring sturgeon season was anticipated by some peoples as a time of plenty. One missionary, visiting Indians on the Chippewa River (just to the east of the area under consideration), wrote enthusiastically that the season brought "great rejoicing because thousands of three- or-four foot sturgeons come up from Lake Huron and spawn in the rivers." He described the Chippewas' "long two-pronged spears," observing that, "Sometimes when a sturgeon is impaled on the spear that is held by the Indian, it pulls the canoe and passes the other canoes," an event of great merriment. Sturgeon, he said, were "precious," and they were "served dried and smoked."⁶⁰ Although these Saginaw Chippewas were not party to the treaty under consideration, they were not very far away from the lands of the cession, and they were fishing at least eighty miles up the Saginaw, Tittabawassee, and Chippewa Rivers from Lake Huron, which is an indication of the spawning range of sturgeon under the right conditions.

Sturgeon could be found in some of the other large rivers of the region. It was particularly important to fishing people along the Grand River. At a Middle to Late Woodland archaeological site, known as the Zemaitis site, Indians fished for spring-spawning sturgeon in the Grand River, about seventeen direct miles from Lake Michigan, and much farther if one follows the bends upriver.⁶¹ Deeper inland, Hugh Heward in 1790 made the following remarks about his encounter with Indians near present Onondaga, Michigan, on the Grand River. Here he

⁵⁹ Smith, "Systems of Subsistence," 152.

⁶⁰ Baierlein, In the Wilderness, 52.

⁶¹ Margaret B. Holman, "The Bolthouse Site and Woodland Settlement in the Grand Valley," Michigan Archaeologist 36 (1990), 180.

encountered “Indians spearing Sturgeon an ill looking Band of about 12 who seem to be refugees from the Otaways (Ottawas) & peutowatomas (Potawatomis). . . .”⁶²

It is likely that the Indian fishermen seen on the Grand River in the spring of 1825 by one Mr. Polke, a blacksmith in the Rev. Isaac McCoy's service, were looking for sturgeon. McCoy himself observed that "From time immemorial the rapids of Grand river had been a place of great resort in the spring, on account of the facility with which fish could be taken; and, in accordance with this custom, many were now encamped there."⁶³

Also in the ceded portions of the Lower Peninsula, a Sturgeon River flows from Cheboygan County into Burt Lake, which also has, at a different location, a Sturgeon Bay (to be distinguished from Lake Michigan's Sturgeon Bay, alongshore Emmet County).⁶⁴

On the Upper Peninsula in the ceded region, the Sturgeon River flows through a place named Nahma Junction and into Big Bay de Noc at the village of Nahma. Vogel explains that, in Chippewa, sturgeon is “*namê* or *nahma*,” and that the “Ojibwa name of the river is Namebisi.”⁶⁵

The American burbot, or freshwater cod, formed a common North American Indian meal, and burbot was fished by Native Americans in both lakes and rivers. The burbot spawn in mid winter. Rostlund cites one authority documenting aboriginal burbot fishing in Big Wolf Creek, Alpena County, a tributary of the Thunder Bay River, which forms a boundary of the ceded

⁶² Entry for April 23, 1790, Hugh Heward, "Journal from Detroit to the Illinois," in Milo Milton Quaife, ed., The John Askin Papers 2 vols. (Detroit, Detroit Library Commission, 1931), 1: 350.

⁶³ McCoy, History of the Baptist Mission, 259.

⁶⁴ David M. Brown, Laura A. Valade, AAA Michigan's Northern Tip (1994); ****MELISSA???**.

⁶⁵ Vogel, Indian Names in Michigan, 109.

area.⁶⁶ Vogel suggests that the village, Baie de Wasai, derives its name from “the Ojibwa word *awâssi*,” which he suggests means burbot. The inlet bearing the name is on Lake Nicolet of the St. Mary’s River.⁶⁷

Varieties of "suckers," commonly but mistakenly called "carp," made for good river fishing (actual carp, now abundant in the region, are not native, but Europeans and European-Americans frequently called suckers by that name). Rostlund suggests that the Indians throughout Michigan fished for the following species of sucker: the northern sucker, or long-nosed sucker; the common sucker, or white sucker; and redhorse sucker. Those fishing in systems tributary to Lakes Michigan and Huron could fish for carpsucker; those fishing from the Muskegon River southward could fish for river redhorses, hog suckers, spotted suckers, and chubsuckers. The chubsuckers may not have reached much north of the Grand River.⁶⁸ Suckers spawn, depending on the variety, from the late winter until the late spring, often running up rivers, and Indians fished enough for them that the names "Carp," "Sucker," or some variation, are applied to many Michigan streams and lakes. On the Lower Peninsula, Emmet County boasts a Little Carp River, which flows into Burt Lake; a Sucker Creek and a Little Sucker Creek, which flow into Lake Michigan; and a village called Carp Lake and a river called the Carp Lake River, which flows into the Straits of Mackinac (but not, currently, any Carp Lake). There is a Carp River, on the Upper Peninsula, that empties into Lake Huron near the hamlet of Charles,

⁶⁶ Rostlund, Freshwater Fish and Fishing in Native North America, 37-38, 279; Eddy and Underhill, Northern Fishes, 319-32; **** Not all pages were produced; the link is to pp. 318-321.**

⁶⁷ Vogel, Indian Names in Michigan, 176-177; ****Not produced and not available in the DB; we were given pp. 74-7, 90-3, 104-111, and 136-7.**

⁶⁸ Rostlund, Freshwater Fish and Fishing in Native North America, 31, 264-267, maps 12-14; see also Molnar, "Interpreting Fishing Strategies of the Odawa," 36, table 5.

Michigan, and another that empties into Lake Superior near Marquette, Michigan. The American Lieutenant James Allen, camping on the Canadian side of the St. Mary's River, described a run of suckers up a third Upper Peninsula stream then called Carp river: "In the spring of the year, literally filled with fish. I . . . found them so abundant, that with ten strokes of a spear I killed nine fish, most of them about a foot long."⁶⁹ This stream would be renamed the Waiska River after one of the signers of the Treaty of 1836. That treaty itself refers to a "Carp River west of Grand Island" on the Upper Peninsula (probably the stream just east of Marquette) and a "Carp River south of Grand Traverse," on the Lower Peninsula (at present Leland).⁷⁰ A Sucker River flows into Lake Superior near Grand Marais.⁷¹ One of the Ojibwa names recorded in the late nineteenth century for the month of February was "sucker or carp moon."⁷² Diamond Jenness's study of the Ojibwas of Parry Island, Ontario, concurs that the period we call January and February is sometimes called "moon of the suckers," also noting that April and May is sometimes called "moon when suckers spawn."⁷³

Stonecat catfish and mud catfish have been identified as aboriginal foods in the Grand River.⁷⁴ Catfish in the Northern Great Lakes region prefer rivers to lakes, and they are extremely

⁶⁹ Romig, Michigan Place Names, 99-100; David M. Brown, Laura A. Valade, AAA Michigan's Northern Tip (1994); ****MELISSA???**; Lieutenant James Allen, "Journal," in Mason, ed., Expedition to Lake Itasca, 164.

⁷⁰ Kappler, 2: 455.

⁷¹ W. Cody/Corbis, AAA Michigan (2003), a road map; ****MELISSA???**.

⁷² Bourgeois, ed., Ojibwa Narratives, 158; Smith, "Systems of Subsistence," 165.

⁷³ Jenness, The Ojibwa Indians, 1935, 12.

⁷⁴ Rostlund, Freshwater Fish and Fishing in Native North America, 274.

hardy, adaptable, and can be important sources of food.⁷⁵

The eastern brook trout, a native species, swam the streams and rivers in the greater Grand River Valley, the very northern portions of the Lower Peninsula and throughout the Upper Peninsula.⁷⁶ Like its cousins the whitefish, it is a cold-water fish and spawns in the autumn; unlike its cousin, it thrives in streams.⁷⁷ Johann Kohl was driven to quoting poetry by the quality of the fishing while he was visiting Chippewas just west of the region under discussion. He wrote in 1860 that "In all the small rivers running into the lake the delicious trout is found, and we often caught there not only the spotted, delicately marked trout, but also that which Longfellow describes:

Like the yellow perch, the sahwa
Like a sunbeam in the water."⁷⁸

In the summer, 1824, Schoolcraft presented his territorial governor with a "keg of our Spotted trout," heavily salted, as "required by the season."⁷⁹ And in 1827 Thomas McKenney also reported abundant brook trout from the region of the Sault Ste. Marie.⁸⁰

In the Great Lakes, the word "cisco" or "siskowit" derives from an Ojibwa word that refers to oily fish. It comprehends "lake herring, lake mooney, lake trout, and fresh water

⁷⁵ Eddy and Underhill, Northern Fishes, 297, 308-309.

⁷⁶ Rostlund, Freshwater Fish and Fishing in Native North America, map 10, 260-261.

⁷⁷ Eddy and Underhill, Northern Fishes, 161-164.

⁷⁸ Kohl, Life Among the Lake Superior Ojibway, 325.

⁷⁹ HRS to Cass, Sault Ste. Marie, Aug. 15, 1824, NAM1R15 59; ****This is mis-cited; the link is to 08/25/1824, which is correct.**

⁸⁰ McKenney, 1827, 193.

salmon.” Vogel finds the name applied to “Cisco Bayou, in White River, Oceana County.”⁸¹

Northwest of Presque Isle, on Lake Huron, are several streams and inland lakes named Trout.⁸²

Douglass Houghton, camping along the Shelldrake River, which empties from the Upper Peninsula into Whitefish Bay, was not surprised when he noticed the remains of "Indian lodges & of stakes for drying fishnets."⁸³ River fishing formed an important Ottawa and Ojibwa lifeway from one end of the ceded lands to the other. The St. Mary's River, the Straits of Mackinac, and the Great Lakes' shores may have been the primary sources of the Indian fish, but the rivers flowing from the interior into the lakes provided important secondary sources.

Fishing the Interior Lakes and Ponds

Michigan is freckled with bodies of water. Spring-spawning pike could be found year-round in "weedy lakes, ponds, or rivers," as long as the waters were clear. According to Rostlund, two varieties of pike were fished by Indians in the lakes and rivers of the region. These are the northern or common pike, and the muskellunge, or great pike. Indians took pike using many methods. Rostlund, who doubts their importance as a source of food, nonetheless notes that "In the Great Lakes they were often speared through holes in the ice in winter."⁸⁴ The northern pike is flavorful, if bony.⁸⁵ Archaeologist Beverly Smith asserts that fishing in the interior lakes was a winter activity.⁸⁶ This makes sense, as a supplemental way of feeding

⁸¹ Vogel, Indian Place Names, 108-109.

⁸² David M. Brown, Laura A. Valade, AAA Michigan's Northern Tip (1994), a road map ****MELISSA???**.

⁸³ Houghton, in Mason, ed. Expedition to Lake Itasca, 286.

⁸⁴ Rostlund, Freshwater Fish and Fishing in Native North America, 34-35, 275.

⁸⁵ Eddy and Underhill, Northern Fishes, 203-204.

⁸⁶ Smith, "Systems of Subsistence," 165.

families during the interior hunting season, when many hunting parties would be far from the Great Lakes themselves. After the treaty of 1836, some Grand River Indians moved to Gull Lake, in Barry County, where they lived on purchased lands and fished for "pickerel," it was said "with which the lake then abounded and gave great satisfaction to these expert fishermen," according to a biographer of their missionary.⁸⁷ These "pickerel" were likely varieties of northern pike.⁸⁸

"Muskellunge" derives from the Chippewa language. Variations of the word appear in Michigan place names. There is a "Muskellonge Lake and state park in Luce County, Muskellonge Bay in Mackinac County, and Muskellonge Lakes in Montcalm and Montmorency counties," all in the ceded lands.⁸⁹

The pikeperch, commonly called the walleyed pike or simply the walleye in the Upper Midwest, is a flavorful but lean fish. Pikeperch swim "cold and clear waters, particularly lake waters, but they also occur in the quieter parts of clear streams." The same is true of the related yellow perch, sauger or sand pike. These three fish belong to the perch family. The walleye is a giant, growing to three feet in length, but it is not as great a food resource as, say, the whitefish or the lake trout, which have lower proportions of refuse. Rostlund writes that he "suspects the Indians knew this . . . and concentrated their efforts on the taking of fatter fishes." Still, he does find historic mention of Indians fishing for walleyed pike in the period before 1836.⁹⁰ Smith also

⁸⁷ Mary M. Lewis Hoyt, "Life of Leonard Slater," Collections of the Michigan Pioneer and Historical Society 35 (1907), 151.

⁸⁸ Eddy and Underhill, Northern Fishes, 200.

⁸⁹ Vogel, Indian Names in Michigan, 108.

⁹⁰ Rostlund, Freshwater Fish and Fishing in Native North America, 38-39.

finds pre-contact evidence of walleye pikeperch, yellow perch, and sauger fishing.⁹¹

The spring-spawning Michigan grayling once inhabited the lakes and rivers of the northern portions of the Lower Peninsula. Grayling could be taken in a variety of ways, from hook and line to nets and traps.⁹² The town of Grayling gets its name from the fish, which was “once so plentiful in the Au Sable River.”⁹³ This native species has been either eliminated or assimilated into an imported species.⁹⁴

The lake trout was an especially abundant fish, taken in large quantities in the larger interior lakes.⁹⁵ This was sometimes accomplished by spear fishing; at other times it could be accomplished by hook and line, even through holes in the ice.⁹⁶ Jenness says that the season from late autumn to early winter was called "trout fishing season," and that the period from September to October was called "trout fishing moon."⁹⁷ Charles Kawbawgam and Jacques Le Pique agreed that the month of October was named for trout.⁹⁸ In mid October, 1807, John Askin, Jr., sent his father a gift of "Salmon," undoubtedly lake trout, from St. Joseph's Island, Ontario, just opposite the Upper Peninsula's Neebish Island. He noted that the "Indians bring in

⁹¹ Smith, "Systems of Subsistence," 107-133.

⁹² Rostlund, Freshwater Fish and Fishing in Native North America, 27, 258.

⁹³ Romig, Michigan Place Names 236.

⁹⁴ Eddy and Underhill, Northern Fishes, 152.

⁹⁵ Rostlund, Freshwater Fish and Fishing in Native North America, 27.

⁹⁶ Smith, "Systems of Subsistence," 152.

⁹⁷ Jenness, The Ojibwa Indians, 12.

⁹⁸ Bourgeois, ed., Ojibwa Narratives, 158.

vast Quantities but all speared."⁹⁹

White basses were fished in the Great Lakes and in interior lakes. A savory fish of up to 18 inches in length, they formed a good food resource.¹⁰⁰ They are spring spawners.¹⁰¹ There is a Bass Lake in Mason County, and there have been two villages named for Bass along the Grand River.¹⁰²

Fishing Gear

It should be clear by now that Great Lakes Indians had a variety of methods for taking fish. On the large lakes, during the winter, they deployed seines--to force fish in a certain direction--under the ice. On open water during whitefish spawning season they used gill nets. At rapids, they used dip nets. They often baited bone fish hooks, sometimes with frog skin. They occasionally built weirs and traps. More often, they employed spears and harpoons, and bows and arrows with attached lines. They sat in darkened huts above holes in the ice, luring fish toward their harpoons or spears with decoys and torchlight.¹⁰³

Netting technology, it has been well established, was already ancient among the Great Lakes peoples when Europeans arrived. Reports from the seventeenth century indicate that the Great Lakes Indians attributed net-making to the wisdom of a spiritual hero, who invented the

⁹⁹ Jn. Askin Jr. to John Askin Esq., St. Josephes(sic), Oct. 13, 1807, in Askin Papers 2: 578.

¹⁰⁰ Rostlund, Freshwater Fish and Fishing in Native North America, 38.

¹⁰¹ Eddy and Underhill, Northern Fishes, 336; ****Not produced and not available in the DB.**

¹⁰² Romig, Michigan Place Names, 45.

¹⁰³ Rostlund, Freshwater Fish and Fishing in Native North America, 84-85, 163, 168, 170, 175, 178, 180, 181-182, 183-184, 186, 190-191; Molnar, "Interpreting Fishing Strategies of the Odawa," 22-26.

craft after carefully observing the skillful spider.¹⁰⁴ Indeed, the only debate among archaeologists appears to be about how ancient nets were, and the tendency has been to push the antiquity to greater depths. All agree that net-making was precolonial.¹⁰⁵

Not surprisingly, apart from the great dip net fishery on the Sault or the skillful deployment of gill nets and seines in open water, spear fishing captured the attention of visitors who left written records of Indian fishing. Johann Kohl found the Chippewas possessed an "astonishing" variety of "fish lances." "They spear fish in winter and summer, by night and by day," he recalled. He described ice spear fishing in detail. Sturgeon was a favored target. Hovering beneath a small darkening hut and over his two-foot wide hole, the spear fisherman could see, in a clear lake, to depths of forty or fifty feet. Spears and harpoons of thirty-five feet were sometimes thrust at the sturgeon. Even rivers with fast currents might support ice fishermen, who sometimes worked in pairs, from different holes, with one member thrusting the spear, and the other guiding it with a long line toward the unlucky sturgeon. For other fish, decoys or lures ("okeau") fashioned from bone or wood were dangled beneath the hole.¹⁰⁶

In August, 1833, near Grand Island, the American Douglass Houghton "Saw the Indians

¹⁰⁴ See Charles Cleland, "The Inland Shore Fishery of the Northern Great Lakes: Its Development and Importance in Prehistory," American Antiquity 47 (1982), 762; Newbigging, "The History of the French-Ottawa Alliance," 70; and Perot in Blair, Indian Tribes, 283-284.

¹⁰⁵ See Cleland, "The Inland Shore Fishery," 761-764, 768-769, 774-781, who posits the beginnings of gill net usage at around the year 700, early in the Late Woodland period; Susan Rapalje Martin, "A Reconsideration of Aboriginal Fishing Strategies in the Northern Great Lakes Region," American Antiquity, 54/3 (1989), 594-604, who suggests that even gill nets predated the early woodland period in Michigan; and James B. Petersen, Nathan D. Hamilton, J. M. Adovasio, and Alan L. McPherron, "Netting Technology and the Antiquity of Fish Exploitation in Eastern North America," Midcontinental Journal of Archaeology 9/2 (1984), 199-209, who push netting technology back to 7,000 years ago in the Great Lakes.

¹⁰⁶ Kohl, Life Among the Lake Superior Ojibway, 328-331.

flambeauing [by torchlight] for fish in the evening."¹⁰⁷ A generation later, the German Johann Kohl, traveling among the Chippewas in 1860, saw Chippewas night fishing off the coast of Sugar Island in Lake George. From the bows of their canoes, the fishermen suspended "a fire basket, which makes the water transparent to a great depth. Their spears and poles are much longer, however, and they manage to strike a fish fifteen feet below them." Antrim County's Torch Lake derives its name from this ancient practice, as does the Grand Traverse County's village, Torch River.¹⁰⁸

Kohl observed that, when it comes to describing fishing techniques, Chippewa words can be very specific in their meaning:

"I fish," generically is, "Nin gigoike: (literally the word ignifies[sic], "I make fish"); "Nin pagidawa" means: "I catch fish with nets;" "Nin Pagibadi:" "I catch fish with a line on which there are many hooks." "Nin akwawa" means: "I fish with a spear." We could certainly convey this idea in English with one word, "I spear," still it would not be so comprehensive as the Indian word, in which it is explained that fish are speared.

They have also a separate term for spearing fish by torchlight; they call it "wasswewin" (fishing with a spear in the light).

"Nin wewebanabi" signifies: "I fish with a hook;" it is the only term of the whole category which we can render in one English word, "I angle."¹⁰⁹

Fish storage evolved. By 1836, Ottawas and Chippewas were barreling and salting fish for the market as well as for their own future use. Their more traditional methods of preservation, which continued into the modern period, were sun or air drying, smoking and drying fish over fire, or freezing fish to keep through the winter. Freezing was often easily accomplished for late fall spawning whitefish, especially in the colder climes of the north in the

¹⁰⁷ Philip Mason, ed., "Journal, Letters, and Reports of Dr. Douglass Houghton," in Expedition to Lake Itasca, 285.

¹⁰⁸ Kohl, Life Among the Lake Superior Ojibway, 310-11; Virgil J. Vogel, Indian Names in Michigan (Ann Arbor: University of Michigan Press, 1986), 93.

¹⁰⁹ Kohl, Life Among the Lake Superior Ojibway, 326-327.

colonial and early national eras. The pulverization of fish bones into a useable emergency meal has also been noted.¹¹⁰ Archaeologist James Molnar reports that Indians sometimes boiled out and preserved fish oil.¹¹¹ When fish was eaten, it might be made into a chowder with corn, or it could be "fried, roasted, boiled, smoked and stewed."¹¹²

Ottawas and Chippewas fished for food and trade. Molnar finds evidence that the Chippewas of the Sault traded whitefish not only with other Indians, but with the French, once the French arrived. Great Lakes peoples generally traded not only in furs, but also in hemp, reed mats, tobacco, ceramics, shells, pigments, maize, beans, sunflower seeds, meat, and fish, according to Molnar. Nineteenth-century commerce, therefore, built upon a firm foundation.¹¹³

The Indians' aboriginal fishing technology changed far less dramatically and more incrementally than did their hunting and trapping technology following the advent of Europeans, as shown, for example, in Susan Branster's archaeological study of the colonial-era Hurons at St. Ignace; in her study of these allies and neighbors of the Ottawas and Chippewas, Branster finds that while many awls and needles were of iron, those used for the weaving of nets continued to be made of bone, and harpoons tended to be made of antler. Increasingly, however, metal fish hooks were employed instead of the older bone fish hooks.¹¹⁴ Interestingly, in 1838, the Federal

¹¹⁰ Rostlund, Freshwater Fish and Fishing in Native North America, 194-195, 198-199; Molnar, "Interpreting Fishing Strategies of the Odawa," 32.

¹¹¹ Molnar, "Interpreting Fishing Strategies of the Odawa," 29-30.

¹¹² Molnar, "Interpreting Fishing Strategies of the Odawa," 32.

¹¹³ Molnar, "Interpreting Fishing Strategies of the Odawa," 31-32.

¹¹⁴ Susan M. Branster, "Decision-Making in a Cultural Contact Context: An Historical and Archaeological Perspective of the Tionontate Huron of St. Ignace, Michigan," in Thomas E. Schirer, ed., Entering the '90's: The North American Experience: Proceedings from the Native American Studies Conference, October 21-28, 1989 (Sault Ste. Marie, Michigan: Lake Superior State University, 1991), 47, 50.

Government supplied the Ottawas and Ojibwas with metal fish hooks, while the second most popular item made by the agency blacksmith at Mackinac Island consisted of fishing spear heads.¹¹⁵ In 1787, Indians at L'Arbre Croche thanked the British for a large gift of nets, and in 1862 Indians in Michigan requested nets from the United States commissioner. Imported nets may have become attractive, then, but the local manufacture of nets took far longer to replace than the local manufacture of hunting weapons and traps.¹¹⁶

Early Fishing Controversies

American fur-trading interests, seeking to diversify their production, began to muscle in on the Indians' fishing in the 1830's. As American settlers migrated into the lower Midwest, a regional market for fish beckoned.¹¹⁷ Samuel Asham and Ecstache Raussain, former fur traders for the American Fur Company, set up an independent fishery extending from the Shell Drake River around Whitefish point to Grand Marais. Apparently this was largely a shoreline fishery, though at places like Shell Drake River the fish were likely netted in the tightly enclosed bay.¹¹⁸ Chippewas of the Tahquamenon band formally protested to Major W. V. Cobbs at the Sault's Fort Brady that the huge nets set up by the Americans was ruining the spear-fishing on their river. They requested that their "Big white father will cause such white men as Fish in their Country, to pay them something for the privilege instead of the Fish, they would otherwise take, providing

¹¹⁵ NAM234R423 frs. 238-239, NAM234R423, fr. 473.

¹¹⁶ Anon, ed., "Minutes of an Indian Council at Arbre Croche 3rd August 1787," Michigan Pioneer and Historical Society, Collections 11 (second, edition, 1908), 494; D. C. Leach to William P. Dole, Mackinac, March 24, 1862, NAM234R407 fr. 42.

¹¹⁷ Janet Chute, The Legacy of Shingwaukonse, 73

¹¹⁸ Lieutenant James Allen, "Journal," in Mason, ed., Expedition to Lake Itasca, 166-167; ****Not provided and not available in the DB**

the white men were not there with nets.” Cobbs added that Asham (he called him “Ashman”), among others, was also dealing in liquor.¹¹⁹

Henry Schoolcraft had recommended in 1830 that Congress pass a law granting Indian Agents the power to license citizens for purposes other than just trading. He had already had several requests for lumbering or fishing privileges, and since his duties included the regulation of citizens on unceded lands, he sought to clarify his regulatory powers.¹²⁰ In June, 1833, he specifically sought the power to regulate non-Indians' fishing rights. He had two conflicting petitions on his hands for fishing rights to an area straddling St. Ignace on the southern coast of the Upper Peninsula. The first petition came from the firm of Biddle and Drew, whose men had cleared obstructions from the banks and courses of the Millecoquins River (which empties from the Upper Peninsula into Lake Michigan at today's Naubinway) and the Carp River (which empties from the Upper Peninsula into St. Martin's Bay of Lake Huron). The workers had also constructed frames for huge seine nets. The firm "paid the Indians, and have their sanction," said the petition, for exclusive fishing rights to both regions and the area in between. This petition stood against a request by sixty-three American citizens and residents of Mackinac Island, who sought to continue to fish at Isle Epoufette and the Millecoquins River as they "have heretofore." Indians from the Lower Peninsula who fished the region also objected to this enterprise of Biddle and Drew.¹²¹

¹¹⁹ Cobbs to Elbert Herring, Fort Brady, Feb. 5, 1835, NAM234R770 Fr. 161-163.

¹²⁰ HRS to Cass, Sault Ste. Marie, Sept. 22, 1830, NAM1R27 233-235.

¹²¹ George Johnston to HRS, Michilimackinac, Oct. 9, 1832, NAM1R68 518, Robert Stuart to Lewis Cass, Michilimackinac, Dec. 3, 1832, in NAM1R68 550, and HRS to E. Herring, Michilimackinac, June 7, 1833, NAM1R69 5. See also James McClurken, "We Wish to be Civilized: Ottawa-American Political Contests on the Michigan Frontier," Ph.D. Dissertation, Michigan State University, 1988, 154-155.

The Commissioner of Indian Affairs, Elbert Herring, had already seen and expressed favor for the Biddle and Drew petition,

subject however to such conditions as you may see fit to impose for the security of Indian right and the observance of existing laws. The privilege to be continued however only during the pleasure of the Government and of the Indians, and to be revoked at any time when yourself or your successor in this office may deem it advisable.¹²²

But he clarified the privilege the following June, stating that the privilege could not be exclusive; "no monopoly right could be granted." His message to Schoolcraft, as with the first one, left much "to your discretion."¹²³ Finally, in 1835, he addressed Indian complaints, stating that he could not prevent American citizens from fishing Indians' streams:

The Indians in his agency have no exclusive right of fishing in their rivers. Our people have a concurrent right and it is therefore impossible to prevent them from using nets in taking fish. It may operate prejudicially to the Indians, but if so, it is an injury beyond the remedy of the Department.¹²⁴

At this point, the powerful American Fur Company also got into the act, supplementing its trading activities with a winter fishing season. It appears to have focused its activities on the northern coast of the Upper Peninsula from Naomikong Point eastward to Point Iroquois. But men as far away as La Point, Wisconsin, also reported that they fished on interior lakes under the ice with hook and line.¹²⁵ Historian Philip Mason writes that under the American Fur Company, fishing

¹²² E. Herring to HRS, Washington, Dec. 27, 1832, NAM1R68 578.

¹²³ E. Herring to HRS, Washington, June 27, 1833, NAM21R11 21.

¹²⁴ Elbert Herring to Stevens T. Mason, Washington, D.C., March 31, 1835 NAM1R36 119.

¹²⁵ Lyman Warren to Ramsay Crooks, Lapointe, 13 Oct 1835, same to same 11 Jan 1836, Gabriel Franchere to Ramsay Crooks, Sault Ste. Marie, 15 Feb., 1836 AFCP 23: 922, 1181, 1285ff. For a full discussion see Grace Lee Nute, "American Fur Company's Fishing Enterprises on Lake Superior," Mississippi Valley Historical Review, 12 (1926): 483-503.

Stations were established at Grand Portage, Isle Royale, L'Anse, Montreal River, Grand Island, and other places. Whitefish, lake trout, herring, and pike by the hundreds of thousands were taken, salted, barreled, and shipped to ports on the lower lakes. Schooners were built by the American Fur Company to facilitate the trade. Indeed, so many fish were caught that the problem arose of finding a market for them. With the market saturated and the economic depression of the 1837 through the early 1840's, the ventures collapsed.¹²⁶

On the eve of the Treaty of 1836, then, Indians saw both their coastal and their riverside fishing intruded upon by American citizens who may have compensated some, but who did not satisfy all that the compensation was directed to the rightful parties. Americans, as Elbert Herring had made clear, strangely claimed rights in usufruct to the waters that they did not possess to the lands. The Indian understanding of their own rights would be colored by such interpretations. Surely if the waters bordering and coursing through lands in their possession could be fished by American citizens in common with Indians before 1836, then they should have a "concurrent right" -- as Herring had put it in the passage already quoted-- freely to fish those waters as well after ceding the lands to the United States.

In 1840, the "Indians of the northern crest" of Lake Michigan again complained that American citizens fishing there were "encroaching on their rights." James Schoolcraft, acting Michigan agent, worried that the treaty of 1836 had removed his power to enforce laws regulating the presence and behavior of American citizens in Indian country, for the commercial interests about whom the Indians complained were operating on the ceded lands. Perhaps, he thought, these individuals should at least need state licenses for fishing.¹²⁷ James Schoolcraft, at any rate, did not have an immediate answer for these Indians, but he did seek advice from his

¹²⁶ Mason, ed., Expedition to Lake Itasca, 232, n. 3.

¹²⁷ James Schoolcraft to T. Hartley Crawford, July 11, 1840, NAM234R424 fr. 177.

superiors. The Indians, he made it plain, thought a violation of the treaty was in the making. Surely, they thought, American fisherman could not exclude Indians from fishing.

Food Gathering

The first Frenchman to record his encounters with Ottawas or Chippewas was Samuel de Champlain, who met Ottawas in 1616 while he was visiting the Huron country in the Ontario Peninsula. He encountered a party that was out picking and processing blueberries near the mouth of the French River.¹²⁸ In August, 1832, Douglass Houghton noted that he and his party were greeted by Indians with blueberries on Grand Island.¹²⁹ These two examples, from each end of the contact period before 1836, suggest the importance of blueberries and other gathered foods. Ottawas and Chippewas, men as well as women, gathered important sources of food from the region that lay beyond their villages.

Diamond Jenness, in early twentieth-century interviews with Ojibwas of Parry Island in Georgian Bay, gleaned from his informants suggestive information about the gathering practices of Ottawas and Chippewas in early times. He mentions berries as being "plentiful, particularly blueberries and cranberries; and there were acorns and other nuts."¹³⁰ Archaeologist Beverly Smith says that berries of various sorts were identified with summer. Ethnohistorian William James Newbigging, writing on the Ottawas, finds that even in the northern ranges of these Indians, there was much to collect. During the summer they could gather hazelnuts, fire cherries, blackberries, bearberries, blueberries, strawberries, sumac berries, Canada plums, grapes, and

¹²⁸ Newbigging, "The History of the French-Ottawa Alliance," 105.

¹²⁹ Houghton, "Journal," in Mason, ed., Expedition to Lake Itasca, 285.

¹³⁰ Jenness, The Ojibwa Indians, 10.

acorns. In the fall they procured beechnuts. In the winter they sought out the nutty caches collected by chipmunks and deer mice. Even the spring provided them with pepper roots and elderberries. Newbigging adds that the southern ranges provided additional resources: chestnuts, walnuts, hickory nuts, and butternuts.¹³¹

Eating fresh berries in season may be delightful, but the Ottawas and Chippewas also preserved this vitamin-rich food for the winter. They erected stick or reed frames, or set up birch-bark trays, on which to dry the fruit in the sun. They boiled raspberries and other berries into a concentrate, which was then itself spread out to dry. Cherries (the stone of which contains cyanide) were dried with the stone intact, a method that eliminates the poison, before being ground entirely for storage. Many nuts, also containing toxins in their natural state, had to be boiled and dried before storage. The Great Lakes region's overcast skies made sun-drying a dubious operation, so fire was often employed. The archaeology of precolonial Michigan and of Ottawa and Huron sites in Ontario makes it abundantly clear that hazelnuts, hickory nuts, acorns, elderberries, bramble berries, cherries, hawthorn, and sumac were sought after by the Indians. Nor was berry-procurement a simple matter of picking; the landscape was regularly set ablaze in controlled fires to maintain favorable conditions for the plants. In much of North America, Indians did not leave environmental conditions entirely to nature; they shaped their landscape to increase its productive potential.¹³²

A 1963 dissertation by Richard Asa Yarnell compiled, from archaeological site reports, lists of the wild flora taken as food by Indians in the late woodland period, which immediately

¹³¹ Smith, "Systems of Subsistence," 156, 165; Newbigging, "The History of the French-Ottawa Alliance," 60.

¹³² Dunham, "Cache Pits," 245-247.

preceded the colonial period in the northern reaches of the Great Lakes. He finds a good many nuts, some fruits, and a great many berries. Chenopods and root species also provided some food. Among the berry's were bearberry, blackberry, blueberry, elderberry, and sumac berry.¹³³

We are learning that wild rice was once harvested in more southern and eastern locations than previously thought. A report that Indians once gathered wild rice in places like the St. Joseph Valley has been treated with skepticism, but wild rice has been discovered growing there. Archaeology, moreover, has revealed recently that wild rice grew and Indians harvested it on the northeast shores of Glen Lake in at least one of the regions of Michigan under consideration, the Grand Traverse Bay area. Wild rice, it appears, had a "greater distribution in the past," and was "growing in the lower peninsula of Michigan by 400 B.C."¹³⁴

Other gathered foods deserve brief mention. In 1827, Thomas McKenney noticed that the Lake Superior Chippewas gathered a root, which he thought resembled a tiny potato, called the "Waub-es-see-pin," and he noted that it "grows in wet, cold ground." A century later, on the Ontario shores of the Georgian Bay, Diamond Jenness wrote that Chippewa "Women often gathered the tubers of the Jerusalem artichoke . . . and the root of the wild bean."¹³⁵

Emergency foods consisted of the saps of the "hemlock, basswood, black birch, and black

¹³³ Richard Asa Yarnell, "Aboriginal Relationships between Culture and Plant Life in the Upper Great Lakes Region," Ph.D. dissertation, University of Michigan, 1963, 187; ****Not produced; this is p. 186.**

¹³⁴ Sean B. Dunham, "Cache Pits: Ethnohistory, Archaeology, and the Continuity of Tradition," in Interpretations of Native North American Life: Material Contributions to Ethnohistory ed., Michael S. Nassaney and Eric S. Johnson (Gainesville, University Press of Florida, 2000), 232; Richard I. Ford and David S. Brose, eds., "Prehistoric Wild Rice from the Dunn Farm Lake Site, Leelanau County, Michigan," Wisconsin Archeologist 56 (1977): 9-15 (quotations). For the early report suggesting wild rice use in Michigan, see Albert E. Jenks, "The Wild Rice Gatherers of the Upper Great Lakes: A Study in American Primitive Economics," Nineteenth Annual Report of the Bureau of American Ethnography, 1897-1898, vol. 2 (Washington, 1900), 1030, 1032 (map).

¹³⁵ Thomas L. McKenney, Sketches of a Tour to the Lakes, of the Character and Customs of the Chippeway Indians (Baltimore, 1827, reprint Minneapolis: Ross & Haines, 1994), 378; Jenness, The Ojibwa Indians, 10.

oak, the moss that grows on the white pine, the roots of bulrushes, and the flowers of milkweed. Even the brown lichens that grew on rocks yielded a palpable and nourishing soup." In the winter, Indians pressed by hunger might find frozen bees around the base of a tree, a signal that honey could be found within. Jenness speculates that only European axes would have enabled the famished to obtain this food; if so, Ottawas and Chippewas had, by 1836, possessed such axes for multiple lifetimes.¹³⁶

These examples only touch the surface. Yarnell's exhaustive study suggests the depths:

The ethnobotanical literature indicates that nearly 400 native plant species were utilized one way or another by Indians of the Upper Great Lakes region, including 130 food plants and more than 50 plants used technologically. Since the flora of the region includes approximately 2000 species, it is estimated that the Indians utilized at least 20 percent of the kinds of plants available to them.¹³⁷

Maple Sugar Production

Some scholars have questioned, and others ardently defended, the idea that maple sugar was produced by Native Americans before European colonization.¹³⁸ For the purposes of this report, the question is irrelevant. No one disputes the fact that by the time the Ottawas and Chippewas dealt with the United States they had long been processing maple sugar in great quantities and for both subsistence and commercial purposes. No one argues against the

¹³⁶ Jenness, The Ojibwa Indians, 10.

¹³⁷ Yarnell, "Aboriginal Relationships," 187-188; ****Not produced and not available in the DB.**

¹³⁸ Carol I. Mason and Margaret B. Holman, "Maple Sugaring in Prehistory: Tapping the Sources," in Interpretations of Native North American Life, ed., Nassaney and Johnson, 260-271; Mason, "Prehistoric Maple Sugaring Sites?" in Midcontinental Journal of Archaeology 10 (1985), 149-151; Holman, "The Bolthouse Site and Woodland Settlement in the Grand Valley," Michigan Archaeologist 36 (1990), 171-189; Holman, "The Identification of Late Woodland Maple Sugaring Sites in the Upper Great Lakes," Midcontinental Journal of Archaeology 9 (1984), 63-89; Holman, "Historic Documents and Prehistoric Maple Sugaring: A Matter of Cultural Context," Midcontinental Journal of Archeology 11 (1986), 125-131; Holman, Margaret B. and Kathryn C. Egan, "Processing Maple Sap with Prehistoric Techniques," Journal of Ethnobiology 5 (1985), 61-73.

importance of maple sugar production to Ottawas and Ojibwas from the eighteenth century onward. For generations before the Treaty of 1836, if not for centuries, family sugar camps were a feature of Great Lakes Indian life. When the sap ran in the spring, Indian camps formed to take it. Carol Mason, for example, notes maple sugar's "great importance in the eighteenth and early nineteenth centuries" as "a commodity that, like beaver skins, could be sold or traded to Europeans." It also played an important role in the subsistence strategies of Ottawas and Chippewas. Sugar season, in late winter and early spring, came at the leanest time of the year-- when supplies stored from the previous year might be nearing exhaustion, when the gathering of other plant foods would yield little, and before the great fish runs. Sugar also keeps extremely well. Mason points to Alexander Henry's narrative, in which the family that cared for Henry subsisted solely upon maple sugar for a month in the winter of 1763-1764.¹³⁹

In the late nineteenth century, Homer Kidder, a non-Indian inhabitant of the Upper Peninsula, recorded a story that his father had told him; the story suggests well-established cultural practices associated with sugar-making. His father had been "touring" the region in company with Jacques LePique, a skilled woodsman whose parentage was both Euro-American and Chippewa. LePique's own father had worked a trading post on the Upper Peninsula opposite Grand Island. The elder LePique, the story goes, had to travel overland, but a thaw threatened to ruin the snowshoeing and to mire him in slush. So he fashioned a rabbit from the melting snow. The sculpted rabbit gestured rudely toward the north. "Jacques said the rabbit was intended to

¹³⁹ Mason, "Prehistoric Maple Sugaring Sites?," 150. The particular passage is in Alexander Henry, *Travels and Adventures in Canada and the Indian Territories*, Quaife, ed. (Chicago, 1921), 209; ****Not produced and not available in the DB**, and it is here set in what is now Canada. But Henry saw sugar manufacturing in what is now northern Mason County, Michigan, too. See Henry, *Travels and Adventures*, Quaife, ed. (Detroit, 1921), 124, 143-144.

make the north wind blow, for Ka-bi-bo-na-kay (the north wind) would think the rabbit was making fun of him and would try to blow him down, but, of course, the colder it blew the harder the rabbit would freeze." This old Chippewa practice, he said, was to stop "a thaw at sugar making time."¹⁴⁰ (This is an interesting association, for Nanabush, also known as the Great Hare, was frequently represented as a rabbit.)

It is unquestionable that maple sugar production was highly important to Indians throughout the region by 1836. Floating down the Grand River in the spring of 1790, Hugh Heward noticed, at what was likely the mouth of the Looking Glass River, "the finest places possible for making sugar." Not far downstream is the Maple River, where he recorded a French-Indian "Wintering place;" the river's name is at least suggestive. Grand River Ottawas did have a village on this river, and one of the Maple River Indians is noted on the Treaty of 1836.¹⁴¹ In the Treaty of Fort Meigs, 1817, between the U.S. and the "Wyandot, Seneca, Delaware, Shawanese, Potawatomees, Ottawas, and Chippeway, tribes of Indians," sugar-making is included as a usufructuary right in Article 11 alongside hunting.¹⁴² Andrew Blackbird recalled that his mother, with whom he lived at Little Traverse, was killed in a sugar-making accident in the spring of 1829 "in the woods." The site must have been somewhere near an upstream portion of the Muskegon River, since he later notes that his family would float down that river, loaded with sugar and other forest products, in the spring. Blackbird also notes that each Indian family annually contributed "one large mocok" of sugar (about 80 to 100 pounds worth, he estimates) to

¹⁴⁰ Bourgeois, ed., Ojibwa Narratives, 83.

¹⁴¹ Heward, Askin Papers 1: 351.

¹⁴² Charles J. Kappler, ed., Indian Affairs: Laws and Treaties, vol. 2, Treaties (Washington, 1904) 2: 149.

their priest, Father "Dejan," who took the sugar to Detroit and traded it for dry goods, especially cloth, for the Indians.¹⁴³ Rev. Frederick Baraga, Catholic Priest, in western lower Michigan in the early 1830's, reported that Ottawas were turning increased attention to the maple sugar market.¹⁴⁴ Schoolcraft encountered Ottawas, including one Kaysheway and one Pondegakowa, in September, 1836, who had earlier had a quarrel over the killing of some horses, an incident that took place as they were making sugar on the Muskegon River.¹⁴⁵ At Mackinac in 1820, Schoolcraft encountered a brisk trade in "bark baskets filled with maple sugar, called make-ocks" in 1820.¹⁴⁶ Visiting Mackinac in 1836, Harriet Martineau was pleased with the "pretty purchases of Indian manufactures" that came aboard her vessel. These included "small baskets of birch bark, embroidered with porcupine quills, and filled with maple sugar."¹⁴⁷ The missionary Miss Foulkes wrote in April, 1836, of the Ottawas and Ojibwas on the British (now Canadian) island of Manitoulin going to their sugar camps.¹⁴⁸

Sugar Island, at the eastern end of the Upper Peninsula, derives its name from maple sugar production. Chippewas called it *Sisibakwato-miniss*, which Euro-Americans translated

¹⁴³ Blackbird, History, 45, 48, 53.

¹⁴⁴ Reported in James McClurken, "We wish to be Civilized," 124.

¹⁴⁵ [Henry R. Schoolcraft, J. W. Edmonds, Henry Whiting] United States. Office of Indian Affairs, Report of the Board of Commissioners assembled at Michilimackinac, September, 1836, On the Claims for Creditors of the Ottawas and Chippewas Presented under the Treaty of Washington (Detroit, G. L. Whitney, 1837), Claim number 22, pp.21-22, Rare Books, ND.

¹⁴⁶ HRS, Travels through the Northwestern Regions, 122.

¹⁴⁷ Harriet Martineau, "The Delights of Mackinac," in Justin L. Kestenbaum, The Making of Michigan, 1820-1860: a Pioneer Anthology, 65.

¹⁴⁸ {Frederick A. O'Meara and Miss Foulkes, letters of} "Ojibwa Indians of Lake Huron," in Joseph Kingsmill, Missions and Missionaries: Historically Viewed From their Commencement (London: Longman, Brown, Green and Longman, 1853), Appendix 1: 8.

into "Sugar Island." (Within the ceded area, there are places called Sugar Grove in Mason County and Sugar Rapids in Gladwin County.)¹⁴⁹ At Sault Ste. Marie, reports of Chippewas making sugar are extensive. In March, 1836, trader Gabriel Franchere sent word to his employer that the village would "soon be deserted," because almost everyone would be heading for "their sugar camps." In July, 1836, the missionary John Clark noted that the job of sugar making had occupied Indians that spring; the previous year he had observed that the mission had to cease operations during maple-sugar-making time, and Thomas McKenney, in 1827, treated maple sugar's importance to a characteristically detailed discussion. McKenney noted that sugar was a "great staple. It is made from the maple, and principally by the Indian women. . . ."

Three families in this neighborhood, of which my old friend Mr. J[ohnston]'s is one, make generally four tons of sugar in a season. Some of it is very beautiful. I have some mocoeks of it given to me by Mrs. Johns[t]on, of her own make. It is as white as the Havana sugar, and richer.¹⁵⁰

In March, 1829, Schoolcraft, also at Sault Ste. Marie, enthusiastically described the sugar making season in that region. Schoolcraft, whose Chippewa mother-in-law was the very Mrs. Johnston whose production is noted above, considered sugar-making to be "one of their old customs":

The Indians, to whom the rising of the sap in its capillary vessels in the rock-maple is the sign of a sort of carnival, are now in the midst of their season of sugar-making. It is one of their old customs to move, men, women, children, and dogs, to their accustomed sugar-forests about the 20th of March. Besides the quantity of maple-sugar that all eat,

¹⁴⁹ Jeremy Mumford, "Mixed Race Identity in a Nineteenth-century Family: The Schoolcrafts of the Sault Ste. Marie," Michigan Historical Review 25 (1999), 14; Virgil J. Vogel, Indian Names in Michigan (Ann Arbor: University of Michigan Press, 1986), 92; Walter Romig, Michigan Place Names (Grosse Point, Michigan, ca. 1977), 543.

¹⁵⁰ Gabriel Franchere to Ramsay Crooks, Sault Ste. Marie, March 11, 1836, AFCP 23: 1365; also in AFCR, Box 2, Folder 1, Bayliss; John Clark to HRS, Sault Ste. Marie, July 2, 1836 in NAM1R37 42; John Clark to HRS, Sault Ste Marie, July 15, 1835 NAM1R72 185; McKenney, "Tour to the Lakes," 1827, 193-194.

which bears no small proportion to all that is made, some of them sell a quantity to the merchants. Their name for this species of tree is In-in-au-tig, which means man-tree.¹⁵¹

In March, 1823, Schoolcraft was more impressed by the industry, and less by the conviviality, associated with sugaring.

It is now the season of making sugar from the rock maple by the Indians and Canadians in this quarter. And it seems to be a business in which almost every one is more or less interested. . . . Sleighs and dog trains have been departing for the maple forests, in our neighborhood, since about the 10th instant, until but few, comparatively, of the resident inhabitants are left. Many buildings are entirely deserted and closed, and all are more or less thinned of their inhabitants. It is also the general season of sugar making with the Indians.

I joined a party in visiting one of the camps. [Eight miles down river from Sault Ste. Marie he found] Mrs. Johnston's camp. . . . inland about a mile. We found a large temporary building, surrounded with piles of ready slit wood for keeping a fire under the kettles, and large ox hides arranged in such a manner as to serve as vats for collecting the sap. About twenty kettles were boiling over an elongated central fire.

The whole air of the place was that of a manufactory.¹⁵²

The passages establish that sugar-making, while certainly a subsistence activity, also had an important commercial dimension before 1836.

The collection of maple sugar sap and its processing into a commercially valuable product would have been one of the "usual privileges of occupancy" Ottawas and Chippewas reserved for themselves with federal approval under Article 13 of the Treaty of 1836. That Ottawas and Chippewas did maintain the privilege and did expect it to continue as part of their lifeways will be seen below.

Salt

¹⁵¹ HRS, Personal Memoirs, 322.

¹⁵² HRS, Personal Memoirs, 163.

Before the widespread adoption of canning, refrigeration, and freezing, the barreling and salting of meat, fish, and certain fruits was the nineteenth-century's best and most reliable storage method. Seventeenth-century Great Lakes Indians were apparently not great consumers of salt, but by early nineteenth century they prized the preservative.¹⁵³ Indians in Michigan had taken up the practice of salting meat, fish, and fruits, largely for commercial purposes. Underscoring this practice's importance in the minds of Ottawas, Chippewas, and United States officials alike is Article 4 of the Treaty of 1836, which, among other payments, offers to the Indians "one hundred barrels of salt, and five hundred fish barrels, annually, for twenty years." There can be no clearer indication that everyone saw a future for Indian fishing. That salt was also used for the preservation of meat suggests that hunting was also in the picture.

Indians also gathered salt from salines scattered throughout the state. Historian Mary M. Hoyt noted that one of the leading Indians of the Grand River area, Noonday, led some missionaries to "salt spring and gypsum rocks," while "quietly remarking of the springs that 'the spirits fed them.'"¹⁵⁴

When the United States Congress proposed federal guidelines to the Michigan territorial legislature for the admission of the State of Michigan to the Union in June, 1836, the fourth clause held that every salt spring, up to a total of twelve, would be reserved for the state's use. Stevens T. Mason, the first governor, reported in January 1838 to the legislature that

¹⁵³ Mark Kurlansky, *Salt: A World History* (New York, 2002), 10, speculates that as peoples become more agricultural and as they begin to keep domesticated herbivores, they come to need salt. Ottawas and Chippewas, especially Ottawas, had long been agricultural, but only in the colonial period did they begin to keep horses, cattle, and other such animals. Kurlansky describes the preserving process (38, 139-140), and he mentions the relative absence of salt use in the early Great Lakes region (201).

¹⁵⁴ Mary M. Hoyt, "Life of Leonard Slater," *Michigan Pioneer and Historical Collections* 35 (1907), 146.

we possess an extensive salt region, and . . . we shall be enabled to manufacture salt in sufficient quantities not only for home consumption, but that it must become an article of extensive export. The whole number of salines granted by the act of Congress have not as yet been located, in consequence of the want of time to examine the northern region of the State. . . ."¹⁵⁵

The State Geologist, Dr. Houghton, noted in his report, contained in the House Documents of 1838, that Indians were well aware of the location of many salt springs that he listed. By January, 1843, he could report considerable success in the exploratory work done on the Grand River.¹⁵⁶

Henry Schoolcraft, recognizing the importance of the state project, sent word of one such saline to the governor in 1840:

The Indians have informed me of the existence of a valuable salt spring on the waters of white clay (or as it is commonly called white) River, in the district of lands subject to sale at Ionia. The enclosed sketch is made from one drawn by Main aingwea, the discoverer, who observes that he found the Spring while he was a youth, that it is the district of country where he usually hunted, and that the water is very strongly impregnated. He adds, that the lands adjacent to the spring is sandy and unattractive for farmers, but abound in pine, which compose a forest 9 miles across.

Without pretending to affirm, that the spring may prove valuable, but merely in hope of it, I have deemed it proper to communicate the information that the state authorities may avail themselves thereof, if it be yet practicable.¹⁵⁷

The White River flows from north of the current village of White Cloud, and spills into White Lake, just east of Lake Michigan at the modern towns of Montague and South Whitehall. It is within the region under discussion.

The Indians' knowledge of the state's geography and features clearly played a role in the

¹⁵⁵ Quoted in William L. Weber, "Discovery and Development of the Salt Interest in the Saginaw Valley," Michigan Pioneer and Historical Society, Collections 4 (1906), 13.

¹⁵⁶ Weber, "Discovery and Development of the Salt Interest...", 13, 17.

¹⁵⁷ HRS to William Woodbridge, Gov of Mich, Michilimackinac, Sept. 14, 1840, NAM1R38 344-345.

development of salines within the state. They, like the settlers who would join them, used the salines primarily for the purpose of food preservation.

Material Goods Gathering and Indian Manufacturing to 1836

This section will consider some of the materials that Indians gathered from outside their villages, materials from which they manufactured many goods and products that, along with those goods, they traded to the outside world. When Indians considered their abilities to pursue the "usual privileges of occupancy" under Article 13 of the Treaty of 1836, they would have had such resource-gathering in mind.

Both men and women engaged in widespread gathering activities and in the manufacturing of products. Both sexes gathered materials for nets, though men more commonly wove the nets. Both gathered materials for baskets, and while women more commonly wove the baskets, men might carve the handles.¹⁵⁸ To make the extensive cordage for their fish nets and lines, Great Lakes Indians harvested hemp, willow, basswood inner bark, false nettle, nettle, and wood nettle. Hide is also noted.¹⁵⁹ Basswood, often cited by authorities, was also used for mats, which Indians wove so tightly as to be used not only for bedding and flooring, but even for portable shelter. Early European visitors to the Upper Great Lakes, such as Champlain and Sagard, remarked on the skillful crafting of the mats. Indians also made baskets from basswood bark and wicker baskets from basswood roots. Indian women sowed seeds from shoulder bags

¹⁵⁸ Elizabeth McDonald, "A Study of the Changes in Ojibwa, Tlinget, and Hopi Basketry as relating to Economic, Political, Societal, and Historical Changes in the Respective Societies," Ph.D. Dissertation, Michigan State University, 1994, 143.

¹⁵⁹ Jenness, The Ojibwa Indians, 14-16; Rostlund, Freshwater Fish and Fishing in Native North America, 168; Cleland, "Inland Shore Fishery," 762-763; Newbigging, "The History of the French-Ottawa Alliance," 60, 63.

they had fashioned from basswood bark.¹⁶⁰ Cedar bark also formed bags.¹⁶¹ Cordage is also necessary for the sewing together of goods. Basswood fiber is complemented, here, by tamarack and cedar roots, and spruce roots. To make the seal watertight, a gum was extracted from pine or balsam.¹⁶²

Indians had to leave their villages to collect the many materials with which they fashioned their goods. Ash-tree wood, which bends and cures well and which is sturdy and springy enough to form our baseball bats, found its way into snowshoes, lacrosse sticks, paddles, bows, arrows, fishing spears, toboggans, and cradle boards.¹⁶³ White-ash splints were woven into laundry hampers and other clothes baskets.¹⁶⁴ In 1827 Henry Rowe Schoolcraft noted that ash trees could be "invested by the Indians, with magical virtues. It is one of the species, from which their priests make their oracular lodges."¹⁶⁵

Sweet grass was coiled into small baskets, and it decorated larger ones.¹⁶⁶ Willow twigs, woven into wicker, made for fine, larger baskets. Cedar roots formed wicker baskets.¹⁶⁷

Birchbark and elm bark were used not only for canoes and covers for housing, but also

¹⁶⁰ Carolyn Gilman, Where Two Worlds Meet: The Great Lakes Fur Trade (St. Paul: Minnesota Historical Society, 1982), 7, plates 7, 8; McDonald, "A Study of Changes," 141.

¹⁶¹ Jenness, The Ojibwa Indians, 113.

¹⁶² Jenness, The Ojibwa Indians, 112, 113; McKenney, Tour to the Lakes, 199-200.

¹⁶³ Newbigging, "The History of the French-Ottawa Alliance," 63.

¹⁶⁴ McDonald, "A Study of Changes," 141.

¹⁶⁵ Philip P. Mason, ed., Schoolcraft's Ojibwa Lodge Stories: Life on the Lake Superior Frontier (Michigan State University Press, 1997 [1962]), 42.

¹⁶⁶ McDonald, "A Study of Changes," 141.

¹⁶⁷ McDonald, "A Study of Changes," 146-147.

for tough boxes and baskets that had to endure bad weather.¹⁶⁸ Diamond Jenness describes the birch-bark vessels, saying that they were

both decorated and undecorated. To make a decorated vessel the Indians removed the winter bark by drying the birch trunk before a fire. Small birch-bark vessels were sewn with basswood fibre; larger and heavier ones, such as boxes to hold maple sugar, with spruce or tamarack root. Many Indians preferred the tamarack root, which they split into three sections, using only the outer two and discarding the middle section as too brittle.¹⁶⁹

Chippewas and Ottawas decorated their goods in a variety of ways, which provide a window into the esoteric knowledge gained by the artists and craftspeople. They knew where to find dyes to color porcupine quills, grasses, hides, feathers, bark, and wood. Black dyes they found in the inner bark of the bur oak mixed with hazel bur and butternut tree root and inner bark. Or, they might mix the inner bark of the hazel tree with that of the butternut. The simplest dye came from black earth. Blue dyes they derived from the red oak and quaking aspen trees. Brown dyes they formed out of the root and inner bark of the butternut tree, along with hazel bark. The plant known as lambs quarters, pulverized, makes a green dye. The punk wood of the red maple and red oak, oddly enough, makes a green dye, while the inner bark of two evergreens, the red cedar and the hemlock, can make for a red dye. Red dyes also came from choke berry tree and dogwood inner bark. The red ossier's inner bark, mixed with birch, oak, and cedar bark ashes, also formed a red dye. The same is true of parts of many other plants, mixed in a variety of ways: puccoon root, white birch, oak, wild plum, bloodroot, alder, and willow. Ottawas and Chippewas gathered red ocher for its coloring properties, and they sometimes employed simple red earth. Yellow ocher made for a yellow dye, but many plants also contributed to this bright

¹⁶⁸ Newbigging, "The History of the French-Ottawa Alliance," 64.

¹⁶⁹ Jenness, The Ojibwa Indians, 113.

color: alder tree bark, bloodroot root, gold thread root, paper birch, black oak, sumac inner bark or stalk pulp, spotted touch-me-nots, and lichens.¹⁷⁰ Without much comment, Father Baraga noted in 1847 that "they have some native dye-stuffs of the mineral kingdom."¹⁷¹

There is no question that the nature of Indian basketry changed over the centuries, but it is interesting that basketry, network, and mat-making remained more vital and central than did, say, pottery, which was, for a time, more thoroughly replaced by imported items in the colonial period. In an archaeological study of the mission at St. Ignace, 1671 to 1705, Susan Branster finds that "All tools used for the weaving of mats . . . are fashioned from bone, whereas the majority of awls and needles are iron. . . . The presence of bone tools suggests that trade goods had not completely replaced traditionally-manufactured goods at the village."¹⁷²

Branster's study also shows that, while some European clay pipes lay scattered in the village, Indians still carved pipes from the traditional catlinite and other stone, and they molded pipes from clay.¹⁷³ Henry Rowe Schoolcraft noted that pipe stone and flint were collected by Indians in the Upper Peninsula.¹⁷⁴ Chert, quartz, and quartzite was also quarried and used for tools into the colonial period.¹⁷⁵

¹⁷⁰ McDonald, 159-160; ****Page 159 was not produced.**

¹⁷¹ Baraga, Chippewa Indians, 66.

¹⁷² Susan M. Branster, "Decision-Making in a Cultural Contact Context: An Historical and Archaeological Perspective of the Tionontate Huron of St. Ignace, Michigan," in Thomas E. Schirer, ed., Entering the 90's: The North American Experience: Proceedings from the Native American Studies Conference, October 27-28, 1989 (Sault Ste. Marie, Michigan: Lake Superior State University, 1991), 50.

¹⁷³ Branster, "Decision-Making," 48-49.

¹⁷⁴ HRS, Travels through the Northwestern Regions, 405.

¹⁷⁵ Beverly Smith, "Systems of Subsistence," 27.

From the early period of contact with Europeans, Indians traded in a greater variety of goods than can be encompassed by such phrases as "the fur trade." Their agricultural produce and game fed the newcomers, of course, but they also supplied mats, baskets, pigments, and other items of value. Fish were among the traded items.¹⁷⁶ And even the fur trade itself mandated the use of other kinds of goods, such as chestnut, oak and hickory bark for tanning.

Europeans and early American citizens also purchased, and adopted the use of, native items to which they were unaccustomed. The Chippewas and Ottawas made toboggans, which were pulled by "well-trained dogs," capable of traveling "forty miles in a day."¹⁷⁷ Snowshoes, too, made mobility possible in winter. They were often made of ash wood, decorated with paint and porcupine quills, and Thomas McKenney reported that experienced men could walk forty miles in a day with them.¹⁷⁸

No items of Chippewa and Ottawa manufacture impressed newcomers more than the bark canoes. These were particularly prized for travel on the lakes, but for travel on certain rivers, Indians sometimes preferred log canoes, which had the additional advantage of outlasting the bark canoe; a bark canoe, heavily used, had a lifespan of some two to four years; a log canoe could last up to fifteen.¹⁷⁹ Ottawas and Chippewas made canoes for trade and sale as well as for immediate use. Visitors to the Great Lakes country sometimes secured carefully made models of bark canoes as souvenirs. In 1826, Thomas McKenney procured one from a Mackinac-area

¹⁷⁶ James Molnar, "Interpreting Fishing Strategies of the Odawa," PhD dissertation, University at Albany, SUNY, 1997, 31-32.

¹⁷⁷ Thomas McKenney, Tour to the Lakes, 196; Kohl, Life Among the Lake Superior Ojibway, 338-339.

¹⁷⁸ McKenney, Tour to the Lakes, 196-197; Kohl, Life Among the Lake Superior Ojibway, 333.

¹⁷⁹ Jenness, The Ojibwa Indians, 112, Baraga, Chippewa Indians, (1847), 63.

Indian, whom he described as “a famous canoe maker. I have engaged him to make one, (a model of the one I am going in,) to take home. I will then shew you an exact likeness of this contrivance.”¹⁸⁰ A contemporary of McKenney's, named variously Assiginack and/or Blackbird (not to be confused with Andrew Blackbird), fabricated such models of canoes on Drummond Island in the 1820's. He did so "at the request of his friends who wish to send them as Curiosities to Europe."¹⁸¹ One of his canoes is preserved in the Canadian Museum of Civilization in Quebec.

The Ottawas' and Chippewas' canoes have drawn extensive commentary; they were some of the best in America. Men and women made them. The lighter, more elegant, and larger birch-bark canoes took two skilled people a full week to make; elm-bark canoes could be fashioned by two people in half a day. They contained in their making not only the birch or elm bark, collected late in the winter, but also white or red cedar or ash for the frame, sewn together with basswood fiber, elm root, spruce root, cedar root, pine root, or tamarack root, and sealed with a pitch of spruce, white pine, or balsam. Ottawas and Chippewas decorated their canoes with paint and dyes. By the nineteenth century, the canoes could be very large and carry more than a ton.¹⁸²

The speculator John Gordon admired "beautifully finished canoes" at Grand River in 1836, and McKenney described one such canoe at great length.¹⁸³ McKenney wrote:

¹⁸⁰ McKenney, Tour to the Lakes, 201.

¹⁸¹ Anonymous observer quoted in J. Garth Taylor, "Assiginack's Canoe: Memories of the Indian Warfare on the Great Lakes," The Beaver (October-November, 1986), 50.

¹⁸² Jenness, The Ojibwa Indians, 112; Newbigging, "The History of the French-Ottawa Alliance," 64-65, 69; McKenney, Tour to the Lakes, 199-200; Schoolcraft, Personal Memoirs, 112.

¹⁸³ Gordon in Kestenbaum, 150.

Its length is thirty feet, and its breadth across the widest part, about four feet. It is about two and a half feet deep in the centre, but only about two feet near the bow and stern. Its bottom is rounded, and has no keel.

The materials of which this canoe is built, are birch bark, and red cedar, the whole fastened together with wattap and gum, without a nail, or bit of iron of any sort to confine the parts. The entire outside is bark--the bark of the birch tree--and where the edges join at the bottom, or along the sides, they are sewn with this wattap, and then along the line of the seam, it is gummed. Next to the bark are pieces of cedar, shaven thin, not thicker than the blade of a knife--these run horizontally, and are pressed against the bark by means of these ribs of cedar, which fit the shape of the canoe, bottom and sides, and coming up to the edges, are pointed, and let into a rim of cedar of about an inch and a half wide, and an inch thick, that forms the gunwale of the canoe, and to which, by means of the wattap, the bark and the ribs are all sewed; the wattap being wrapped over the gunwale, and passed through the bark and ribs. Across the canoe are bars, some five or six, that keep the canoe in shape. . . .

. . . . But so Light is it, and so easily damaged, that precautions are necessary to be taken in loading it, and these are attended to by placing round poles along the bottom. These, resting on the ribs, equally, for the whole length, cause the burden to press equally from one end to the other. Upon these the baggage rests, and also the crew and the passengers. . . . Our baggage and stores, and the provisions for the voyageurs, and our tents, &c., are estimated to weigh at least five hundred weight; and then there will be eleven of us. . . who will not weigh short of fifteen hundred weight--so this canoe of bark is destined to carry not less than two thousand pounds! The paddles are of red cedar, and are very light. The blade is not over three inches wide, except the steersman's, that is, perhaps, five.¹⁸⁴

Henry Rowe Schoolcraft had become, by the late 1830's, a proponent of Indian removal to west of the Mississippi. It is worth noting that he saw the canoe, and the Ottawas' and Chippewas' use of it, as an impediment to their voluntary removal from the state.

As the country ceded by them is large, and they are strongly attached to customs peculiar to their mode of subsistence, in part, on the lake fish, and of traveling in canoes, it is not expected that they will feel a general wish to emigrate immediately, but, on the contrary, will wait, as most of the western and southern tribes have done, till they are pressed to action by imperious necessity. Still the time seems appropriate to begin the movement . . .¹⁸⁵

We have already seen that some Indians, aware of the impression canoes made on

¹⁸⁴ McKenney, Tour to the Lakes, 199-200, all emphasis is in the original.

¹⁸⁵ HRS to C.A. Harris, Detroit, Mar 1, 1838, in NAM234R423 frs. 119-121.

outsiders, had begun manufacturing models of canoes for trade and as gifts. By the early years of the nineteenth century, Indians from throughout the region had developed products for export that had an exotic appeal to Euro-Americans. Important among these were cranberries and maple sugar, carefully packed in decorated "Mococks" (or mukuks): sewed, bark containers with fitted lids or flaps. In 1807, these circulated as presents among British traders who still worked both sides of the St. Mary's River.¹⁸⁶ McKenny described them in 1827:

A mocock is a little receptacle of a basket form, and oval, though without a handle, made of birch bark, with a top sewed on with wattap, (the fine roots of the red cedar, split,) the smaller ones are ornamented with porcupine's quills, died red, yellow, and green. These ornamented mococks hold from two to a dozen table spoons full of sugar, and are made for presents, or for sale, to the curious. The larger ones, also of birch bark, are not ornamented, and contain from ten to thirty pounds of sugar. This is an article of exchange with those who make it. They give it for labour, for goods, &c. and generally at about ten cents per pound.¹⁸⁷

A local historian of Grand River found in the late nineteenth century that such "mokirks," as he called them, could weigh from one to sixty pounds.¹⁸⁸ Thirteen years later, Schoolcraft saw Indians marketing their crafts in Mackinac, selling "several articles of Indian manufacture, particularly a kind of rush mat of very handsome fabric, bark baskets filled with maple sugar, called moke-ocks. . . ." ¹⁸⁹ The quilled basket that Schoolcraft sent as a gift to President Jackson's mother-in-law on the eve of the Treaty of 1836 may well have been such a mukuk. He also sent to her moccasins, sugar cakes, and an Indian card rack.¹⁹⁰ Even before 1836, well before the arts

¹⁸⁶ John Askin, Jr., to John Askin Sr., St. Joseph Island, Oct. 13, 1807, Askin Papers 2: 578.

¹⁸⁷ McKenny, Tour to the Lakes, 193-194.

¹⁸⁸ Goss, "The Indians of the Grand River Valley," 186.

¹⁸⁹ HRS, Travels through the Northwestern Regions, 122.

¹⁹⁰ Bremer, Indian Agent, Wilderness Scholar, 162.

and crafts movement of the early twentieth century, Native American crafts were finding their way into the households of American citizens, and not simply as utilitarian baskets or brooms, but as objects of beauty, value, and status.

This tradition continued well after 1836. Elizabeth McDonald's study of Ojibwa [Chippewa] basketry notes that in the late nineteenth and twentieth centuries, Ojibwa women wove and sold to others baskets woven of black ash splints and sweet grass. The primary use for Ojibwa and Ottawa basketry in more recent times has been as a craft or art for sale.¹⁹¹ Well into modern times, Indians found a ready market among other Americans for their baskets and mats, which were esteemed not only for their practicality, but for their beauty. Ruth Craker, who grew up in Omena, Michigan, site of a Presbyterian Mission, took a series of photographs in or around 1907. One shows Charlotte Ahgosa, Mrs. Jacob Ahgosa (holding baby Emma), Mary Anne Ahgosa, and Susan Pequongay, sitting in the sun displaying their elaborate and beautiful crafts, from woven baskets to bark-porcupine quill-worked model canoes. Another shows Jacob Nagon-aba and his family, and his wife is displaying the materials of her craft. A third is a shot of Mrs. Peter Na-on-ga-be, and she, too, is displaying the baskets and the materials for making them. A fourth is the home of Peter Na-on-ga-be, and he appears to be assisting, or at least accompanying, his wife and young daughter as they fashion baskets among the curled splints. Yet another shot displays the fabricated wares: rugs, throws, baskets, toy canoes, snowshoes, mukuks, all laid out on a fine porch.¹⁹² But it is worth noting, as the documents above establish,

¹⁹¹ McDonald, figures 1-7, and p. 144.

¹⁹² Ruth Craker, Photograph Album of Ruth Craker, 1900-1940; some are labeled: na 17,148; Na 10444; the photo of Mrs. Peter Na-on-ga-be and the photo of Peter Na-on-ga-be with his family are not labeled, but their porch display is labeled na 10447. The album is in the Omena Presbyterian Church Records, Bentley.

that the sale of Indian arts and crafts has antecedents before the Treaty of 1836. The Indians' gathering of materials from the woods, bogs, and fields of Michigan was in 1836, and has since been, intimately bound with their commercial lives.

Agriculture

Ottawas and Chippewas farmed small portions of their vast lands in 1836. The colonial era had seen an increase in the importance of cultigens to the subsistence of these peoples, continuing a process that had begun over a thousand years ago. Archaeologist Beverly Smith, in a study of the subsistence strategies of these Indians in the era preceding the advent of Europeans to the region, finds that, overall, "the environment of the Odawa and Ojibwa [Ottawa and Chippewa] regions was not conducive to a horticultural based economy." Instead, "wild animals and fish were the most important sources of food." Even among the precolonial Ottawas, she estimates that a high percentage of the diet came from meat and fish. This is in contrast to the estimation of historian James Newbigging, who asserts that among precolonial Ottawas, at least, corn was "second only to fish as a staple." Smith, though, notes that "where climatic conditions permitted," as colonization approached, "cultigens, especially maize," were "incorporated into the subsistence strategy."¹⁹³

Among the Chippewas of the Upper Peninsula, where climate and soil conditions combine to forbid extensive agriculture, the cultivation of crops was nonetheless an important part of the overall subsistence strategy, especially after the introduction of potatoes in the colonial era. By 1836 potatoes helped to feed Chippewas, Ottawas, and their nonnative

¹⁹³ Beverly Smith, "Systems of Subsistence," 18, 277; Newbigging, "The History of the French-Ottawa Alliance," 50-51; ****Page 50 was not produced.**

neighbors. John Clark, missionary of the Methodist Episcopal Church, observed of Indians near Sault Ste. Marie in 1836 that: "Their field[s] for planting have been considerably enlarged, and a larger amount of Potatoes planted than at any other season. . . ." ¹⁹⁴ In his annual report for 1837, Henry Rowe Schoolcraft noted that "The Chippewas cultivate corn and potatoes to a limited extent. . . ." ¹⁹⁵ By the 1840's there are reports of good crops of potatoes, turnips, and corn from the Sault region, and of potatoes, corn, and even wheat from the Grand River region. ¹⁹⁶ Ottawas also grew crops of potatoes, and, as the nineteenth century advanced, added beets to their fields. ¹⁹⁷

McKenney reports that in the area of Little Traverse Bay, Ottawas grew enough corn by the late-eighteenth century that they were shipping their surplus for sale to Mackinac Island, where it was purchased and consumed by Euro-American traders and officials. "The Ottawas of L'Arbre Croche have been for many years the most improved Indians in those regions, and upwards of fifty years ago supplied Michilimackinac with corn, and other articles of subsistence." ¹⁹⁸ Schoolcraft noted in 1837 that the northern Ottawas, particularly those at Little Traverse Bay, produced a "limited crop of corn," which they "sold in the Mackinaw market." ¹⁹⁹ Place names, such as Garden Island in Charlevoix County, sometimes refer to Indian agricultural

¹⁹⁴ John Clark to HRS, Sault Ste. Marie, July 2, 1836, NAM1R37 42.

¹⁹⁵ HRS to C.A. Harris, Annual Report, Sept. 15, 1837, NAM234R422, frs., 729-746.

¹⁹⁶ H.H. Cuming, Ottawa Protestant Episcopal Colony, Wayland, Michigan, Nov. 26, 1846, in NAM234R426 107-109; James Ord to W. A. Richmond, Sault Ste. Marie, Oct. 20, 1847, NAM234R426 frs. 225-228.

¹⁹⁷ George Nelson Smith, Journal, microfilm, reel 1, entry for June 8, 1840; Peter Dougherty to Walter Lowrie, Grove Hill, Dec. 8, 1860, in Peter Dougherty Papers, Microfilm Reel 1, both at the Bentley.

¹⁹⁸ McKenney, Tour to the Lakes, 167.

¹⁹⁹ HRS to C.A. Harris, Annual Report, Sept. 15, 1837, NAM234R422, frs. 729-746.

activity.²⁰⁰

Ottawas and Chippewas themselves referred to the importance of agriculture to their lives when, in 1841, they petitioned the President of the United States to provide them with access to a debt fund created by the Treaty of 1836. They made their request during one of the most serious economic depressions the United States has ever experienced, that beginning with the so-called panic of 1837. Noting a rise in debt among their "young men," they feared that if they were not able to pay off these debts, then "the avails of their huntings, their fishings, and their corngrounds will be all liable to seizure. . . ." ²⁰¹

Herbs, Medicines, and Charms

Basic subsistence activities and trade draw the most attention from scholars, but the land, with its inland waters, also provided herbs, barks, and other plant life, as well as some animal matter, to be used for mild stimulants, medicines, and for religious purposes. According to Yarnell, some "325 native plant species were utilized by the Indians of the Upper Great Lakes region for purposes that were not essentially food uses."²⁰² Frances Densmore's 1928 study of plant use by Ojibwas to the west of Michigan details medicinal plant use extensively.²⁰³ This report cannot reproduce such detail; it can only hint at the knowledge native peoples have had of the Great Lakes environment and its uses.

²⁰⁰ Virgil J. Vogel, Indian Names in Michigan (Ann Arbor: University of Michigan Press, 1986), 91-92.

²⁰¹ Petition of the Chiefs of the Ottawa and Chippewa Nations to the President of the United States, no date, but among 1841 materials, NAM234R425, fr. 214-215.

²⁰² Yarnell, "Aboriginal Relationships," 105.

²⁰³ Frances Densmore, How Indians Use Wild Plants for Food, Medicines, and Crafts (New York, 1974 [1928]), 337-367.

In his captivity narrative, John Tanner lights now and then upon Indian herbology. Tanner was a perceptive observer of the Indians' religion. He understood the importance of ceremony to hunting, for example. The Chippewas venerate Nanabush, who, among other benefits bestowed upon humanity, "sent down roots and medicines of sovereign power to heal their sicknesses, and, in times of hunger, to enable them to kill the animals in the chase." Nanabush entrusted his gifts to the earth, known also as "great-grandmother" or "Me-suk-kum-mik O-kwi." When Indians sought out these powerful things, they "never dig up the roots of which their medicines are made, without at the same time depositing in the earth something as an offering to Me-suk-kum-mik O-kwi."²⁰⁴ Over a century later, Jenness found the same practices among Chippewas in Ontario: "when a medicine-man gathers roots or leaves or bark, he appropriates the soul of each plant by placing a tiny offering of tobacco at its base, believing that without the co-operation of the soul the mere 'body' of the plant can work no cure."²⁰⁵ Jenness also notes the use of red osier dogwood as an astringent in Ontario. We can cross-reference this with Sean Dunham's finds of the same plant, cached at an archeological site in Western Michigan.²⁰⁶ The list of herbs compiled by Jenness is long.²⁰⁷

²⁰⁴ Tanner, The Falcon, 184-185; Newbigging, "The History of the French-Ottawa Alliance," 60.

²⁰⁵ Jenness, The Ojibwa Indians, 21.

²⁰⁶ Dunham, "Cache Pits," 239.

²⁰⁷ Wintergreen and creeping juniper are noted as common herbs; hawthorn spine is for arthritis; boneset for wounds; wild lettuce for bee and wasp stings and also for common colds; dogbane for poison ivy; the unidentified salamander plant for backaches; red osier dogwood for dysentery; and "fern root hair gathered beneath the yellow berries of the kapakumish (salmon berry?)" for easing child-birth. Jenness, The Ojibwa Indians, 17, 89. Herbologist Alma Hutchins notes that boneset (also called thoroughwort, Indian sage, and ague weed) has many other uses, as a tonic, an emetic, and for "dropsy, intemperance, acute and chronic rheumatism, bilious fevers, influenza and especially where there is aching of the bones." To the list she also adds dried dogwood bark, as a tonic, astringent, and mild stimulant. See Hutchins, Indian Herbalogy of North America (Boston, Shambhala, 1991), 60-61, 111-112 ****Page 112 not produced.**

For general well being, Indians used sweat lodges. Properly conducted, sweat lodge ceremonies required "cedar boughs," "feathers, or the branch of some evergreen tree," and a "decoction of the leaves of several evergreens (Pine, white cedar, spruce & balsam)."²⁰⁸

Tanner noticed that ceremonial leaders who seemed immune to fire actually had prepared their bodies with an ointment: "The plants they use are the Wa-be-no-wusk, and Pe-zhe-ke-wusk." The first, yarrow, was found abundantly on Mackinac Island and the latter, the English name for which Tanner did not identify, was a prairie dweller. Tanner noted that the Indians regularly used yarrow as a "remedy for burns," but when the two were mixed, he claimed, they yielded "an astonishing power of resisting the effects of fire." Herbolgist Hutchins notes of yarrow that it has astringent, alterative, diuretic, and tonic properties. She states that "The Indians used the leaves as a poultice for skin rash."²⁰⁹

The Indians knew of ginseng growing on the "Black River or Iroquois" [now called the Macatawa River] eight miles north of the Kalamazoo River (just south of our region) according to Henry Rowe Schoolcraft in 1821.²¹⁰

Smoking, a practice that the Europeans learned from Indians, was not a matter only of tobacco, some of which would have been imported from the South by the early nineteenth century. Chippewas also commonly smoked a plant called "kinnikanic, a kind of fragrant weed that has a leaf like our box wood, and is gathered from a vine."²¹¹

²⁰⁸ "Journals, Letters and Reports of Dr. Douglass Houghton" [1831-1832], in Philip P. Mason, ed., Schoolcraft's Expedition to Lake Itasca (East Lansing, Michigan State, 1958), 281

²⁰⁹ Tanner, The Falcon, 123; Hutchins, Indian Herbolgy, 313-314.

²¹⁰ HRS, Travels through the Northwestern Regions, 397.

²¹¹ McKenney, Tour to the Lakes, 180, Newbigging, "The History of the French-Ottawa Alliance," 60.

An abundance of charms could also be harvested from the Chippewas' and Ottawas' surroundings. Jenness points out that these medicines were very much in use on Parry Island (Ontario) in his day, a fact that sometimes fed animosities.

If three Indians go fishing, and one catches far more than the others, the less successful fishermen will feel aggrieved, never doubting that their companion is surreptitiously using medicine. Every summer a local hotel employs a few Parry Islanders to guide visiting tourists to the best fishing grounds; and the two Indians most frequently engaged are openly charged with doctoring their hooks with medicine to ensure that their employers will feel quite satisfied with their services.²¹²

Suffice it to say here that Indians hoped to have continued recourse to medicines, ceremonial matter, charms, spices, and stimulants after 1836.

Summary

By the time the United States became active in the western and northern portions of the Lower Peninsula and the eastern portions of the Upper Peninsula, Ottawas and Chippewas were frequenting the inland areas on a regular basis. They farmed, hunted, trapped, fished, gathered foods, collected medicines, selected craft materials, found construction materials, took salt, tapped and processed maple sugar, and traveled throughout the region. They were already engaged in the international fur trade, a trade they also contributed to by provisioning traders from their fields and gardens, by poling and paddling water craft, by carrying messages, by standing as military allies, and by other activities. Fish, cranberries, maple sugar, and other goods were also becoming marketable, and the Indians engaged in the trade.

²¹² Jenness, The Ojibwa Indians, 84.

CHAPTER THREE: NATIVE AMERICAN VIEWS OF LAND USE IN MICHIGAN

Ottawa/Chippewa Territoriality

This section discusses Ottawa and Chippewa understandings of land tenure, tribal land rights, usufructuary rights, and private property from early times to the 1830's. These conceptions are important to any understanding of the Ottawas' and Chippewas' involvement in the Treaty of Washington of 1836. In Article 13, the Ottawas and Chippewas sought and received from the United States assurances that, even on territories they were ceding, they would continue indefinitely to exercise broad usufructuary rights on unsettled lands. Such sharing of resources, with one people working another's territorial resources with express permission, had precedent among these peoples. A country's belonging to a people did not necessarily imply its exclusive use; one people could share their territory with another. Ottawas, Chippewas, and Potawatomis would be very familiar with such arrangements.

U. S. agents, missionaries, and Native American authors writing in the nineteenth century were in remarkable agreement about the controlling rights of families, bands, and tribes to their hunting grounds. It is important to note that the family, band, and tribe, not the individual (except as the leader of such units), were considered to be the units possessing the right to manage hunting in a specific territory. A band chief, in other words, might exercise control over a certain territory, but he did so for the band, not for himself.

C. C. Trowbridge, an agent at the Sault in 1830, noted the visit of Kawgeosh (listed on the Treaty of 1836 as a Sault Ste. Marie chief "of the first class") to his office. Kawgeosh complained that "the Grand Island Indians every year, and especially last fall, come within the

limits of their hunting grounds and kill and drive off nearly all their game, he thought it hard they should do so, as their Fathers before them never trespassed or interfered with their hunting," and he offered this to explain his people's inability to "pay their credits. . . ."¹ This band leader was complaining of the intrusion of another band into what he claimed was a hunting territory under his authority.

In 1847, Baraga, wrote of the Chippewas that "Each family of this tribe has a certain hunting region, to which the members of the family have a particular and exclusive right. Intrusions on these tracts are the most common source of disputes among the Indians, and sometimes also of bloodshed."² In 1848, Peter Dougherty, Presbyterian missionary at Grand Traverse Bay, noted, like Baraga, that

Each family has a certain hunting ground and trespass was in former times considered to be a sufficient cause for retaliation on the life of the trespasser. Now the one against whom the trespass is committed has the right to go to the lodge of the offender and take from him property to satisfy himself. In case of trespass by one tribe on the hunting ground of another tribe, the injured party sends a message to the other, and if satisfaction is not rendered it becomes a just cause of war.³

Francis Assikinack, born about 1824, an early Ottawa historian, published the following view in 1858. Assikinack was the son of a Drummond Island leader of the same name, who, from 1827 to around 1830, resided at L'Arbre Croche. His name is on the articles of agreement.

Each of these tribes had to maintain a small sovereignty of its own and for its own use. The members of the neighboring tribes had no right to go beyond the limits of their respective districts on their hunting excursions, and encroach upon that belonging to

¹ C. C. Trowbridge, "Portion of a Journal Kept at the Sault," entry for June 14, [1830?] page 1, in C. C. Trowbridge Papers, Bentley.

² Baraga, Chippewa Indians, 25.

³ Peter Dougherty to War Department, Office of Indian Affairs, Grand Traverse Bay, Jan. 21, 1848, HRSP/DLC/SHSW, reel 37, Container 49, part 2, n.p.

others. Any hunter that was caught trespassing upon the rights of other tribes, or taking beaver in the rivers running through their lands, was in danger of forfeiting his life on the spot for his rashness.⁴

Another Canadian Indian, the Ojibwa historian Peter Jones, published his History of the Ojebway Indians in 1861. Like the others, he states that tribes and families possessed particular hunting territories:

Each tribe or body of Indians has its own range of country, and sometimes each family has its own hunting grounds, marked out by certain natural divisions, such as rivers, lakes, mountains, or ridges; and all the game within these bounds is considered their property as much as the cattle and fowl owned by a farmer on his own land. It is the peril of an intruder to trespass on the hunting grounds of another.⁵

With striking similarity, the Chippewa, Ottawa, European, and American writers agree that Ottawas and Chippewas did establish family, band, and tribal hunting territories. In 1827, Schoolcraft reported the hunting territory of his mother-in-law's father, Waub Ojeeg, to be vast and cherished. Waub Ojeeg had been a leading member of the Chippewas at La Pointe, and his territories extended "from the Montreal river to the Broule of Fond du Lac," all to the west of the region under consideration. But he was connected, too, with Indians in the Sault Ste. Marie region, and it is worthy of note that he guarded "with jealousy his rights to hunt in certain parts of the country, and esteeming the intrusions of others a trespass which he on one occasion in particular, punished in an exemplary manner."⁶ In suggesting that such a vast territory belonged to the single man, Schoolcraft clearly meant that Waub Ojeeg held the land for his people.

The writers also suggest that violations of these were serious matters that could lead to

⁴ Assikinak, "Legends and Traditions," 117. For the elder Assiginack see J. Garth Taylor, "Assiginack's Canoe: Memories of Indian Warfare on the Great Lakes," The Beaver 49 (1986): 51.

⁵ Quoted in Donald B. Smith, "Aboriginal Rights a Century Ago," The Beaver 67/1 (1987), 14.

⁶ Mason, ed., Schoolcraft's Ojibwa Lodge Stories, 54.

violence. Schoolcraft underscores the point with a Michigan story.

Some years ago, a Chippewa hunter of Grand Traverse Bay, Lake Michigan, found that an Indian of a separate band had been found trespassing on his hunting grounds by trapping furred animals. He determined to visit him, but found on reaching his lodge the family absent, and the lodge door carefully closed and tied. In one corner of the lodge he found two small packs of furs, these he seized, He then took his hatchet and blazed a large tree. With a pencil made of a burned end of a stick, he then drew on this surface the figure of a man holding a gun, pointing at another man having traps in his hands. The two packs of furs were placed between them. By these figures he told the tale of the trespass, the seizure of the furs, and the threat of shooting him if he persevered in his trespass.⁷

This sheds light on Schoolcraft's certification, in 1833, of Sault Ste. Marie Chippewa "Chief"

Wayishkee's rights to hunt on a particular territory:

The bearer hereof Wayishkee, a Chippewa Chief represents, that his hunting grounds embrace all the creeks and water courses running into the river St. Mary; or the Lake, between the reservation at the Big Rock and Misconabee Seebe. That this is the allotment originally made to him, upon which he has hunted from a youth, and which he claims as belonging to him. Facts, so far as my knowledge extends, sanction this statement. During a residence of eleven years at the station as Agent, he has occupied the district referred to. And I have no objection to grant this certificate, at his request, expressing these facts, and adding my official sanction to his enjoyment of the right set forth.⁸

⁷ Schoolcraft, Personal Memoirs, 695. Schoolcraft's passage is meant to illustrate the Chippewas' use of pictographs, but it also illustrates the conception of territoriality held by the offended hunter. There is some ambiguity in Schoolcraft's description, for the hunter was correcting the violation committed by a man "of a separate band. . . on his [that is, the hunter's] territory." This almost suggests that the hunter himself held the territory, but since Schoolcraft emphasized that the trespasser belonged to a separate band, it is my opinion that the trespasser's band affiliation was the difficulty between the two men. Elsewhere Schoolcraft affirms that while hunters did possess an individual right to hunt on their particular range, that range was "assigned" to them by the "chief." The right belonged, then, not to the individual but to the group, whose leader determined its use.

It is the rule of the chase, that each hunter has a portion of the country assigned to him, on which he alone may hunt; and there are conventional laws which decide all questions of right and priority in stalking and killing game. In these questions, the chief exercises a proper authority; and it is thus in the power of these forest governors and magistrates, where they happen to be men of sound sense, judgement and manly independence, to make themselves felt and known, and to become true benefactors to their tribes [from Schoolcraft, The Indian in His Wigwam, 142, quoted in Janet E. Chute, Legacy of Shingwaukonse, 259, n. 13.]

⁸ Henry R. Schoolcraft, Sault Ste. Marie, May 26, 1833, typed transcript, headed in pencil, "found loose in the Chase S. Osborn Papers, 1912," filed in the Henry R. Schoolcraft Papers, Bentley.

The rights of this "Chief" extended to the members of his band. According to historian Janet Chute, writing of the Chippewas, "the head man of each extended family maintained a hunting territory, several hundred square kilometres in area, for the exclusive use of himself and his immediate kin unit. The band chief often exercised a regulating influence over the hunting territory system, and he might intervene if disputes over boundaries arose."⁹

As environmental historian William Cronon puts it in an elegant, succinct, and highly regarded discussion of New England Indian conceptions, "Territorial rights of this kind, which were expressions of the entire group's collective right, tended to be vested in the person of the sachem, the leader in who the village's political identity at least symbolically inhered. . . ."

A sachem's land was coterminous with the area within which a village's economic subsistence and political sanctions were most immediately expressed. In this sovereign sense, villages were fairly precise about drawing boundaries among their respective territories. . . . When two sachems made an agreement to transfer land, however, they did so on behalf of their two political and kinship communities, as a way of determining the customary rights each village would be allowed in a given area."¹⁰

Change the word sachem to ogema, and the same words could apply to Ottawas and Chippewas. It is not, in a sense, the land itself that is being held or exchanged, but the rights to use it. As Cronon explains, among Indian villagers, "the concept of usufruct right was crucial, since different groups of people could have different claims on the same tract of land depending on how they used it. . . . Property rights, in other words, shifted with ecological use."

Cronon makes it clear that the New England Algonquian village leaders could, and did, exchange their village's rights with others; those exchanges amounted to the sharing of the land,

⁹ Chute, Legacy of Shingwaukonse, 11.

¹⁰ William Cronon, Changes in the Land: Indians, Colonists, and the Ecology of New England (New York, 1983), 59-61.

or better, its resources. He provides an illustration from an early exchange in the Connecticut Valley, in which villagers traded four or five miles of land with Thomas Pynchon, retaining, "all that cottinackeesh [planted ground -- Cronon], or ground that is now planted; And have liberty to take Fish and Deer, ground nuts, walnuts akornes and sasachiminesh or a kind of pease." As Cronon puts it, "The rights they gave Pynchon were apparently to occupy the land jointly with them, to establish a village like their own where cornfields could be planted, to conduct trade there, and perhaps to act as a superior sachem who could negotiate with other villages about the land so long as he continued to recognize the reserved rights of the Agawam village."¹¹

The digression to New England Algonquians in the seventeenth century can help us grasp the understandings of nineteenth century Algonquians of the Great Lakes, though the latter might have had greater experience with Euro-American property concepts. Sharing the resources of the land, for example, was something that Ottawa and Chippewa groups did routinely in exercising their alliances and external relations.

John Tanner lived through such sharing, and he also lived through the period of the treaty. Tanner's descriptions of his life as a hunter include some discussion of territoriality, which has been analyzed by historian Robert Doherty.

Most of the instances Tanner relates took place well to the west of Lake Superior, even along the Red River in Manitoba. But they involve Michigan Ottawas and Michigan Chippewas. Doherty concludes that "even among Chippewas relatively independent of the market, local residents claimed first access to harvest rights and outsiders were to gain their permission before using these resources." Tanner was once told that he "had no right in this part of the country."

¹¹ Cronon, Changes in the Land, 63, 66-67.

Doherty records another incident: "In the second case, Waw bebe nai sa (White Bird) seized Tanner and told him to look upon his grave, 'You are a stranger . . . and have no right among us, but you set yourself up for the best hunter, and would have us treat you as a great man,'" Tanner had better luck when he secured assent from leaders who had the power to grant it. As Doherty puts it

On three occasions, Tanner acquired harvest rights after gaining permission from the local residents. He and his family were traveling along the Red River (in present Manitoba) when they came upon a large group of Chippewas and Ottawas camped at the mouth of the Assiniboine. The chiefs discussed Tanner's family and its need for support. Several men offered to hunt for them and to share whatever they killed. Later, Tanner reported, "the Indians gave Wa-me-gon-a-biew [Tanner's brother by adoption] and myself a little creek, where were plenty of beaver, and on which they said none but ourselves should hunt." On another occasion, at the beginning of the sugar season, Tanner "went to Ki-nu-kqu-ne-she-way-boat. We applied to the Indians there to give us some trees to make sugar. They gave us a place where there were a few small trees." At another time, he recalled that, "the chief of that country, from who I had previously obtained permission to hunt in a little piece of ground which I had selected and a promise that none of his people should interfere with me there," had tried to dissuade him from hunting alone in an isolated place where no one would be available to help him in time of need.¹²

Implications for Article 13

Ottawas and Chippewas, then, organized property differently than did the European colonists and the American citizens who followed them. There is little evidence for permanent, individual ownership of the land itself, but much to indicate that leaders had the power to permit outsiders to use the land or its particular resources. In particular, the assignment of usufructuary rights to those who did not hold a permanent claim to the land was a well-known practice of the Indians of the Upper Great Lakes. It is my opinion that in yielding their lands to the United States in the Treaty of Washington in 1836, the Ottawas and Chippewas were nonetheless

¹² Robert Doherty, ed., "We Don't Want them to Hold their Hands over our Heads: Economic Strategies of the L'Anse Chippewa, 1830-1860," *Michigan Historical Review*, 20/2 (1994), 58-60.

seeking, by Article 13, the permission to continue to use the ceded lands and the land's resources until it was needed by farmers and villagers, an unlikely event in much of the region. It was within their traditions and experience to see outsiders and even strangers hunting, fishing, gathering, tapping maple sugar, and even farming on lands not claimed by those individuals and the groups to which they fundamentally belonged. A right of soil did not preclude others from using the lands, as long as these others had sought proper permission. In many of the examples cited in the preceding section, violence against the intruders is merely threatened; permission to hunt, fish, or tap sugar is often offered. Article 13 stipulated that Indians would retain that permission at ceded places until American citizens came to settle them.

Some seventeen months before the treaty council, Schoolcraft recorded complaints that American citizens were harvesting resources from Ottawa and Chippewa lands without such permission. The complaints came in the face of an American proposal to withdraw a blacksmith shop from Fort Mackinac. Ottawas and Chippewas requested the enforcement of a rule preventing Americans from gathering resources beyond three miles of the fort. "If any wood is cut upon our land hereafter, we should be paid for it." Similarly, a group of "Chiefs of the Ottawas (sic) and Chippewas" demanded, "in council," federal payment:

for wood cut by the crew of the Light Ship, on Crane Island near Point Wagosons [There is today no "Crane Island" near Waugoshance Point, but Waugoshance Island is wooded and very near several off-shore lights]. Also, for wood cut on the Manito Islands near Sleeping Bear, by crews of vessels sailing into Lake Michigan, representing that there has been extensive depredations.¹³

Two years earlier, a leading Chippewa from St. Ignace intervened in a land-use dispute

¹³ Pabanmitabi's speech, enclosed in HRS to Senate and House of Representatives, in Congress, Oct. 15, 1834, NAM1R69 76; and HRS to Elbert Herring, Michilimackinac, October 25, 1834, NAM234R402 fr. 150, also in NAM1R69 78.

among American citizens. The Chippewa leader supported the right of one Mr. Martin to the hay mowed by an intruder, Mr. Stone. The Chippewa reported to Schoolcraft's brother-in-law that "old Mr. Martin's family have been in the habit of mowing on that prairie, since the point St. Ignace was first settled by the whites, and it is still his wish that they should occupy that prairie." He allowed the Martin family to "stack up the hay that Stone has mowed."¹⁴ Evidently, the land belonged to Chippewas. They had given a usufructuary right to Martin. Stone had violated their land and that right. The Chippewa leader set things aright by allowing Martin to take the hay harvested by Stone, and, at the same time, he carefully informed American authorities that he had done so. Both these incidents underscore the seriousness with which Ottawas and Chippewas took the abuse of their resources by outsiders, and, at the same time, they reveal that Ottawas and Chippewas could regulate peacefully the sharing of those resources with responsible allies.

We have seen that organized groups of Indians inhabiting a particular territory might allow specific or general usufructuary rights to other groups. This was true among the Ottawas and Chippewas. Indeed, according to Blackbird, who was a young boy at the time of the cession of 1836, the Ottawas presented such usufructuary rights as a gift to atone for the murder of a young Chippewa by one of their nation. The Ottawas maintained their long peace with the Chippewas, not only by "ceding a part of their country to the Chippewa nation" [now in the Grand Traverse region], but also by allowing the Chippewas "access to all the rivers and streams in the Lower Peninsula of Michigan, to trap the beavers, minks, otters and muskrats."¹⁵ Apart from the violence that preceded it, the arrangement bears some similarity to that of the Treaty of

¹⁴ George Johnston to HRS, Michilimackinac, 9 Oct., 1832, NAM1R68 522.

¹⁵ Andrew Blackbird, History of the Ottawa and Chippewa Indians of Michigan (1887), 15.

1836. Ottawas, ceding one portion of territory for a Chippewa band's settlement, also allowed the band to share with the Ottawas the trapping rights in Ottawa rivers and streams. The Treaty of 1836, in one sense, permitted Ottawas and Chippewas to continue their customary uses of the unsettled land, even as American citizens gained full access, under American law, to the lands. Blackbird later relates "our traditions" regarding an earlier Chippewa cession to the United States, that which relinquished a Chippewa claim to Mackinac Island: "they ceded it to the United States Government, but reserved a strip of land all around the island as far as a stone's throw from its water's edge as their encampment grounds when they might come to the island to trade or for other business."¹⁶

The life of a leading Chippewa from the Sault region, Shingwaukonse or Little Pine, provides another such proposed arrangement. Shingwaukonse, well-known to such men as United States Indian agent Henry Rowe Schoolcraft, was one of the many who risked alienating the United States by moving with his followers to the Canadian side of the St. Mary's River in the 1830's. There he rose to leadership, and along the way, according to his biographer, Janet Chute, "he was willing to reward those who helped him handsomely with usufructuary rights to hunting-grounds, sugar-maple groves, fisheries, mines, and timber locations which he considered to lie under his protective aegis."¹⁷

Cleland, in a recent study of Ottawa and Chippewa band territories, emphasizes that use of the lands, more than ownership in the soil, was the point:

band boundaries exist to circumscribe the resources collectively used on an annual basis

¹⁶ Blackbird, History, 20-21.

¹⁷ Chute, "A Unifying Vision," Journal of the Canadian Historical Association 7/7 (1996): 57.

by a group of related people. The boundaries between bands and sub-bands, therefore, are only as stable as these groups. Historical evidence suggests that during the 19th century they were quite stable.¹⁸

Cleland, like Blackbird, finds band territories that overlap, and peacefully so. Such overlapping was characteristic of places, for example, where fishing was especially rich: "the eastern part of Michigan's Upper Peninsula, and especially in the St. Mary's River and Straits of Mackinac region." Indeed, on the St. Mary's River, "at least six bands overlap in their use of these areas." Note that in this region, at least six bands shared the resources, yet another indication of the importance allied peoples could attach to the sharing of resources. The final pattern Cleland notes is distinguished not so much by size as by its greater complexity. In regions such as Southern Lower Michigan or the western tip of the Ontario peninsula, where agriculture was a primary provider of food, very large band territories were subdivided into "smaller sub-band territories, each organized around the resources regularly exploited by the people of several related villages. During the winter season the whole larger territory is used."¹⁹

By 1836, it is important to note, many Ottawas and Chippewas would have understood that citizens of the United States possessed different concepts of property, although it is difficult to know how well they understood those concepts. Both of these Indian peoples had a great deal of experience with European traders, military officials, missionaries, and even some colonists in the region of the Great Lakes. In public and private dealings with the French, the British, and the Americans, the Indians could not have remained fully ignorant of, or unaffected by, such

¹⁸ Charles Cleland, "From Ethnohistory to Archaeology: Ottawa and Ojibwa Band Territories of the Northern Great Lakes," in Barbara J. Little, ed., Text Aided Archaeology (Boca Raton, Fl, CRC Press, 1992), 99.

¹⁹ Cleland, "From Ethnohistory to Archaeology," 99-100.

concepts as private land ownership, credit, and debt.

Signs of the influence of American concepts of property were present by 1836. Robert Doherty notes that Tanner's narrative contains reports that Indians who lived near white communities had begun to abandon the cultural imperative to be generous to hungry visitors. Tanner's family, on the verge of starvation, was rescued by "a Muskegoe or Swamp Indian," who "took us into his own lodge, and while we remained with him, we wanted for nothing. Such is still the custom of the Indians, remote from the whites; but the Ottawas, and those near settlements have learned to be like the whites, and give only to those who can pay."²⁰

Yet contact with the Atlantic marketplace did not eradicate the cultural tendency of Ottawas and Chippewas to view their economic resources and responsibilities from the family, band, and tribal perspective more than from the individual perspective. Indeed, certain aspects of their relations with the United States may have *reinforced*, not degraded, the tribal or national, rather than the individualistic, orientation of Ottawa and Chippewa economics. So Baraga proposed in 1847, when he noted that "In treaties with the US, Indians have been taught to sink individuality in their debts into nationality; and they ever since try to do so, as much as their Agents and Paymasters are willing to admit of it." This sinking of individual debt into a national land cession would be as much a feature of the Treaty of 1836 as would the sharing with American citizens of hunting, fishing, and other usufructuary privileges.²¹

Much as Indians gained some understanding for American forms of property, American settlers in Michigan could recognize and honor Indian arrangements with the United States. The

²⁰ Doherty, "We Don't want them to Hold their Hands over our Heads," 58.

²¹ Baraga, Chippewa Indians, 31-32.

Great Lakes had a long history of European accommodation to Indian social and cultural arrangements. Writing of the complex relations between settlers and Indians in the southern reaches of the state (in its territorial phase), historical anthropologist Kenneth Lewis observes that "Americans acknowledged that Native people controlled certain natural resources as long as they occupied the land." He quotes, as an example, one George W. Lawton, who saw Ottawas and Potawatomis as possessing "an 'unalienable right' to possess the fisheries, the huckleberry and cranberry swamps, and held a monopoly of the basket business."²² Given such understandings south of the Grand River, it would not be unreasonable for Ottawas to see them as operational north of the river. Federal treaties partook of Indian concepts of property, and Article 13 would do so as well.

Ottawa and Chippewa Attitudes Toward the Land

This section discusses the ways in which the Ottawas' and Chippewas' traditional religious beliefs shaped their views of the land. It is important to recall that Ottawas and Chippewas held very much to the same worldview and spoke the same language.²³ The land was more than an economic resource. Any full understanding of both the land cessions and the broad rights contained in Article 13 should involve the noneconomic importance of the land.

While it is commonly understood today that North American Indians held (and hold) the land to be rich with sacred potential, the specific nature of this understanding, the specific understandings of individual nations, tribes or bands, at particular times in the past, are much less well-known. The written record does, however, confirm that the Ottawas and Chippewas in the

²² Kenneth Lewis, West to Far Michigan: Settling the Lower Peninsula, 1815-1860 (East Lansing, 2002), 155.

²³ See, eg., Newbigging, "The History of the French-Ottawa Alliance," 36.

nineteenth century and before saw their world as alive with sacred powers. All things were not equally sacred, nor was any one thing sacred in any simplistic, generalized manner. For the purpose of this report, the sacred significance of several specific locations will be briefly investigated; no exhaustive study of the issue has yet been undertaken for the region under consideration.

Ottawas and Chippewas saw sacred connotations in many of the places they encountered as they traversed their landscape. The historical record is unfortunately thin; Indians learned that there was little to be gained by revealing such information to visiting Christians. Speaking on such matters could lead to the ridicule of their faith, or, worse, to the plundering of their cultural heritage by curiosity seekers. But sometimes, the location of sacred sites, such as burial grounds, does appear in the record. In 1848 Indian agent William Richmond noted of the Chippewas on the Upper Peninsula and the surrounding islands that they had a strong desire to purchase their "fields and camping sites, which are generally adjacent to fishing grounds and spots endeared to them by the tenderest associations of life."²⁴ Blackbird, a Presbyterian who was generally sympathetic with his peoples' religious traditions, but who nonetheless occasionally derided them, noted that they "foolishly believe that there are certain deities all over the lands who to a certain extent govern or preside over certain places, as a deity who presides over this river, over this lake, or this mountain, or island, or country, and they were careful not to express anything which might displease such deities. . . ."²⁵

Schoolcraft was a little more specific, but said much the same thing, in 1827: "For the

²⁴ Wm Richmond to Wm Medill, Detroit, Nov. 6, 1848, NAM1R40 233-237.

²⁵ Blackbird, History, 14.

hills and mountains, they have a class of fairies or little men, called Ininees. For the lakes and rivers, and cataracts, they have a class of water-spirits, who perform the office of Naidis. And for the forests and woods, there is a very numerous class of vocal spirits and daemons."²⁶

The record holds several statements from the period of treaty-making that reveal the general character of Chippewa and Ottawa beliefs regarding the sacred character of the land. By the middle of the nineteenth century, the idea that the Great Spirit had made the country exclusively for the Indians, and that the Great Spirit intended particular lands exclusively for particular Indians, was well-established. Baraga wrote of the Chippewa Indians in 1847 that "Their general opinion is that they have been made in this country, and the spirit who made them, gave them these lands." He later added:

Respecting this country the Indians say that the mighty manito, who made the earth, has made them a present of these lands, and to them exclusively; and they say he did the same with other tribes. They say when a nation invades the territory of another for purpose of dispossessing them, they act of course wrong. But a nation may cede its territory to another in a peaceful treaty.²⁷

The following year, Dougherty wrote from Grand Traverse Bay that "The common opinion, of these people, is, they were created by the Great Spirit on the lands which the tribe occupies." After the Great Spirit created the first pair of human beings, he turned to the Ottawas.

The next pair were the O-dah-wah [Ottawa] to whom was given the country they still occupy viz the Peninsula south of the straits of Mackinac. The next pair were called O-jib-wa [Chippewa] and the country lying north of the straits of Mackinac was given to them. Some of the O-jib-wa bands occupy part of the O-dah-wah country south of the

²⁶ Mason, ed., Schoolcraft's Ojibwa Lodge Stories, 117.

²⁷ Rev. Frederick Baraga, Chippewa Indians (New York-Washington: Studia Slovenica/ League of Slovenian Americans, 1976), 8, 31.

straits. It was given by the latter to the former to settle a difficulty. . . .²⁸

That same year, Shingwaukonse demonstrated his similar understanding of the sacred origins of aboriginal rights in the land. At issue was whether or not the Chippewas had a claim to lands coveted by Canadian commercial interests for mining east and north of Lake Superior. Shingwaukonse declared that

The Great Spirit, we think, placed these rich mines on our lands, for the benefit of his red children, so that the rising generation might get support from them when the animals of the woods should have grown too scarce for our subsistence. We will carry out, therefore the good object of our Father, the Great Spirit. We will sell you [the British government of Upper Canada] lands, if you will give us what is right and at the same time, we want pay for every pound of mineral that has been taken off our land, as well as for that which may hereafter be carried away.²⁹

It is noteworthy, too, that Shingwaukonse expressed concern for the future, for the "rising generation." He asked that the arrangement made by the British-Canadian government *not* be one that settled matters once and for all, but one that *maintained* a British-Canadian obligation to provide royalties into the future. This is characteristic of Ottawa and Chippewa approaches to land cessions in the United States. Cessions are not simply about land; they establish relationships, with obligations.

Schoolcraft knew that Ottawas and Chippewas understood the land to be inhabited by many sacred powers. He describes this understanding in a passage explaining the practice of winter story telling. During the winter months, Indians told and heard the stories that, along with ritual and practice, made up their faith. It was precisely nature's sacred abundance that made it

²⁸ Peter Dougherty to War Department, Office of Indian Affairs, Grand Traverse Bay, Jan. 21, 1848, HRSP/DLC/SHSW, reel 37, Container 49, part 2, n.p. Dougherty's last line recalls Blackbird's relation of Chippewa settlement in northwestern Michigan.

²⁹ Janet E. Chute, "Shingwaukonse: A Nineteenth-Century Innovative Ojibwa Leader," *Ethnohistory* 45 (1998), 79.

imperative to tell many of these stories only in the winter:

The Chippewa Indians say the woods and shores, bays and islands, are inhabited by innumerable spirits, who are ever wakeful and quick to hear everything during the summer season, but during the winter, after the snow falls, these spirits appear to exist in a torpid state, or find their abodes in inanimate bodies. The tellers of legends and oral tales among them are, therefore, permitted to exercise their fancies and functions to amuse their listeners during the winter season, for the spirits are then in a state of inactivity, and cannot hear. But their vocation as story tellers is ended the moment the spring opens.... It is said that, if they violate the custom, the snakes, toads, and other reptiles, which are believed to be under the influence of the spirits, will punish them.³⁰

More specific references are also in the record. Ottawa historian Assikinack expressed the Ottawa view that spiritual great serpents and spiritual water panthers dwelt both in the waters and in the recesses of the earth:

As regards the inferior divinities: some were supposed to dwell in the sky and clouds, some in mountains, and others in lakes, rivers and in the subterranean passages which were said to lead from the deep parts of lakes into the bowels of the earth. Some of these inhabiting the watery caverns were supposed to be extremely malicious, always seeking to destroy the human beings who might happen to be on the water in the time of storms, instead of protecting them.³¹

Another figure, in this case a man physically present at the Treaty of 1836, recorded a specific Ottawa sacred tradition regarding a place. McCoy noted of Gun Lake, south of the ceded territory between the Grand and St. Joseph Rivers, that it

was supposed by the Ottawas to be the Bode of spirits, who sometimes performed strange feats. It was by them called Gun lake, because, as they said, a noise was often heard in it, like the report of a gun at a distance. In one place they said there was a large heap of ashes, the summit of which rose almost to the surface of the water. They supposed it had probably been accumulating hundreds of years, by being carried from a fire which they thought might be kept near it. It was said, also, that the trunk of a large tree had been standing in the water many years, the top of which extended a little above the water. It

³⁰ Schoolcraft, Personal Memoirs, 678-679.

³¹ F. Assikinack, "Legends and Traditions of the Odahwah Indians," Canadian Journal of Industry, Science, and Art 3 (1858), 122.

was supposed to be held there by some supernatural agency, and, should any one have the temerity to approach it, his canoe would certainly be capsized by an invisible hand.³²

If waters and caverns held religious associations, so too did many rock ledges and cliff sides. Within the ceded lands was one such place, which received enough Indian attention to impress McKenney. McKenney in 1827 published the following account of his encounter with a rugged shrine on the north side of North Point, north of Thunder Bay, in the Northeastern part of the Lower Peninsula.

It is about one hundred yards from our encampment, and forty steps from the beach, in a thicket of pine and spruce, and aspen. The place is cleared of all kinds of undergrowth, and is of an oval figure, about twenty feet by ten, in the longest, and broadest parts. In the centre of it are about twenty stones, four of which are larger than the rest; and each of these, I should judge, would measure three feet every way. The path leading to this sacred place is well trod by those who come to make their offerings to this pile of stones, which is the manito! Upon the four principal stones were the offerings of these benighted people, in tobacco, bits of iron, pieces of old kettles, pipes, and various other things. The four large stones the Indians said had been there always, and the little ones had gathered round them since.

These offerings are made to secure the pleasure of this god, and to obtain from him the favour of a fair wind, and protection in making the traverse of Thunder bay! . . .

One word more about the manito. It is true there is no impression of the foot of Buddou [Buddha] here; no brasen enclosure, and no gems, mean or costly, to enrich the place; and no streamers to attract attention to the spot, and to ornament it; nor is it surrounded with rhododendron, but it is with the cedar, the poplar, and the aspen, and the spot is sacred! Nor does any Indian ever think of passing without stopping to make the customary offerings. But there is no contrivance here, no superior wisdom, to deceive and extort from the superstitious the pittance they may have laboriously earned. It is the place of the Indians' own selection, and sanctified by their own belief in the power and justice of the deity who, in their opinion, resides there. . . .³³

McKenney's exclamation points and his surrounding commentary reveal that he thought it

³² Isaac McCoy, History of the Baptist Missions: Embracing Remarks on the Former and Present Condition of the Aboriginal Tribes; Their Settlement within the Indian Territory, and their Future Prospects (Washington: William M. Morrison, 1840), 302.

³³ Thomas L. McKenney, Sketches of a Tour to the Lakes, of the Character and Customs of the Chippeway Indians (Baltimore, 1827, reprint Minneapolis: Ross & Haines, 1994), 402-403.

a "pity" that Indians held to such beliefs. It is not surprising that he preferred his own faith. Still, to his credit, he could perceive that the Indians' beliefs were very much alive. And while it is unfortunate that he did not record the sacred stories that gave significance to this obelisk, such stories at similar locations do find their way into the written record. From across Lake Huron, in what is now Ontario, Diamond Jenness investigated life among a group of Canadian Ojibwas (Chippewas) in the early part of the twentieth century. He was told a story about an enormously successful hunter, Neweshipado, who accidentally killed two "spirit lions," the spiritual guardians of panthers. "So Neweshipado went up to the top of mount Pikudenong,³⁴ in the United States, where he sat down and turned into a white stone, known to the Indians today as Djingwabe." In viewing the stone, or in recalling it to a friend or family member, Ojibwas reminded one another of the dangers of improperly crossing the boundaries between the sacred and the profane; they also, more prosaically, stressed the dangers that accompanied too much success.³⁵

In 1847, Baraga recorded an observation that suggests that such sacred places were common. More sensitive to native belief than McKenney, he insisted that the Indians did not worship such stones themselves, but that the stones rather were places at which one might secure access to sacred power. "All their images are rather amulets than idols. There is among them no form of idolatry similar to that of the oriental world. When they see a water-worn or curiously shaped stone or boulder, they set it up, wonder at it, and say it is a manito; but they don't worship

³⁴ This could well be the 850-foot summit to the north of Deer Lake, recorded in Bourgeois, ed., Ojibwa Narratives, 156, as Kish ke quqy denong on the Upper Peninsula at 46.30' latitude and 87' longitude.

³⁵ Jenness, The Ojibwa Indians, 35; ****Not produced and not available in the DB.**

it. They lay pieces of tobacco on it in token of veneration."³⁶ Baraga's view that the sites were common was shared by Francis Nolin (a.k.a. Jacques LePique). LePique, son of Euro-Chippewa fur-trading parents, understood the Chippewa language and was raised surrounded by Chippewa culture, to which he was related by descent and marriage. He both interpreted and told Chippewa stories to the diligent collector, Homer Huntington Kidder, in the 1890's. After telling Kidder a story of manlike spirits who inhabited the cliff face of Cape Chaillon (Ontario, south of Wawa), Le Pique told Kidder that "There were spirits in nearly all great rocks and mountains."³⁷

Within the ceded area, in addition to the site McKenney noted, there are many sacred places located in the record. It is well-known, for example, that the main feature of Sleeping Bear National Park and the two nearby North and South Manitou islands, represent a sleeping mother and her two drowned cubs. As early as 1721 the story was reported by a French traveler, Pierre Charlevoix. It is likely that the story of the mother diligently watching over her swimming cubs provides an educational source of wonder and inspiration to members of Ottawa and Chippewa families. Less well-known is that the place has also been noted as the site of the safe landing of a canoe that preserved their ancestors after a great, destructive flood.³⁸

Blackbird noted that the "pine river country" around what is now called Lake Charlevoix, was for his people "the most famous resort" of the Pukwudjinnini, little spiritual beings much like men. Blackbird's spelling is "Paw-gwa-tchaw-nish-naw-boy." He pinpoints the area near what is now Boyne City as a kind of hot spot for these spirits. These beings tormented visitors

³⁶ Baraga, Chippewa Indians, 39.

³⁷ Bourgeois, ed., Ojibwa Narratives, 71; for LePique's parents see same, 17, and an unflattering description in Mason, ed., "Journal of Reverend William Boutwell," in Mason, ed., Expedition to Lake Itasca, 309.

³⁸ Virgil J. Vogel, Indian Names in Michigan (Ann Arbor: University of Michigan Press, 1986), 75-76.

with nightly noises, such as footsteps, or they brought unexplainable fright to isolated hunters and travelers. Blackbird concludes with the observation that "These remarkable, mischievous, audible, fanciful, appalling apprehensions were of very frequent occurrence before any other inhabitants or settlers came near to this place; but now, they do not have such apprehensions since many settlers came."³⁹

The Chippewas of Sault Ste. Marie were disturbed by an unintentional American violation of one of their sacred places even as the United States first occupied the Sault in 1820. Henry Rowe Schoolcraft noted the event. It happened as the army was constructing Fort Brady. Between the fort and the top of a hill known as "La Butte de Terre" by the French, or "Wudjuwong" (Place of the Mountain) by the Chippewas, stood a large, partially hollowed ash tree. The Chippewas believed that

there issued, on a calm day, a sound like the voice of a spirit or monedo [manito]. It resembled the sounds of their own drum. It was therefore considered as the residence of some powerful spirit, and deemed sacred. To mark their regard for the place, they began to deposit at its foot, bows and twigs of the same species of tree, as they passed it, from year to year, to and from their hunting grounds. These offerings began long before the French came into the country, and were continued up to this time.

Even after the great ash fell in a storm, Schoolcraft continues, the Indians continued to make offerings at the site, where young shoots grew up from the roots. Much to the Indians' dismay, the army built a road, "sixty feet wide," across the "site of the sacred tree, and men, without knowing it, removed the consecrated pile of offerings."⁴⁰

This kind of disturbance to Chippewa sacred places would occur again, most famously

³⁹ Blackbird, History, 22-23.

⁴⁰ Schoolcraft, Personal Memoirs, 99-100.

when the canal was built. The canal work disrupted a "small strip of land of about sixty acres" belonging to the Sault Ste. Marie Chippewas. J. P. Richardson wrote of the problem in a letter to the federal Indian commissioner in 1853: "As an encamping and fishing ground and home, this tract of land is of great value to them. It has long been their home and from the Rapids they have received their principal subsistence. Upon it [there is] ample room for the erection of their humble dwellings, for pasturage and the raising of vegetables. Upon it are also the graves of their fathers, sacred to them."⁴¹

The falls at Sault Ste. Marie, the rapids themselves, occupy a central place in the origin stories of the Chippewas of Michigan. The Chippewa name for the Sault is variously spelled: "Baouichtigouian," "Pahouting," "Bawatang," "Bawitig" and so on, varying through time and depending upon the language and training of the writer. It is a Chippewa word meaning "at the rapids." But it means more. In a study of the songs of the Chippewa religious ceremonies of the Midewewin, Thomas Vennum finds that pictographs employed in the sacred rolls of this society as place names for the falls "depict a human torso atop or astride some oblong object," and translate as "at the rapids, our grandfather." The term "Grandfather" suggests the spiritual importance of the place, for it "is a customary kinship term of affection used for the spirit Otter (or Bear, or wenaposo)." The last is a reference to the Chippewa and Ottawa culture hero, Nanabush, but in any case, the implication is that the rapids hold sacred importance.⁴²

⁴¹ J.P. Richardson to Mannypenny, Pontiac, Dec. 10, 1853, NAM234R404 frs. 229-231.

⁴² Alan H. Hartley, "The Expansion of Ojibway and French Place-names into the Lake Superior Region in the Seventeenth Century," Names 8 (1980), 53; Thomas Vennum, Jr., "Ojibwa Origin-Migration Songs of the *mitewiwin*," Journal of American Folklore 91 (1978), 784. Vennum worked with "The Mille Lacs-White Earth Papers," which were brought together by Fred K. Blessing, Jr., of Minnesota. They were collected from the two Chippewa reservations after which they are named. See Vennum's description of the sources on 756-757.

This would not have surprised Schoolcraft, who recorded the tradition that whitefish, a staple of the Chippewa diet, originated at the rapids in a sacred event.⁴³ West of the Sault, off Whitefish Bay, is the Tahquamenon River, with its well-known set of falls. When Schoolcraft once visited the falls, he learned that the Indians called them "Fairy Rocks." This meant "a species of little men or fairies, which, they say, love to dwell on rocks."⁴⁴ These little men are the Pukwudjinnini.

Further west, Bela Hubbard, a exploring the region for the state in 1840, pulled into a river he called the Twin River, now called the Two Hearted River. At the mouth he found a sand ridge, "clothed with pines"; it rose some fifty feet, and

conspicuous on the summit is the grave, probably of a chief. It is sheltered by logs and for still farther protection, as well as in honor of the dead, is surrounded by cedar pickets about 6 ft. high, forming a square. At the head or W. side of the grave was a cedar board driven upright into the ground and marked with the family name, or totem, of the deceased, besides sundry other devices. The totem was a bear drawn in red paint. Numerous trails led up to the spot, and the marks of a fire with the usual indian (sic) crane of 3 sticks united together at the top and having the opposite ends inserted into the ground for the purpose of hanging a kettle, were noticed close by. At this the voyaging indian (sic) cooks his feast and deposits a small portion for the use of the deceased.⁴⁵

Up the northern shore of the Upper Peninsula, the region that extends from the Bluff of Grand Sable, near Grand Marais, to the east for fifteen miles, has been recalled as the place where the animals all received their habits. The story follows: An old man, once abandoned as too decrepit to be of any further use, wandered about until he found a people betting and losing their lives in contests with animals. The old man intervened, and agreed to race the animals;

⁴³ Mason, ed., Expedition to Lake Itasca 94-96; Schoolcraft, Personal Memoirs, 124.

⁴⁴ Schoolcraft, Personal Memoirs, 194.

⁴⁵ Bela Hubbard Papers, Box 1, notebook 7, entry for June 7, 1840, Bentley.

ingeniously, he defeated them twice. But instead of killing those whom he defeated (as the animals had done to the humans), he subdued them. "He forbid them ever again to take the form of a man, and told each kind how they should live and what they should eat."⁴⁶

Grand Sable Lake was known to be a particularly "dangerous place--full of spirits." Small footprints were those of the Pukwudjinnini, the mysterious little wild men; larger tracks belonged to great spiritual serpents. William Holiday, whose father John Holiday had served as the main translator at the Treaty of 1836 and whose mother was Chippewa, reported seeing such serpents at the lake.⁴⁷ Over the course of the nineteenth century, the lake diminished in size, a phenomenon for which the Chippewas had a sacred explanation, one that served also to warn their people that Euro-Americans could be dangerous and powerful.

The Ojibwas [Chippewas] believe that this lake has for ages been inhabited by these serpents, which are as powerful as the Mishi Ginabig, though not the same, and that they own the lake and the water. They take the water with them when they leave, so that when they are absent the lake is low, and they bring it back when they return. Now, for a good many years, the lake has been very small, having broken through the sand and run off into Lake Superior. The Indians think the reason that the serpents have gone away is that they do not like the whites, whom the serpents believe to be as strong as themselves.⁴⁸

Around Lake Superior and along portions of the Saint Mary's River, Chippewas knew the powers of a class of manlike spirits, the Memegwessiwug. Folklorist Arthur Bourgeois notes that missionaries Baraga and Claude Dablon were both aware of the Memegwessiwug. He edits a story, related by Le Pique, that involves the Memegwessiwug. Although set at Cape Chaillon,

⁴⁶ The story was related by Charles and Charlotte Kawbawgam, through Jaques LePique, to Homer Huntington Kidder toward the end of the nineteenth century. Bourgeois, ed., Ojibwa Narratives, 92-95. The Kawbawgams spoke to Kidder in Ojibwa; the story was translated into English by LePique, and recorded, with some modifications, by Homer Huntington Kidder. See 23.

⁴⁷ Bourgeois, ed., Ojibwa Narratives, 45.

⁴⁸ Bourgeois, ed., Ojibwa Narratives, 47.

Ontario, the story has a bearing on the Painted Rocks region of the Upper Peninsula, as we shall soon see. The story also illuminates the importance of the Pukwudjinnini. The story deserves a full telling, because it suggests the kinds of lessons Chippewas of the nineteenth century taught one another, and how those lessons were lodged in a landscape. One can well imagine that the landscape provided reminders of how Chippewas were to conduct themselves. Surrendering such reminders to another nation would have meant enormous cultural sacrifice.

Kwasind, the story goes, was a free-spirited Saginaw Chippewa, whose life consisted of a little hunting, fishing, and a great deal of visiting. Kwasind's visits took place annually, in the summer, as he canoed around Lake Superior, using a paddle made only of cedar. After leaving his home, he would skirt the coast, cross the Straits of Mackinac, hug the coast again, ascend the St. Mary's River, follow the Upper Peninsula westward, round the enormous lake, and return to his home. His last trip was largely completed, when the spirits appeared. "Kwasind had passed Michipicoten [in present-day Ontario, near Wawa], on the north shore, and was paddling east toward Cape Chaillon." Here was a large cliff, and Kwasind spotted a canoe approaching it. Kwasind urged his canoe forward to meet them, but they turned "their heads down so that he could not see their faces." Kwasind called to them, and he heard the first paddler say to the last, "You look more like a man than I do. You speak to him." They were memegwessiwug.

Angered, Kwasind shoved their canoe into the rocks, but the beings with their vessel simply disappeared into the cliff side. Kwasind heard them still, however:

"Well, well; so Kwasind thought he could smash our canoe."

"Hush! Don't you know Kwasind is a manitou and can hear us, Keep still."

Kwasind passed on his way, descending the St. Mary's River and approaching Lake

George. There, on the north (Canadian) side, "are rocks called pukwudininniewug." Kwasind saw the beings of the same name, "little midgets," racing along the cliffs above him. He jeered at them, questioning their sacred power. "By the time he was passing along ten miles below, the little men, who had been getting more and more furious over his taunting, picked up stones to throw at him." When Kwasind batted away one of the missiles with his paddle, the cedar snapped. "His power must have been in his cedar paddle, for the next rock struck him on the head and killed him."⁴⁹ Kwasind, a man of too much independence, had apparently taken too many freedoms with the spirit world, forgetting his dependence upon it. Chippewas would remember his story as they saw the places where Kwasind was said to have passed.

Kwasind's story was told on the Upper Peninsula, and it has relevance for that place. The local historian of Grand Island, Beatrice Hanscom Castle, reported in the early years of the twentieth century that the caves in the area of the Pictured Rocks Lakeshore were used by Chippewas to propitiate spirits with gifts, generally gifts of tobacco or maple sugar. Indians went there also to deliberately seek sacred knowledge through fasting.⁵⁰ She cites J.W. Foster and J.D. Whitney, who in 1851 reported that

The Indian name applied to these cliffs. . . is Schuee-archibi-kung, or "the end of the rocks" . . . Our voyageurs had many legends to relate of the pranks of the Mennisougo in these caverns, and they invented stories "of this Indian deity."⁵¹

⁴⁹ Bourgeois, ed., Ojibwa Narratives, 71-72, 168. Editor Bourgeois notes that Basil Johnston, a late twentieth-century recorder of Canadian Ojibwa stories, "distinguishes pukwadjinineesuk from maemaegawaesuk and nebaunaube" (1976: 167-171). The conflict between Kwasind (Kawaesind) and spirits of sandy lake shores (pweesuk/pukwadjiininesuk) result (sic) in death by drowning." The citations are accurate. See Basil Johnston, Ojibway Heritage (New York, 1976).

⁵⁰ Beatrice Hanscom Castle, The Grand Island Story (1906; Marquette, Michigan, 1974, copy at the Newberry Library, Chicago), 46.

⁵¹ Castle, The Grand Island Story, 45, citing J.R. Foster and J. D. Whitney, Report on the Geology of the Lake Superior Land District (Washington, D.C., 1851), 123-125.

At nearby Grand Island, Henry Rowe Schoolcraft noted that the Chippewas considered it to be the "residence of Mishosha, who owned a magic canoe, that would shoot through the water by uttering a charmed word." Mishosha (Nanabush?) shared with Kwasind an unusual power to propel his canoe.⁵² Schoolcraft, writing from Sault Ste. Marie, also noted Kwasind as a presence in Chippewa life, calling him an embodiment "of strength."⁵³

Mackinac Island is featured in Blackbird's relation of an Ottawa story about the origins of the pukwudininniewug. Iroquois invaders, it was said, killed all but two of the island's inhabitants, a people called the "Mi-shi-ne-macki-naw-go."

[T]he two persons who escaped were two young people, and they were lovers. After everything got quieted down, they fixed their snow-shoes inverted and crossed the lake on the ice, as the snow was quite deep on the ice, and they went towards the north shore of Lake Huron. The object of inverting their snow-shoes was that in case any person should happen to come across their track on the ice, their track would appear as if going towards the island. They became so disgusted with human nature, it is related, that they shunned every mortal being, and just lived by themselves, selecting the wildest part of the country. Therefore, the Ottawas and Chippewas call them "Paw-gwa-tchaw-nish-naw-boy." The last time they were seen by the Ottawas, they had ten children--all boys, and all living and well. And every Ottawa and Chippewa believes to this day that they are still in existence and roaming in the wildest part of the land, but as supernatural beings--that is, they can be seen or unseen, just as they see fit to be; and sometimes they simply manifested themselves by throwing a club or a stone at a person walking in solitude, or by striking a dog belonging to the person walking; and sometimes, by throwing a club at the lodge, night or day, or hearing their footsteps, walking around the wigwam when the Indians would be camping out in an unsettled part of the country [note the use of the term unsettled], and the dogs would bark, just as they would bark at any strange person approaching the door.⁵⁴

Jane Schoolcraft in 1827 retold a sacred legend set in the Tahquamenon Valley. It involves Miscodeed, the daughter of Ma Mongazida, who suffered an attack by Fox Indians.

⁵² Schoolcraft, Personal Memoirs, 102; ****Not produced; we were given pp. 98-101, 112-113, 118-9, 122-5, 148-9, 162-3, 194-5, 240-1, 288-9, 302-3, 310-1, 316-7, 322-3, 458-9, 462-5, 520-5, 538-9, 543-4, 552-3, 570-3, 582-3, 586-7, 590-1, 628-9, 648-9, 658-9, 662-3, 678-681, 695-7.**

⁵³ Mason, ed., Schoolcraft's Ojibwa Lodge Stories, 117.

⁵⁴ Blackbird, History, 20-21.

Seeing both of her parents killed, she called out to her guardian spirit, a small, white bird, and her body fell, then disappeared. The enemy saw only the bird fly from the spot, and when friends later came upon the spot, they saw, at the spot of her disappearance, a "little white flower, bordered with a pink border which was at once destined to be her emblem."⁵⁵

On Grand Island and to the west as far as the mouth of the Chocoday River, which forms a western boundary of the ceded lands, there are several places whose Chippewa names suggest possible sacred connotations. On the island itself, near Williams Landing, was a place called, in two spellings, Kay tay o da na (old village) or geté (ancient) odéna (village). The term "ancient" hints at veneration.⁵⁶ Across from the island, on the mainland, is Powell Point, which the Chippewas referred to as "Shing gwa kosh puduk ee zud (where the little pine tree stands)." Perhaps this was simply descriptive, but it is more likely that it related to an important Chippewa myth or legend.⁵⁷

Further west, between the Au Train River and the Laughing Whitefish River, was a place no longer recorded on the maps, probably it was Deer Lake and the 850 ft. summit to the north of it. In the late nineteenth century the few Americans in the region called the lake "Sucker Lake," which likely refers to its fishing. But the Chippewas called it "Kish ke Quay denung Saw gaw eegun (cut hand mountain lake)." That is Kidder's rendering, his editor finds these related Chippewa words and meanings: "kishkinindjiodis (cut off his hand) wadjiw (mountain) sagaiigan

⁵⁵ Mason, ed., Schoolcraft's Ojibwa Lodge Stories, 122-124.

⁵⁶ Bourgeois, ed., Ojibwa Narratives, 156.

⁵⁷ Bourgeois, ed., Ojibwa Narratives, 157.

(inland lake).”⁵⁸ Again, it seems probable that a legend or myth is attached to the place.

West of Grand Island, the Laughing Whitefish River empties into Lake Superior. Its name was recorded as Odekomag (Adikameg?) sibi by Kidder, and is glossed by Kidder's editor, Arthur Bourgeois, as "atikameg sibi bapwin (whitefish river laughing)." The English name is true to the Chippewa original and likely relates to some sacred story.⁵⁹

The preceding examples begin to suggest the sacred character of the ceded lands. Some of the Ottawa and Chippewa leaders present at the Treaty of 1836 were Christians, but these individuals formed a decided minority, and even converts to Christianity could retain "traditional" attachments to the land. In 1846, ten years later, after a decade of fairly intensive mission work (some of it supported by the Treaty of 1836), the Superintendent of Michigan, William Richmond, estimated that two-thirds of the state's Native Americans "still adhere to their national or ancient religion."⁶⁰ Even Christian Indian leaders would have understood that the religious beliefs of their people were specifically bound to particular points in the landscape, and it is my opinion that they would have at least had to respect those beliefs. To be sure, having continued access to the land, as provided by Article 13, was a material issue involving the Ottawa and Chippewa economies. But for those economies to work, for hunting, fishing, gathering, traveling, trading, building, planting, and sugaring to succeed, most Ottawas and Chippewas would have been concerned about their access to the sacred powers.

If certain places, stones, falls, lakes, and so on, provided both access to the sacred powers

⁵⁸ Bourgeois, ed., Ojibwa Narratives, 156.

⁵⁹ Bourgeois, ed., Ojibwa Narratives, 156.

⁶⁰ W. A. Richmond, "Census and Statistics of the Ottawa, Chippewa and Pottawatomie Tribes of Indians within the Superintendency of Michigan. . . ." Sept. 1, 1846, NAM234R426 fr. 119-121.

and attached themselves to stories of heuristic value to the Ottawa and Chippewa peoples, the Indians also practiced their religion as they carried out their daily and seasonal tasks. Hunting, fishing, maple sugaring, gathering medicine, planting crops, even traveling, were associated with ceremonial and ritual practice. Baraga reported that the larger Chippewa religious feasts accompanied "the coming in of the new corn, in making the first sugar, and at the commencement of the general fall hunts."⁶¹ Most of these ceremonies would have taken place in the village or at the sugar camp. But sometimes the Indians' large ceremonies took place at other locations.

Andrew Blackbird reports that the mouth of the Muskegon River was a place at which the L'Arbre Croche Ottawas practiced the Feast of the Dead. Blackbird's history states that other bands, and perhaps other tribes, also gathered there for this important celebration.

Early in the spring we used to come down this beautiful stream of water (Muskegon River) in our long bark canoes, loaded with sugar, furs, deer skins, prepared venison for summer use, bears oil, and bear meat prepared in oil, deer tallow, and sometimes a lot of honey, etc. On reaching the mouth of this river we halted for five or six days, when all the other Indians gathered, as was customary, expressly to feast for the dead.⁶²

Summary

Ottawas and Chippewas who negotiated with the United States for their lands in 1836 were mindful that the lands contained far more than resources; they contained memory, meaning, sources of identity, and lessons for life. Removal from the lands would be out of the question; how to remain on the lands was nothing less than a national challenge. Their cultural traditions, particularly those that sanctioned the sharing of resources with a valued and responsible ally,

⁶¹ Baraga, Chippewa Indians, 38.

⁶² Blackbird, History, 45.

provided them with a way of meeting that challenge. So, at least, some of their leaders concluded in 1836.

CHAPTER FOUR: LAND USE IN THE TREATY-MAKING PERIOD

Ottawas and Chippewas ceded vast lands in the Treaty of Washington, March 28, 1836: most of the Upper Peninsula, Western Michigan north of the Grand River, a piece of eastern Northern Michigan, and many islands. But, as this chapter finds, Indians expected to be able to continue hunting, fishing, and trapping in portions of the region for the foreseeable future.

Imperilled Trapping and Hunting?

Hunting remained central to the lives of the Chippewas and Ottawas on the eve of the Treaty of 1836, and they expected it to remain an aspect of their livelihood in the future. Schoolcraft was well-aware that the bands in the vicinity of the American posts at Sault Ste. Marie, Mackinac, and other places routinely departed for hunting grounds, often as early as August. Missionaries roaming through Indian villages in the fall found them almost deserted, "all other inhabitants being absent on their winter's hunt." Attempting to organize a delegation from Grand Traverse Bay to visit Washington D.C. for the Treaty of 1836, trader Rix Robinson understood that these Ottawas and Chippewas were "scattered through the woods on their hunting grounds," a fact that would "consequently cause some delay."¹ Yet if Indians continued to take animals in 1836, that does not mean that in 1836 hunting and trapping were, as we might say, "good business."

The "fur trade," a term that encompasses the trade in hides as well as pelts, was unstable by its nature. Native American hunters and trappers, and the traders with whom they dealt, were

¹ McCoy, History of the Baptist Missions, 297; HRS, Personal Memoirs, 303; Rix Robinson to HRS, Grand River, January 13, 1836, NAM1R72 380.

in a tough business. There was nothing new about this in 1836. Fur prices rose and fell with the undulating demands of European and Euro-American fashion, the shifting economic fortunes of the European and Euro-American purchasers of luxury goods, and the turbulent nature of traffic on the war-torn high seas until 1815 (when the long series of European and American wars concluded). Targeted and trapped animal populations sometimes declined in number, driven in some cases to the verge of extinction, but in other cases species rapidly recovered when hunters, inhibited by circumstances, left them alone. Conditions often arose that limited hunting, such as extremely severe winters, serious epidemics among hunting peoples, and warfare, which distracted hunters from their main task or rendered certain lands unsafe for travel. Indians knew that hunting was often unprofitable. But hunting and trapping were not about profit alone.

In most of that portion of Michigan ceded to the United States at Washington in March of that year, Indians, while noting a diminution of valuable fur and hide-bearing species, could reasonably expect the fur trade to remain important to their economy. Even without a vigorous or dominant fur trade, hunting and trapping expeditions would continue to provide them with access to important goods and important supplemental foods and funds.

With historical hindsight, we know that the fur trade was an imperilled industry in 1836. Even before the War of 1812, fur-bearing animals in Michigan had been over-hunted and over-trapped to a considerable degree. By 1900, many species valuable for pelts or hides had been extinguished in the state, including caribous, wapitis, wolverines, cougars, grey wolves, American martens, and fishers.² Some American agents, having witnessed the collapse of the trade in skins to the south and east of Michigan, imagined little future in the trade as 1836

² Beverly Smith, "Systems of Subsistence," 72, 74-6. Some of these have since returned.

approached.

Picking up on this, historian Ida Amanda Johnson writes that "In the latter part of the 1830's the Michigan fur trade began to decline, and men who for years had plied their canoes on her rivers and tramped the trails of her forests in search of pelts were seeking new fields of labor." Johnson adds to this that John Jacob Astor retired and sold his stake in the American Fur Company in 1834, which led to the division of a company, whose

great days. . . were over. The great army of fur traders, all intent on one occupation, the capturing and killing of the furred creatures of her forests, were fully exhausting the source of supply on the hunting grounds, so that the last days of Michigan's forest commerce was [sic] fast approaching.³

It is my opinion that Johnson overstates the case, though she is no doubt correct that fur trading declined rapidly as an important Michigan industry. If hunters were "fully exhausting" the stocks, it is hard to see how the census of 1840 could report a sale of \$54,232 worth of fur. Even in 1850, thirty-three fur traders are listed.⁴ Astor's retirement in New York has little directly to do with Michigan. Of traders who did work in Michigan, Johnson points to Rix Robinson. His motives for retiring, however, were several, going beyond a perceived collapse of the trade. He was not young in 1837, and he had other economic fish to fry (particularly land speculation in the Grand River area). He knew that the Treaty of 1836, which had provided him with the wherewithal to purchase lands, also threw open the Indian trade to local, unregulated competition. This was a great reason for one who recently had enjoyed near-monopoly privileges to get out of the trade. The Grand River drainage, unlike much of the rest of the ceded territory,

³ Johnson, Michigan Fur Trade (Lansing, 1919), 146, 145.

⁴ Johnson, The Michigan Fur Trade, 153.

was poised for American settlement in 1836. All this encouraged Robinson to turn his attention to potentially more lucrative endeavors. In any case, other traders in the areas, as Johnson notes, remained active. Richard Godfroy, she states, in 1837 "placed the first steamboat on Grand River in the interest of trade, making regular trips to Lowell, Grand Haven, and Muskegon."⁵

The relevant question for us involves not so much the traders' perceptions, but the Ottawas' and Chippewas' perceptions in 1836 of hunting's future cultural and economic importance on the lands to be ceded. The American commissioners and agents cited above did not claim to be speaking for the Indians; they were instead offering their views on what would be best for the Indians' well-being.

A petition of the "Chiefs of the Ottawa and Chippewa Nations," to the President of the United States, reminds us that Indian hunters did continue to accrue debts to traders after the Treaty of 1836. The petitioners feared that the hunters were going to be subject to state law, which meant that "The avails of their huntings, their fishings, and their corngrounds will be all liable to seizure"; the clear implication is that the Indians thought hunting to be an activity still worth protecting.⁶

The documentary record includes many Indian complaints that game was difficult to find; such complaints had a long history among the Indians of the Great Lakes by 1836. Deeply embedded in the culture of Anishinabeg peoples was a tradition of expecting leaders, and spirits, to take pity on their followers and supplicants. "Have pity," prayed Algonquians of the Great

⁵ Johnson, Michigan Fur Trade, 136.

⁶ Petition of the Chiefs of the Ottawa and Chippewa Nations to the President of the United States, no date {probably 1841}, NAM234R425 frames 214-215.

Lakes to the sacred powers, according to Nicolas Perrot. Perrot also notes that northern Indians “humbly thanked” Ottawas for making them a present, declaring their sense of obligation to Ottawas for “having had compassion upon them. . . .”⁷ Historian Richard White has explained that Great Lakes' Indians expected their economic relations with others to be oriented less around "profit" than around the satisfaction of needs (he uses the French, besoins, appropriate to the seventeenth-century and early eighteenth-century period he studies). He suggests that "the need of the buyer was an important element in the logic of exchange, but it exerted an influence opposite to that it exerted in the French model. The greater the need -- provided the social relationship had been established -- the greater the claim of the buyer on the seller."⁸ As the Ottawas first made tentative contacts with the British, closing their hostilities toward the end of the Seven Years' War in America, they insisted on British pity. An Ottawa speaker asked Major Robert Rogers to make sure that the British supplied the needs of Ottawa women and children, who were now, he said, "poor and naked." The speaker then explained, "by pitying their Necessities you will win their hearts."⁹

Seeking pity was a traditional approach to great powers with whom one was forming or already had established a relationship. A fine example of this cultural form antedated the Treaty of 1836 by almost fifty years. It therefore preceded the great, flourishing, Michigan fur trade of the early nineteenth century. The venerable L'Arbre Croche Ottawa leaders, La Forche and the

⁷ Perrot, in Blair, ed., The Indian Tribes of the Upper Mississippi Valley and Region of the Great Lakes, 1: 49, 174.

⁸ Richard White, The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815 (New York, 1991) 98, see also 128-132.

⁹ George Croghan, "Journal," in Thomas Apsinwall, George E. Ellis, William S. Bartlet, and John Langdon Silbey, eds., "Aspinwall Papers," Collections of the Massachusetts Historical Society, ser. 4, vols. 9-10 (Boston, 1871), 9: 363-364.

Grand Souril, vented their complaints to a British officer in 1787. Their speaker, Keewaycooshcum, implored the officer to pity the Ottawas, who were, he said,

no more than a Village of dead people, you now see before you your miserable children, the small remains of a numerous people who had formerly seen better days, but now more to be pitied than the other nations, our Lands are exhausted, are [sic: our] hunts are ruined, no more Animals remain to call us out to the Woods, the only resource left to us for subsistence is the cultivation of these sandy plains, and what we can procure from the water.

Father, The charitable work that engaged you to visit us this day, revives our hopes and gladdens our hearts....¹⁰

No doubt Keewaycooshcum meant what he said, no doubt his hunters had seen bad "harvests." But it is also evident that he exaggerated for effect; he sought British largess for his people. After all, generations of fur traders worked in Northern Michigan after 1787. Game, unless utterly exterminated, is a renewable resource, as all knew well. The size of the deer herd, the abundance of muskrats, can each fluctuate wildly. If other aspects of the environment remain somewhat stable, a decrease in the pressure on a threatened species can lead to its rapid recovery. Keewayscooshcum knew all this; as he spoke to the British, he spoke in a long tradition. The tradition was still alive in 1853, when the leader of an Ottawa community (now Petoskey) on Bear River complained to a Presbyterian Missionary that, as the missionary put it, "the game is gone, and the fish is nearly gone, and that poverty is before them."¹¹

During the treaty negotiations at Washington in March, 1836, Henry Rowe Schoolcraft adopted the pose of the "Father" and spoke the rhetoric of pity while bargaining for an American purchase:

¹⁰ Anon, ed., "Minutes of an Indian Council at Arbre Croche 3rd August, 1787," Michigan Pioneer and Historical Society, Collections, Second edition, 11 (1908), 494. **MELISSA???

¹¹ Porter to Lowrie, Bear River, Dec. 17, 1853, AIC, PHS, Box 7, Reel 1, vol. 1, no. 104, microfilm at SHSW.

Your great Father has thought of you, he knows your situation, that you are poor, that but very little game is to be found, and that you obtain less and less every year, notwithstanding your country is of little value, yet feeling a desire to benefit you, he thinks your lands may be of some value to him. . . .¹²

The rhetoric of pity, spanning generations of the thriving fur trade, cannot be taken at face value. Schoolcraft's speech fit into a rhetorical pattern. This does not mean that *he* did not *believe* that the fur trade and hunting were in decline. The entirety of American Indian policy from the Jefferson administration through the coming of Andrew Jackson had been predicated on the idea, one founded on observation, that a scarcity of game and the collapse of the fur trade would lead Indian leaders to the conclusion that selling their surplus and exhausted hunting grounds to the United States would be the best way of saving their people; for they would receive in exchange either training in agriculture or lands further west on which they could hunt. Jefferson, as historians since Henry Adams have noted, even urged the extension of credit to Indians, so that the failing trade would so deeply sink individuals in debt that the leaders would eventually prove willing to sell national lands for collective debt relief:

we shall push our trading [ho]uses, and be glad to see the good and influential individuals among them run in[to] debt, because we observe that when these debts get beyond what the individuals can pay, they become willing to lop them off by a cession of lands.¹³

Rhetoric aside, an operational fur trade persisted well beyond the 1830s. Even American agents like Schoolcraft sent mixed messages to Indians, for, while writing and speaking about the decline of the fur trade, he continued to license traders and to call for more regulation of the trade. After the ratification of the Treaty of 1836, he worried that one of its effects had been to

¹² HRSP/DLC/SHSW, container 41, pt. 1: frs. 13930ff, p. 13.

¹³ Private letter of Jefferson in 1803, quoted in Satz, Chippewa Treaty Rights (Madison, 1991), 6.

deregulate the ceded lands: such deregulation had increased competition among traders, allowing unlicensed traders to work on the ceded lands, to the Indians' benefit, delaying their desire to remove. "Competition is now, and has always been the only mode of regulating this exchange and of lowering the prices of the articles offered [by the traders] and raising those of the article purchased [by the traders], and hence the Indians, with their natural sagacity, have uniformly encouraged competition." Deregulation, in other words, while working against the favored trading companies and against the government's capacity to order, had worked to the Indian hunters' benefit. It is worth noting, moreover, that Schoolcraft granted sixteen individuals trading licenses to operate at six places within the ceded lands in 1838 (Beaver Island, Straits of Mackinac, L'Arbre Croche, Little Traverse Bay and Grand Traverse Bay). He again granted seven trading licenses to traders operating in the area of the ceded lands in the year ending in 1839. Clearly those traders thought that the fur trade remained viable. Clearly too, one of the problems traders would face would be the increasing opportunities Indians had in finding outlets for their furs and skins. Indians might trade, for example, with new settlers, which would pose enormous problems for traders who had grown comfortable with a near monopoly.¹⁴

Reports from traders to the American Fur Company in 1835 and early 1836 do not reveal an ecological crisis on the scale of a total collapse of all fur and hide-bearing species. There are negative reports, as in any business. A severe winter, complained Gabriel Franchere in January, was limiting the hunting of Chippewas near Sault Ste. Marie. But that has nothing to do with a

¹⁴ HRS to Harris, Michilimackinac, Sept. 15, 1837, NAM1R37, 312; see also Abstract of Licenses for the Indian Trade granted within the acting Superintendency of Michigan during the year ending 30th Sept. 1838, NAM234R423 fr. 182, and trading licenses granted by HRS in the year ending Sept. 1839, NAM234R423 fr. 477.

decline in game; in fact a bad winter, by limiting hunting, might ease pressure on the game.¹⁵ Six months later, Franchere was more optimistic; the "returns of Furs," he wrote, were "not bad, Bears and rats [muskrats] less than last year, martins double the quantity and upon the whole, so far as Mr. Warren has heard, the returns will be better than those of 1834/35." The reference to Lyman Warren, factor at Lapointe, Wisconsin, demonstrates that Franchere's remarks include more the western Chippewas, who undoubtedly provided more pelts to the Sault than did the more intensive fishing peoples of Michigan. But from the perspective of this trader at the Sault, the fur trade was not yet a dead trade.¹⁶ To the south, along the Grand River, Rix Robinson was also worried about his prospects that season, and his reasons similarly had to do with an absence of hunters, not with an absence of prey: "the small Pox broke out amongst the Indians here early in the fall, which destroyed their fall hunt and of which many of them died."¹⁷ His dismal forecast proved accurate. He reported in May that hunting had been somewhat better to the south, in the Kalamazoo and St. Joseph Valleys, and that he would not send subordinates to trade to the northward, where there was too much competition from other traders. This last concern, over-competition from Biddle and Drew, had been registered by a leader of the American Fur Company the previous year.¹⁸

It appears that a shortage of valuable animals for American Fur Company traders in 1836 had less to do with a shortage of game than it did with competition from settlers and other firms,

¹⁵ Gabriel Franchere to Ramsay Crooks, Sault Ste. Marie, 15 Jan, 1836, AFCP, reel 23: 1190.

¹⁶ Gabriel Franchere to William Brewster, Sault Ste. Marie, June 30, 1836, AFCR, Box 2, Folder 1, 63, Bayliss.

¹⁷ Rix Robinson to Ramsay Crooks, Grand River, 13 Feb 1836, in AFCP, reel 23: 1275.

¹⁸ Rix Robinson to Ramsay Crooks, Grand River, May 15, 1836, AFCP 23: 1603; Ramsay Crooks to Benjamin Clapp, Sault Ste. Marie, October 29, 1835, AFCP 23: 963.

hunters' difficulties due to smallpox in the south, and deep snows in the north. The company's year was indeed worse than 1835, but this was, in part, because competitors were increasing their share of the furs taken. And even with that, the American Fur Company received an *increase* in the number of undressed deer skins by almost 1000, and the raccoon pelts taken showed only a modest decline.¹⁹ All this indicates that, even if the fur trade was not flourishing, it was still very active.

From the late summer of 1835 to the spring of 1836, several traders reported good hunting seasons. William Brewster reported that in the Saginaw and St. Joseph Valleys, to the south and east of the ceded regions, there were fine raccoon harvests "beside a large quantity of other Furs and Skins. . . ." Ottawas from the north were among those hunting in the St. Joseph Valley in this period. Brewster urged the American Fur Company to build and to operate additional vessels on the lakes, which would help not only in fur trade operations but give the company an additional outlet in the freighting business. In November, 1835, Ramsay Crooks thought business was going well at Sault Ste. Marie. Gabriel Franchere reported in April that, despite January's gloomy predictions, there had been considerable hunting and fishing on the Upper Peninsula, yielding 96 beaver skins, 14 bears, 24 otters, 10 fishers, a black fox, 2 red foxes, 400 martens, 65 minks, 850 muskrats, and 185 barrels of fish. He hoped for better in the spring, but the harvest he reported was respectable.²⁰ In 1838, as James Schoolcraft organized

¹⁹ Benjamin Clapp to Ramsay Crooks, Mackinac, Sept. 14, 1836 AFCP 24: 1968; ****Note: this is Crooks to Clapp, but appears to be correct.**

²⁰ William Brewster to Benjamin Clapp, Detroit, August 10, 1835; same to same, Sept. 8, 1835; Ramsay Crooks to Benjamin Clapp, Sault Ste. Marie, Oct. 20, 1835; Gabriel Franchere to Ramsay Crooks, Sault Ste. Marie, April 6, 1836, AFCP 23: 731, 815, 942, 1454. For Ottawas hunting in the ceded region see claims 71 and 130 in U. S., Office of Indian Affairs, Report of the Board of Commissioners assembled at Michilimackinac, Sept., 1836 (Detroit, 1837), 42, 63, Rare Books, ND. The commissioners were HRS, J. W. Edmonds, and Henry Whiting.

an Ottawa and Chippewa expedition to investigate proposed western lands in the event of an Ottawa Chippewa westward removal, he suggested to the Commissioner of Indian Affairs that traders were against the whole idea: "You, no doubt are aware, that the policy of the Indian trader is to oppose that of the government, whenever the latter tends to the removal of the Indians from their present locations, or hunting grounds." If James Schoolcraft's view was accurate, traders must have seen some future in Michigan Indian hunting and trapping.²¹

Touring Lake Superior in the spring, 1840, surveyor Bela Hubbard observed that the region abounded in deer. In an entry written at the mouth of the Chocolay River, he noted,

Red deer have been seen frequently during our coasting and their tracks upon the sand, are numerous. This is a singular fact, since a few years ago a deer was unknown in this latitude. except the caribou or rein deer, which are scarce. The red deer seem to have been driven north by the rapid advances of civilization.²²

From the perspective of the Indian villages, rather than from the perspective of the Indian agency, it was reasonable in 1836 (and it would prove accurate) to foresee a future for profitable hunting, at least as an important supplement to the Indian economy. In 1841, at an Ottawa "colony" established on purchased lands, the Baptist missionary, Rev. Leonard Slater, worried that the fur trade was too good: "The call for furs the present season has operated to the disadvantage of the Indians, many of them instead of farming to much extent, or laboring in mechanical pursuits, have employed their time in hunting abroad."²³ It was possible as late as 1847 for an experienced trader, George Johnston (whose mother was a Chippewa), to predict an *increase* in game animals. He noted that year a conversation he had had with Indians at Sault

²¹ James Schoolcraft to C.A. Harris, Sault Ste. Marie, 28 May, 1838, NAM234R415 frame 609.

²² Bela Hubbard Papers, Box 1, field notebook 7, Bentley ****MELISSA???**.

²³ Slater to Robert Stuart, Ottawa {sic} Colony, Barry, Richland P.O., August 18, 1841, NAM1R51: 183-185.

Ste. Marie, his birthplace. He told them that furs were not currently fetching high prices, and he "advised them not to hunt, this injunction they have literally complied with, so far as regarded the beaver and muskrat hunts, reserving the same for a rise in prices, and hence these animals will accumulate."²⁴

Predictions of the collapse of the fur trade, however, continued apace. While one experienced trader predicted a rise in game near the Sault, another experienced missionary among the Lake Superior Chippewas to the west noted the increasing scarcity of game. Deer still abounded, but moose, elk, otter, marten, and "especially beavers" were "now very scarce, almost extinct, because the fur traders are constantly engaging and entreating the Indians, to hunt and trap them."²⁵ In 1872 a guidebook to Lake Superior said of Sault Ste. Marie that "Many of the inhabitants, Indians, and half-breeds are engaged in the fur trade and fisheries, the latter being an important and profitable occupation, here being taken large quantities of whitefish."²⁶ The fur trade, clearly no longer as commercially important as the fisheries, still played a role in the lives of the Indians of the eastern Upper Peninsula. As late as 1923, local historian of Sault Ste. Marie Stanley Newton predicted the disappearance of all valuable game: "wild fur-bearing animal life in the vicinity of the Sault is fast going the way of the whitefish. . . . It is doubtful if the two Saults [American and Canadian] will handle this year much over one hundred thousand dollars. .

²⁴ George Johnston to Grant and Barton, Sault Ste. Marie, July, 1847, in George Johnston Letterbook, Bentley, microfilm reel 1.

²⁵ Baraga, Chippewa Indians, 12.

²⁶ Anon., Lake Superior Guide: Giving a Description of all the Object of Interest and Places of Resort on the Great Inland Sea; with an Account of the Iron, Copper and Silver Mines, also, Commercial Statistics, in regard to the Product of the Mines, Fisheries, &c. (Philadelphia, 1872), 11, facsimile of original accessed through the University of Michigan Library at <http://www.hti.umich.edu/t/text/gifcvtdir/aja3067.0001.001/00010001.tifs.gif>; ****Not produced; we were provided with p.14 only. See 003622 in the DB for an alternate copy.**

.. " Two of these 1923 facts -- that the exhaustion of the species was still predictable rather than fully accomplished and that hunting continued to bring in any dollars at all -- are significant. They indicate that the fur trade retained a vitality of sorts for almost a century after the Treaty of 1836. Indians who expected to rely on hunting as an important supplement to their economies held that expectation with good reason.²⁷

James Clayton in 1966 published an important general essay on the American fur trade, subjecting it to quantitative analysis. He concluded that the great years of the American fur trade generally were between 1820 and 1890, much later than previous analysts had suspected. Much of this growth, to be sure, was well to the west of our region. But even in the Great Lakes, there was money to be made. Between 1835 and 1842, the American Fur Company "averaged 589,000 robes, furs, and skins annually," and this in "the Great Lakes region alone."²⁸ The trade in beaver and marten pelts was certainly in decline. Beaver, for example, were said to have been eliminated from Beaver Island by 1853, seventeen years after the treaty.²⁹ The often-overlooked raccoon trade, however, grew in importance until the Civil War. Clayton contends that the era that ended in the 1830's was one of "high prices and romantic exploits," but that the real humdrum of competitive business continued, even in such settled areas as the Ohio Valley, "a

²⁷ Stanley Newton, The Story of Sault Ste. Marie and Chippewa County (Sault Ste. Marie, Sault News, 1923), 99.

Historians' views on condition of the trade in 1836 are vague; the issue has not been dealt with directly, and never with an eye toward Ottawa and Chippewa perceptions of the trade. In what remains the only published work devoted to the fur trade in Michigan, Ida Amanda Johnson writes: "In the latter part of the 1830's the Michigan fur trade began to decline, and men who for years had plied their canoes on her rivers and tramped the trails of her forests in search of pelts were seeking new fields of labor." The footnote to this passage reads: "Thus Rix Robinson gave up the Indian trade in 1837, and Martin Ryerson in 1839, etc." Johnson, Michigan Fur Trade, 146.

²⁸ James Clayton, "The Growth and Economic Significance of the American Fur Trade, 1790-1890" in Minnesota History 40 winter (1966), 213, 215-216.

²⁹ Charles Garrard, "Michabou and the Colonel's White Beaver," The Beaver, 67 (Feb-Mar, 1987) 52.

prolific fur-producing region."³⁰

Clayton's epitaph to the great fur trade differs substantially from that of Johnson. He sees it as persisting well beyond the treaty of 1836:

The Great Lakes region was, in fact, economically more important in the American fur trade than any other. . . . In 1841 the Detroit Department of the American Fur Company alone produced \$377,200 in furs and skins. This represented about 40 per cent of the total United States fur exports of that year, and the company was but one of several outfits trading in the Great Lakes region. An important reason, of course, is the fact that the habitat of the raccoon was confined to that area. . . . The value of raccoon exports almost doubled from the 1860s to the 1880s and domestic consumption may also have doubled. . . .³¹

If an economic historian, with documentary evidence at his disposal, was able to conclude that the fur trade remained operable in the Great Lakes after 1836 (if not as alluring to traders as the Pacific seal and otter trades), we can credit Indian hunters and trappers, knowledgeable in the ways of their prey, with foreseeing a future for their skills after agreeing to Article 13.

This is not to say that declines in species due to hunting and trapping were unreal, but only that there was no uniform, sweeping elimination of all marketable skin and pelt-bearing species. Agents did report on disappointing game returns. In 1838, James Ord wrote optimistically about certain features of Indian life across the northern portions of the eastern Upper Peninsula: "The Chippewas have been orderly and quiet, . . . engaged in the chase and fishing and during the sugar season prepared a considerable quantity of Maple Sugar. Of fish and Sugar the traders have purchased largely." But "the supply of furs," he said, "has been inconsiderable." He was referring to the following bands: Sault, Tahquamenon, Grand Island,

³⁰ Clayton, "The Growth and Economic Significance," 212-214.

³¹ Clayton, "The Growth and Economic Significance," 220.

and Chocolay River.³² An “inconsiderable supply of furs,” but Indians “engaged in the chase”: Indians hunted for a variety of reasons, from securing meat to maintaining manhood. An inconsiderable supply from Ord’s point of view might have looked very different to the hunters who had good luck.

Indians in 1836 conceived of hunting, fishing, gathering and sugaring in the ceded region as having an important place in their and their descendants' economic and cultural futures. It is my opinion that the Ottawas and Chippewas, with their intimate knowledge of the resources of the ceded lands, understood that the treaty would permit them indefinitely to pursue hunting, fishing, resource gathering, and sugaring on the vast lands, rivers, streams, ponds, and lakes that would long remain unsettled by the republic's citizens: without American farms, without American farmsteads, and without American villages.

Thriving Fisheries

The idea among some late eighteenth- and early nineteenth-century American citizens that the fur trade was in steep decline has no counterpart when it comes to fish. On one level, this is surprising, because those Americans living along the eastern rivers had already seen steep declines in shad runs, and their European ancestral experience included vast declines in river fishing from the medieval period onward.³³ On another level, however, it is unsurprising that Indian agents and government officials neglected to discuss over-fishing. No rhetoric of Native American over-fishing was imported into Michigan from points south and east, no such rhetoric,

³² James Ord to HRS, Sault Ste. Marie, Sept. 1, 1838, NAM234R423 frame 191.

³³ The transformation of European river fisheries is treated in Richard Hoffman, "Economic Development and Aquatic Ecosystems in Medieval Europe," American Historical Review 101 (1996), 638, 642, 649, 652; for the experience of American citizens and their colonial forbearers see John McPhee, The Founding Fish (New York, 2002), 53-54, 66-67.

therefore, colored Anglo-American perceptions of the Indians' future in Michigan. No people in the territory of the United States to the east of Michigan had fished with the intensity or success of Michigan's Indians. Fishing had not been a part of American Indian policy.

In their reports to the Commissioner of Indian Affairs, the top officials in the Michigan agency frequently broached the importance of fishing to the region. Schoolcraft, increasingly anxious after 1836 to see a voluntary removal of Chippewas and Ottawas from the state, promised that the ceded lands in the Lower Peninsula had "many rivers of the first class, together with numerous bays, harbours, islands, and fishing grounds, indispensable to the future growth and commercial prosperity of the state." Schoolcraft, pessimistic about the Indians' place in the state, did not much write about the Indians' fishing in these reports. Indeed, in this 1838 annual report, he neglects Indian fishing altogether, an odd omission given its importance to the "condition and prospects of the Tribes" which were his topics.³⁴ This amounts to an act of denial, and it may be that fishing disturbed Schoolcraft, since it was a great impediment to Ottawa and Chippewa removal. He recognized this problem earlier in the year:

As the country ceded by them is large, and they are strongly attached to customs peculiar to their mode of subsistence, in part, on the lake fish, and of traveling in canoes, it is not expected that they will feel a general wish to emigrate immediately, but, on the contrary, will wait, as most of the western and southern tribes have done, till they are pressed to action by imperious necessity. Still the time seems appropriate to begin the movement....³⁵

Promoting removal on an expedition to explore the western lands set aside by the federal government for Ottawas and Chippewas, James Schoolcraft had been careful to describe the

³⁴ HRS, "Annual Report..., Sept. 30, 1838," NA 234R423 fr. 152-179; see esp. "Part 7," on the Indians condition.

³⁵ H.R.S. to C.A. Harris, Detroit, March 1, 1838, and HRS, "Annual Report..., Sept. 30, 1838," NA 234R423 fr. 119-121.

Osage River as full of "catfish, black bass, pickerel, carp and garfish."³⁶ But his journey with Ottawa and Chippewa explorers did little to advance removal. When it came to Michigan's attractions to its native peoples, fishing was a powerful lure.

That game grew more scarce in the nineteenth century is, perhaps, both a commonplace and a fact, but it is a fact viewed from Olympian heights and from the present. From the Indians' vantage point, on the ground and in the woods, there were other, more important facts: some game was in decline, some was not, and certain species in certain regions (for example, red deer on the Upper Peninsula) were thought to be on the rise. Price structures, competition, debt, and other factors imperiled Indian hunters and traders, and these may have seemed the more present threat than an environmental change. This chapter finds that Indians reasonably expected their hunting and fishing to continue into the future as important features of their economies and culture. This report's tenth chapter will suggest that the expectation was more than reasonable: it was right on target.

³⁶ James Schoolcraft to C.A. Harris, Sault Ste. Marie, 29 August, 1838, NAM1R415 638.

CHAPTER FIVE: TOWARD THE TREATY OF 1836

Pressure on the Grand River Ottawas during the Land Rush

If Indians could reasonably expect a future in which they frequented the resources of the inland areas of Michigan, why did they cede those lands to the United States at the Treaty of Washington? If their hunting, fishing, sugaring, and other activities still could promise benefits, why did they surrender the hunting grounds, fishing streams, and sugar bushes? These questions, logical on the surface, are actually badly posed; they assume that the Indians fully ceded the lands. Instead, Article 13 meant that the Indians retained limited rights in those ceded lands. In certain areas of the territory, they could reasonably expect to retain these rights indefinitely. It is worth noting here that the Indians who lived in the one area where the threat of settlement was immanent were also the most reluctant partners to the treaty. These were the people who lived near the Grand River.

The Ottawas of the Grand River Valley had already lost lands to the south of the Grand River in the Treaty of Chicago, 1821, and the Treaty of Chicago, 1833. The United States had made the 1833 treaty with the dubiously titled "United Nation of Chippewa, Ottawa and Potawatamie Indians."¹ Removal historian Ronald N. Satz states that "the very existence of the United Nation was the result of the government's insistence on dealing with these Indians as if they were a single unit." Satz asserts that

neither the great majority of the Chippewas and Ottawas nor all of the Potawatomi bands recognized the authority of the so-called United Nation. The government's policy of dealing with the entity as the representative of all Chippewas, Ottawas, and Potawatomis

¹ Kappler, ed., Treaties, 2: 198-201, 402-405.

was a clever maneuver to oust these Indians from their lands.²

The Grand River Indians were still feeling the pain of the lost lands as the Treaty of Washington, which would be made with the "Ottawa and Chippewa nations of Indians," approached. The Treaty of Chicago, according to Satz, is representative of one tactic employed by American commissioners to obtain land cessions from unwilling peoples: the "commissioners selected chiefs to represent an entire tribe or group of bands."³ A signer of the Treaty of Chicago, 1821, the Grand River Ottawa leader Kewaquocum fell from leadership precisely because he had cooperated with the United States in the affair. When other Grand River leaders were summoned to Washington in 1836, many objected. Washington, they felt, was too distant, and the people would be unable to oversee the proceedings.⁴

The lower counties of Michigan, ceded in the Chicago treaties, saw a dramatic increase in land sales in 1835-1836. In 1835, land sales "suddenly leaped to 405,331 acres and in 1836 to nearly one and a half million acres." In the latter year, writes an authority on the settlement of Michigan, "ninety steamers are said to have arrived at Detroit in May bearing settlers to Michigan and the West."⁵ The land rush was national in scope: between 1831 and 1837 more than "fifty-three million acres of the public domain between the Appalachians and the Mississippi River passed into private hands. . . ." In 1836, almost 15% of these national sales

² Ronald N. Satz, "Indian Policy in the Jacksonian Era: The Old Northwest as a Test Case," Michigan History 60 (1976), 76-77.

³ Satz, "Indian Policy in the Jacksonian Era," 76.

⁴ Henry Conner to Lewis Cass, Grand Marais, Feb. 8, 1836, NAM234R422, 18.

⁵ George N. Fuller, "The Settlement of Michigan Territory," The Mississippi Valley Historical Review 2/1 (1915), 36, 39.

were of lands in the Lower Peninsula, and the vast majority of these lands were in the southern portions toward the Indiana border, radiating out from the Kalamazoo Land District.⁶ The completion of the Erie Canal in 1825 and the advent of steamships on the lakes opened eastern markets to farmers as far west as Lake Michigan. This opened possibilities for new settlers, and the region beckoned to them. Until 1834, there were still large sections of Michigan's prime agricultural and federal land that had not been sold into private hands; this had kept the pressure of expansion off of the Ottawas and Chippewas north of Grand River. But the pressure mounted quickly in 1835.⁷

The land rush affected the southern part of the Lower Peninsula. Schoolcraft considered its effects on the region's Indians: "The sale by the Indians of their lands in the vicinity of Chicago, and the rapid extension of settlements into the peninsula of Michigan, are the cause of some movements now in train among the lake bands, which will probably be more fully developed in a few years."⁸ Schoolcraft admitted the allure of the speculative bubble:

The rage for investment in lands was now manifest in every visitor that came from the East to the West. Everybody, more or less, yielded to it.... I doubted the soundness of the ultra predictions which were based on every sort of investment of this kind, whether of town property or farming land, and held quite conservative opinions on the subject, but yielded partially, and in a moderate way, to the general impulse, by making some investments in Wisconsin.⁹

Michigan's population had already increased to 87,278 by 1834, enough to embolden the citizens to adopt both a state constitution and the form of a state government in 1835. However,

⁶ Susan Gray, "Local Speculator as Confidence Man," *Journal of the Early Republic*, 10 (1990), 387.

⁷ James McClurken, "Ottawa Adaptive Strategies to Indian Removal," *Michigan Historical Review* 12 (1986), 44-45.

⁸ HRS to Herring Michilimackinac, June 20, 1835 NAM234R402 fr. 180.

⁹ HRS *Personal Memoirs*, 520.

it was not for over a year that Michigan would be admitted into the Union as a state.¹⁰ The non-Indian population of Michigan lived mainly in the extreme southern portion of what is now the state. As late as 1840, settlers mainly inhabited the areas surrounding three roads which connected Detroit to Chicago, St. Joseph, and Grand Rapids. In general, lands in northern Lower Michigan and the Upper Peninsula lay beyond the farmers' gaze. Settlers understood that such lands were too poor for profitable cultivation. As one scholar has written: "Settlers desired soils that were neither heavy clay nor light sand. The sandy pine lands in the unorganized counties north of the Grand River were considered infertile by agriculturalists and the forests were thought a liability."¹¹ While Schoolcraft noted that investors saw a future for Mackinac Island as a health resort, he also observed that land sales were concentrated in the south: "lots were eagerly bought up from Detroit to Chicago."¹²

Kenneth E. Lewis, in a recent, exhaustive study of the settlement of Lower Michigan, provides a great deal of evidence that settlement avoided most of the northern half of the Lower Peninsula. A primary reason was the quality of the soil. "Spodosols," which lack fertility, dominate the region ceded.¹³ Farmland is classified in four categories: from the best, First-Class lands, to the poorest, Fourth-Class lands. Lewis explains that "agricultural colonization" can only succeed on First- or Second-Class lands, and that, while these lands dominate the southern half of the Lower Peninsula, they "constitute less than 50 percent of the territory in the counties

¹⁰ Fuller, "Settlement of Michigan," 50-51. Its constitution provided for white male suffrage.

¹¹ McClurken, "We wish to be Civilized," 78.

¹² HRS, Personal Memoirs, 520.

¹³ Kenneth E. Lewis, West to Far Michigan: Settling the Lower Peninsula, 1815-1860 (Lansing, 2002) 39, 42.

to the north."¹⁴ Lewis also reveals that American citizens understood much of the ceded land to be of an inferior quality:

Although this area was opened to settlement shortly after its cession to the United States in 1836, it was not rapidly occupied. Immigrants generally avoided the pinelands because of their reputation for having mediocre agricultural soil. Soil quality and an association with swamps and lowlands, coupled with the notion that pinelands were most valuable for their timber, caused this land type to be ranked below prairies, oak openings, and timbered lands.¹⁵

There were areas of Northern Lower Michigan that became appealing to settlers, particularly the "Western Shore," the "mixed forest lands in Muskegon, Oceana, and Southern Mason Counties, and around Grand Traverse Bay." Here existed "a narrow northern microclimatic zone" that proved suitable for "corn and oats, as well as tree fruit, including apples and peaches." Settlers would be attracted to these regions in the 1850s.¹⁶ But this zone was an exception. Generally, Lewis observes, a "line stretching roughly westward from Saginaw Bay to the mouth of the Muskegon River became a barrier that slowed the northward spread of settlement."¹⁷ As late as 1860, corn and wheat production were immeasurable in the top third (to be conservative) of the Lower Peninsula and low throughout almost all of the remaining ceded region.¹⁸

Poor land was not the only consideration; the quality of ports on the Lake Michigan shores was another. While something like 150 steamboats plied the lake's waters by 1836, the Lower Michigan coast had no major ports north of Grand Haven during the antebellum period:

¹⁴ Lewis, West to Far Michigan, 48-52.

¹⁵ Lewis, West to Far Michigan, 59.

¹⁶ Lewis, West to Far Michigan, 79.

¹⁷ Lewis, West to Far Michigan, 80.

¹⁸ Lewis, West to Far Michigan, see maps on 238 and 246.

"sailors especially feared storms on Lake Michigan, because its lack of natural harbors and tricky currents made it a dangerous place to ride out a storm. . . . and it has claimed more ships than all the other lakes combined."¹⁹

Lewis finds it difficult to establish from the records a clear history of the settlement of Michigan. He notes that the documents bear weighty testimony to "the sequence in which land came into the market and was sold," but he notes that "they provide little direct evidence regarding when it was actually occupied or the density of its settlement." In order to address the latter issue, Lewis suggests that it is useful to look at the sequence in which post offices were established: "The appearance of post offices accompanied the extension of the agricultural frontier in Michigan, and the sequence of their appearance reveals the distribution of settlement." He concludes that "Post office locations present perhaps the most complete picture of frontier settlement distribution in Michigan," and he provides six maps; as late as 1845 post offices shun the area north of the Muskegon River.²⁰ He writes:

By 1840, settlement was concentrated along the lower Grand River in Ionia and Kent Counties, but had yet to expand into available lands further north. . . . Agricultural settlement still avoided the Western Shore and the Saginaw drainage, generally, but began to intrude on their peripheries. Despite the availability of lands, colonization had yet to extend north of the Grand River.²¹

In 1845, he notes, the situation was much the same: "Agricultural settlement was still largely absent along much of the Western Shore, and did not extend far north of the Grand River."²²

¹⁹ Lewis, West to Far Michigan, 224-225.

²⁰ Lewis, West to Far Michigan, 185-192.

²¹ Lewis, West to Far Michigan, 190-191.

²² Lewis, West to Far Michigan, 192.

Rev. William Ferry recalled that when he first arrived at what would become Grand Haven at the mouth of Grand River in 1834, "Our nearest white neighbors were forty miles distant. There was not a solitary white settler in Ottawa County."²³ But if settlers were few in that southern region in 1834, they would not be few for long.

John Gordon, a reflective diarist and speculator in Michigan lands, was bullish on Southern Michigan but bearish on most of the lands north of the Grand River drainage, lands he saw as uninviting, at least for the moment. Here are two entries from his 1836 diary:

The region north of the Grand River & west of the Saginaw has not been brought into the market, not having yet been surveyed. That which lies below these rivers is represented to be, for the most part, of great fertility, well covered with timber, well watered and healthy. The upper half of the peninsula, as far as it is known, is not favorably described, and, probably, will be settled slowly. Hence a strong cause for the more rapid improvement of the southern half

All the lands near the Grand River are entered [sold] from its mouth to its source on the south side. Those which lie north are in possession of the Indians whose title was extinguished at the last session of Congress. The territory thus acquired [in the Treaty of 1836] embraces some 8,000,000 acres extending north to Mackinaw, most of which is thought to be of very inferior quality, though very little is known of its true character.²⁴

The rapid purchase and emerging settlement of the southern bank of the Grand River, along with the rapid expansion of settlers into Southwestern Michigan, posed challenges to all Michigan's Ottawas and probably, too, to the Chippewas who inhabited such regions as Grand Traverse Bay and Little Traverse Bay. Remote as many of the northern Indian villages may have been from the Grand Valley, some of them hunted and wintered south of the river; settlement on these lands, already purchased by the United States, would reduce this practice. But whatever

²³ Quoted in Leo C. Lillie, Historic Grand Haven and Ottawa County (Grand Haven, Michigan, 1931), 132.

²⁴ John M. Gordon, "A Speculator's Diary," in Justin L. Kestenbaum, ed., The Making of Michigan, 1820-1860: A Pioneer Anthology (Detroit, Wayne State University Press, 1990) 119, 149.

consequences the settlement brought to Indians further north, for those who lived along the Grand River, it had a direct, immediate, and forceful impact.

In the first six years of the 1830's the Grand River Ottawas saw a rapid increase in the regular presence of non-Indians in their valley. Of all the Indians directly involved and implicated in the Treaty of 1836, only the Grand River Ottawas were under direct settler pressure. Local historian Charles Richard Tuttle sees 1833 as a pivotal year in which the fur traders and missionaries were joined by early settlers. In 1833, he notes, sixty-four "colonists" accompanied Samuel Dexter and laid out "the Dexter Fraction of Grand Rapids. Most of the colonists. . . became residents of the city. . . ." From 1833 to 1836, he traces a steady immigration of new arrivals.²⁵

In spite of, or perhaps because of, the pressure faced by Grand River Ottawas, they were among the most averse to any major cession of lands. After the passage of the Indian Removal Act of 1830, as the federal government made removal to the West a cornerstone of its Indian policy, the Grand River Ottawas, with Slater's help, voiced serious objections. Slater learned from the Indians that removal was out of the question. In 1830 he wrote to Lewis Cass that the national discussion surrounding removal "excited the minds of some of the influential men of the Ottawa tribe, residing on this River." Four villages that year held a council and selected delegates whom they hoped would gain, from President Andrew Jackson, assurances that they would remain "in free possession of the soil they now improve situated North of Grand River." They expressed "an utter aversion to emigration to the West," and they sought a confirmation of

²⁵ Charles Richard Tuttle, History of Grand Rapids, with Biographical Sketches (Grand Rapids, 1874), 22-23; see also 24-29, 34-36.

"the title of the soil they now possess." They were hoping that Cass would advise them on how to achieve these ends.²⁶

The aversion of Grand River Ottawas to land cessions would find expression in both their late arrival in Washington and their late acceptance of the Senate revisions. They further revealed their reluctance to leave the greater Grand River region by finding ways, sanctioned by the treaty, of remaining there. For example, while the treaty would ultimately provide them with a temporary (five-year) 70,000 acre reservation north of the Pere Marquette River, few would actually move north during the period of the reservation's legal tenure. Instead, most found ways of staying on the richer southern lands, counting in many cases on the purchase in fee simple, generally under the trusteeship of a U.S. citizen-ally, of acreage large enough for a small village or colony, and counting, additionally, on the usufructuary rights embodied in Article 13 for their continued harvesting of resources from the larger surrounding environment.²⁷

In the several years preceding the Treaty of Washington, then, Grand River Ottawas saw lands on the "south" bank of their winding river attract speculators and actual settlers. These Ottawas wished to remain in the region, even if it meant living among the newcomers. But with a pro-removal president in the White House and with good agricultural lands lying even north of the river, they did have reason to fear imminent dispossession.

Remoteness of Other Ottawa and Chippewa Groups from U.S. Settlements

There was far less reason for such fear among Ottawas and Chippewas who lived farther north, especially among the Chippewas of the Upper Peninsula. Writing from Sault Ste. Marie in

²⁶ Leonard Slater to Cass, Thomas Mission on Grand River, Sept. 28, 1830 NAM1R27 249.

²⁷ McClurken, "We Wish to be Civilized," 197.

1826, Schoolcraft (not yet a convert to the removal movement) worried about the growing national pressure to deny Indian rights to eastern lands, but he also noted that: "We feel nothing of this here at present, but it is only, perhaps, because we are too remote and unimportant to waste a thought about. Happy insignificance!"²⁸

McCoy, urging the removal of eastern Indians in a nationally circulated pamphlet published the following year, included in his proposal the Ottawas and Potawatomis of southern Michigan, but he excluded the Chippewas: "The Chippewas inhabit along the line between the United States and Canada; the greater portion of them on the Canadian side. Let us leave them, and perhaps some others, entirely out of our present calculations; and on this account leave out so much of our north-western territory, as lies north of the forty-sixth degree of northern latitude." His line roughly excludes the Upper Peninsula.²⁹ In 1827, too, Thomas McKenney described large portions of the Upper Peninsula as having no agricultural future.

As to the soil along the lake [Superior] shore, it would defy the art of the most skillful to make it productive--it is barrenness itself; or if it were more fruitful, summer flies over it like a bird, and leaves so little of the fruitful season, as to forbid the hope that any thing would be made to grow there even were the soil better. I consider this whole region doomed to perpetual barrenness.³⁰

Historian Ida Johnson quotes Horace Greeley of the New York Tribune as disparaging the lands of the Upper Peninsula as late as 1859. These were, he said, "cold and uninviting to the cultivator, diversified by vast swamps, sterile, gravelly knolls, and dense forests."³¹ Indians of

²⁸ HRS, Personal Memoirs, 240.

²⁹ Isaac McCoy, Remarks on the Practicability of Indian Reform, Embracing their Colonization (2nd ed., New York: Gray and Bruce, 1829) 21. McCoy later includes the Chippewas in his proposal for removal. See page 35.

³⁰ Emphasis his. McKenney, Tour to the Lakes, 378.

³¹ Johnson, Michigan Fur Trade, 148.

the Upper Peninsula feared no settlement of their region in 1836, and they expected to be able to hunt, fish, tap sugar, and even live on the ceded lands for the foreseeable future.

As late as the 1850's, there were many American citizens in Michigan who found nothing outrageous about such a prospect; indeed, they found it to be reasonable. The editor of the Lake Superior News and Mining Journal wrote an essay attacking federal efforts to remove Wisconsin's Chippewas. From his office in Sault Ste. Marie, he argued that the Lake Superior country was simply not anything like places to the south. He argued instead that Indians be allowed to live their lives unperturbed, as long as their small agricultural plots were not essential to accommodate new settlers:

We believe we express the conviction of the entire population of the Lake Superior country in regarding this removal as uncalled for by the best interests of the Government, the whites, or the Indians. This is not a case of removal like any other that has taken place in this country. Generally, there has been some show of reason for this painful resort. . . . But it is far different in the case of the Chippewas. They occupy a remote portion of the country. . . that would not, in all probability, have been settled for a hundred years to come, had it not been for the rich deposits of minerals lately discovered in its rocky hills.

From time immemorial this people have occupied the northern region, and have become acclimated to its cold and rigorous climate; and by hunting and fishing, and the cultivation of their small patches of soil, they have lived comfortably and contentedly, causing little or no trouble to the United States and their neighbors. Until their little fields are needed for the accommodation of their white brethren, why should they be driven to strange places, a prey to the designs of [the Sioux] their worst enemies? They can live comfortably where they now are, but they will starve to death, as hundreds did last winter, in the miserable region [in Minnesota] to which the Government would remove them.³²

To be sure, portions of the Upper Peninsula do hold prime agricultural lands, and in these,

³² Emphasis mine. Quoted in Satz, Chippewa Treaty Rights, 61-62. Satz cites the Sault paper, as quoted in "Removal of the Indians," The New York Times, Sept. 29, p. 4.

the Chippewas would soon face pressure from settlers.³³ For most of the peninsula, in the meantime, the Indians could, quite accurately, anticipate an Indian future.

What was true of the Upper Peninsula was also true of large parts of the Lower Peninsula, as we have seen. Most lands in the northern part of the Lower Peninsula are rated third- or fourth-class lands, unsuited for “agricultural colonization.”³⁴

Michigan Indians of the Lower Peninsula, who were corn-fed folk, knew of the potential of their land for agricultural settlement; at least they had a clear understanding of the land's qualities. They expected American settlers to come and inhabit the rich portions of their ceded lands. At the same time, they would have expected Article 13 to protect their right to harvest resources from most of the lands that they had ceded, lands unsuited to farming, and therefore unsuited to thorough settlement. The region would be patched with farms and villages, but forests, woods, marshes, prairies, lakes, and streams would remain unsettled.

The year after the treaty was made, the United States fell into one of its deepest economic depressions ever; for several years even good farming land was out of the reach of most potential investors. The depression, commonly known as the Panic of 1837, lasted for years, and it ended the land boom.³⁵ Henry Schoolcraft's annual report of 1838 indicates that the tribal population was increasing, and, while he is bullish, his report implies that the prospects were distant for the American settlement of much of the state:

The large area included within these boundaries, was ceded by the treaty of March 28, 1836. No accurate map of the country is extant, and the surveys thus far extended do not

³³ Cleland, Place of the Pike, 24.

³⁴ Lewis, West to Far Michigan, 48-52.

³⁵ Bremer, Indian Agent, Wilderness Scholar, 192; McClurken, "Ottawa Adaptive Strategies," 45.

extend beyond 110 miles north of Grand river. . . . Much [he does not say "most"] of this land is deemed to be of the first quality. Other sections embrace valuable pineries, with ample water power, comprehending many rivers of the first class, together with numerous bays, harbours, islands, and fishing grounds, indispensable to the future growth and prosperity of the State.³⁶

Indians of the Little Traverse Bay region stated, in an 1844 petition to the President, that "The country we occupy from the severity of its climate is not well adapted to the advanced culture of the white men, whilst it is all-sufficient for our moderate wants and will afford us the means of livelihood." This was in 1844, and it reflects the skepticism that white settlers would soon be settling in their immediate country.³⁷

James Clifton, in a brief review of Michigan's Indian history, writes that even in 1847 "there was no great pressure from settlers to acquire prime agricultural land in large quantities in this region."³⁸ Later, in 1851, an American agent assessed the condition of the Indians of the Lower Peninsula between Cheboygan and Grand River. He found them civilizing and largely settled, and he observed that "The country through which I traveled is not as well adapted to farming purposes as the interior of the state, the timber consisting chiefly of pine and hemlock, it is chosen by the Indians on account of its distance from the white settlements."³⁹

If the Ottawas and Chippewas of the northern regions had little reason to expect the imminent occupation of their territories by American farmers and villagers, they nonetheless in

³⁶ HRS to T. Hartley Crawford, Nov. 25, 1838, Senate Document 1, 25:3 (338): 480-481, in New American State Papers, Indian Affairs 1: 526, see also 525. Also in NAM1R37: 550 (quoted).

³⁷ To the President of the United States of America, this Petition of this Children, the Ottawas and Chippewas of Michigan.... [ca. March, 1844], NAM234R425 fr. 595-597.

³⁸ James A. Clifton, "Michigan's Indians: Tribe, Nation, Estate, Racial, Ethnic, or Special Interest Group," Michigan Historical Review 20 (1994), 125.

³⁹ H. S. Murray to Elias Murray, Green Bay, Sept. 4, 1851, NAM234R598 frames 43-45.

the early 1830's were already seeing what were, from their perspective, alarming depredations by American citizens. These came less by land than by inland sea, and they came in the form of steamboats. Schoolcraft recalls sitting on the veranda of his Mackinac Island residence in 1835, "in front of which the great stream of ships and commerce passes, it is a spectacle at once novel, and calculated to inspire high anticipation of the future glory of the Mississippi Valley."⁴⁰ As steamships became increasingly routine, the demands of navigation and fuel sent axe men into the woods. They sought fuel to power their vessels and to warm the light keepers at light houses and light ships near the dangerous passages. Ottawas and Chippewas lodged specific complaints about the intrusions upon their lands that resulted from such incursions. In council on October, 1834, for example, they demanded payment for the lost wood on "Crane Island" [probably Waugoshance Island] and Manitou Island.⁴¹

Steamships, of course, presented opportunities as well as threats to Indians already involved in commerce. Fish, barreled and salted, could now reach new markets. Maple sugar, packed in decorated "mukuks," could be shipped to distant consumers as could other curiosities. Even furs and skins, which could suffer in shipping from worms and other vermin, benefitted from speedy transportation. The Indians viewing those steamships had seen and adjusted to new technologies for two centuries. Many knew they could adjust again.

Indian Indebtedness

We have seen that Indians agreeing to the treaty in 1836 could reasonably expect hunting to remain a feature of the economies well into the future. Certainly many Indians expected to

⁴⁰ HRS, Personal Memoirs, 522.

⁴¹ HRS to Herring, Michilimackinac, Oct. 25, 1834, NA1R69, 78.

continue to hunt as a way of supplementing their livelihoods gained in fishing, farming, gathering, sugaring, and through other activities, such as trading, laboring, and guiding. But the fur trade, in particular, had brought extensions of credit and debt to Indians, and debt weighed heavily upon many in 1836. Indians were hardly unusual in having heavy debts, but unlike other peoples, their individual debts played into a national policy for the appropriation of their lands. There was also nothing new about Indian hunter indebtedness to traders in the nineteenth century; it had long been a feature of the trade. But only in the nineteenth century did Indian indebtedness become directly tied to treaty-making.

Since the era of Thomas Jefferson's presidency, the federal government had seen debt as a method of inducing tribes to cede lands. In 1825, under John Quincy Adams, "the federal government began to pay Indian debts to fur traders out of tribal funds," that is, out of the funds designed, in treaty, to pay tribes for land cessions. Traders benefitted because they obtained payment; individual Indians benefitted by having their debts relieved; the benefit to the tribal nation was dubious. Economic historian James Clayton comments: "Since the good will of a trader was often crucial to the successful conclusion of a treaty, the United States authorities saw no evil in speeding the negotiations by providing for the satisfaction of a trader's claims." Clayton points out that in the late 1830's traders raked in annually almost \$200,000 from "Indian treaties, and in 1842 such claims amounted to over \$2,000,000. The bulk of this money was paid to individuals in the Great Lakes region."⁴²

Many Ottawas and Chippewas had been incurring debts that they could not repay. In an effort to relieve tribal members of the heavy debt burden and to restore those with bad credit to

⁴² Clayton, "The Growth and Economic Significance of the American Fur Trade, 1790-1890," 216.

traders' good graces, tribal leaders sometimes reluctantly considered selling some lands to the United States. This is one of several points of origin of the Treaty of 1836. No general collapse of the fur trade, no sudden or massive overkill of prey, forced Indians to the table. What induced some leaders to offer lands to the United States was instead a disturbing rise in Ojibwa and Ottawa indebtedness. Because debt can result as easily from overspending, from the rising cost of goods, or from the declining value of produce, as it can from a lack of productivity, we cannot attribute debt automatically to an irreversible decline in hunting.

Proposed and Opposed Land Cessions, 1833-1835

In November, 1833, facing heavy debts, several Ottawas and Chippewas met in formal council in the Little Traverse Bay region. They sought Schoolcraft's permission to send a delegation to Washington, D.C., to discuss limited land cessions. The Ottawa leaders included The Wing of the Little Traverse Bay region, Pakuzzigan of L'Arbre Croche, Pabamatabi of L'Arbre Croche, and Misawakwut of Lake Michigan.⁴³ The request was denied. A few months later, in February, 1834, Assiginack (later known as Jean-Baptiste Assiginack) and seven men from Ottawa L'Arbre Croche in the Little Traverse Bay region arrived at the Mackinac agency with a proposal to sell Drummond Island, recently abandoned by Ottawas, some of whom had moved to Manitoulin Island (Great Britain). According to Schoolcraft's memoirs, Assiginack and his companions complained that steamboat crews were illegally cutting wood on their lands. They said game was failing in some of their lands; they expressed concern about their debts; and they wondered if "settlements would soon intrude on their territories." In his memoirs,

⁴³ HRS to Governor G. B. Porter, Michigan, Michilimackinac, Nov. 21, 1833, NAM1R69, 21; also in NAM234R402 fr. 106-107.

Schoolcraft notes that "This was, in fact, the first move of the Lake Indians, leading in the sequel to the important treaty of March 28th, 1836."⁴⁴ But no one had, as yet, proposed a cession of anything like the dimensions reached in that treaty. Schoolcraft explains the Ottawas' motives: "Game had failed in the greater part of it, and they had no other method of raising funds to pay their large outstanding credits to the class of traders," reiterating the position that attributed debts solely to a decline in game. He adds, "The Ottawas of the peninsula determined to send a delegation to Washington," without explaining that only a small portion of the Lower Peninsula's Ottawas had reached such a determination.⁴⁵

Schoolcraft then accurately conveys the federal reluctance to have the Ottawas and Chippewas visit the District of Columbia. After such a visit had first been mooted in 1834, Robert Stuart, a prominent trader (and future Indian agent), wrote from Washington to Schoolcraft that Secretary of War Lewis Cass, thought a visit would be "folly, as their lands are not required at present. . . ."⁴⁶ The next year, Elbert Herring, the Commissioner of Indian Affairs, declared such a visit "unadvisable."⁴⁷

The proposals from some of the Ottawas came in a larger context of anxiety over both large land cessions and removal. Assiginack's early 1834 offer to sell certain lands came during a period in which Indians feared that the governor of the territory was planning for the Indians'

⁴⁴ Schoolcraft, Personal Memoirs, 465; see also McClurken, "We wish to be Civilized," 166.

⁴⁵ HRS, Personal Memoirs, 524.

⁴⁶ Robert Stuart to HRS, Washington, D.C., March 12, 1834, HRSP/DLC/SHSW, Reel 6, Container 12: 2077-2078; see also McClurken, "We wish to be Civilized," 166.

⁴⁷ Herring to George Porter, Office of Indian Affairs, April 16, 1836 (sic: the context demonstrates it is 1835) NAM1R34 227; See also McClurken, "We wish to be Civilized," 166.

dispossession. That very spring, Father Baraga happened upon a large council at the Ottawa Village at Grand Rapids. The Grand River Ottawas were hosting the visit of Ottawas from L'Arbre Croche, who were "very much worried about their land." Baraga describes the council in detail. He says that the "speaker from Arbre Croche," an elder, explained the purpose of his visit, declaring that

all the Indians of Arbre Croche are firmly resolved never to cede their lands to the government of the United States, and not to make themselves and their children unhappy. After the concluded speech he handed to the chief of this place [Grand Rapids] some glass beads, which were strung on a green ribbon, as a sign of their unity and their united sentiment. . . . After a long silence several arose, one after the other, went to their [the Grand River] speaker and in a low voice communicated to him their opinion; after that the [Grand River] speaker arose, . . . and then declared to them their general opinion, that they also are disposed never to sell their land, etc., and explained his reasons to them. . . .

Baraga then related this interesting piece of information:

This summer we are expecting the governor from Detroit, who has received from the government the comission (sic) to conclude a treaty with the Indians in regard to their lands which they still possess in this Michigan territory. The arrival of the governor will decide the lot of our Indians.⁴⁸

In the event, the governor did not conclude a treaty with Indians, but the Indians accurately perceived official interest in their lands.

By the next summer, the Commissioner of Indian Affairs notified Schoolcraft that the government was indeed interested in a massive purchase of Michigan lands. As we have seen, some Indians had been proposing limited sales. The commissioner ordered Schoolcraft to ascertain, "if the Indians, residing North of the Grand River are willing to part with any portion

⁴⁸ Rev. Fred. Baraga to the Leopoldine Foundation, June 26, 1834, Mission of St. Mary on Grand River [translated typescript], ALF. XIV. VI. #35. BBC. Mf. 66-2; 29-32, photocopy of microfilm courtesy CHL and NDA. Photocopy of microfilmed original (in German) courtesy NDA. Not reading German, I rely on the translation.

of their lands; and if they are, to what extent, and upon what terms."⁴⁹ Schoolcraft received the letter on September 12, 1835. He noted in his memoirs: "The letter to which this was a reply was the first official step in the causes which led to the treaty of March 28, 1836."⁵⁰

Within a mere *five days*, hardly enough time to form a clear idea of representative Indian opinion regarding further cessions, Schoolcraft claimed both that the Indians of the lower peninsula were discussing the cession of their lands and that they wished to visit Washington. But he also noted any effort to assemble a representative Indian delegation for a treaty council in Washington was simply out of the question for the coming winter. Instead, he proposed to visit Washington himself to discuss the general outline of an agreement with President Jackson and Secretary of War Lewis Cass.

The Indians of the Peninsula are discussing the question of selling their lands to government, on an inquiry to this effect, which has been made of them by the War Department through me. In a council this day, they have strongly brought forward a request to visit Washington, to express their views verbally. The season is now so late, that it would be impossible for me to collect a proper deputation of the several bands interested in the title to the soil north of Grand River, in time to make the visit this winter.

Several of the Chiefs have united in a request that I should see and converse with the President and the Secretary of War, in their name, on the preliminary points of a treaty, and state to them, some of the peculiarities of their present situation, which cannot be satisfactorily explained without verbal conferences. I am of opinion that this course would secure all the advantages of a deputation from the bands, who are sufficiently well acquainted with our resources, to render their personal observation on the country, an object of little moment.⁵¹

That September, then, Indians realized that Schoolcraft was inclined to go to Washington to discuss a cession of their lands. As before, the federal government responded to these

⁴⁹ Elbert Herring to HRS, Aug 29, 1835, NAM1R72 217. See also McClurken, "We wish to be Civilized," 169.

⁵⁰ HRS, Personal Memoirs, 522.

⁵¹ HRS to Stevens T. Mason, Michilimackinac, Sept. 17, 1835, NAM1R36 218. See also McClurken, "We wish to be Civilized," 169.

messages with an order that neither Schoolcraft nor any Indians come east as yet.⁵²

Indian Office Retrenchment, 1834, and First Hints of Article 13

It is highly important to note that the Ottawas and Chippewas discussing possible land cessions with Schoolcraft were not from the Grand River region, the only region, as we have seen, feeling any immediate threat of large-scale settler expansion. The Indians willing to discuss limited cessions lived further to the north (and they were not, it should be noted, proposing to sell Grand River lands). The famous pressure of white settlement was not yet upon the Indian men speaking to Schoolcraft. Neither was poor hunting, despite some rhetoric, the major problem they wished to relieve. To be sure, many of their people were feeling the crunch of debt, a matter of complicated market conditions and not simply of ecological crisis. It is also the case, as we have seen, that the increase of steamboat traffic was having an impact on their woods, and given the rapid increase of such traffic, perhaps they feared that great change was imminent. But, as for their relations with the U.S. government, the economic problem that most troubled them in the years immediately preceding the treaty had origins more in politics than in commerce. The problem sprang from federal retrenchment in the Indian office, as the Jacksonian Democrats slashed the federal bureaucracy. In 1834, for example, the subagency at Sault Ste. Marie was closed, and, in a provision that proved irksome to Indians throughout Northern Lower Michigan and the Eastern Upper Peninsula, the federal blacksmith shop at Mackinac was withdrawn. Schoolcraft's operating budget fell from \$6,665 to \$3,320. These were serious potential blows to the Indians' livelihoods: the federal blacksmith, in particular, had freely

⁵² D. Kurtz to John S. Horner, Acting Michigan Superintendent of Indian Affairs at Detroit, Washington, D.C., Nov. 2, 1835, NAM1R36 280.

repaired their traps, guns, kettles, spears, and other implements critical to hunting, fishing, and sugaring. Just the previous year, moreover, the Chippewas at the Sault realized that the federal government was not going to prevent citizens from competing with Indians for fish even on the shorelines of Indian country.⁵³

In August, 1834, Indians from Northern Michigan had met in full council with Schoolcraft. He informed them that the federal government intended to close the Mackinac blacksmith shop. The Indian leaders politely expressed gratitude to the president for "furnishing them a blacksmith shop at this Island," for supplying them with "provisions," and for his "limited presents to the aged and infirm. . . ." But courtesy aside, they made it clear that their people would "deeply feel the withdrawal of the shop." We cannot know the full range of their sense that the shop amounted to a federal obligation, but they did suggest that they should now receive "some consideration," for having in the Greenville Treaty, 1795, given the United States the island of Bois Blanc, between the Straits of Mackinac and Lake Huron, "as a gratuity over and above the grants" of land requested by the federal government.⁵⁴ On October 15, Schoolcraft fleshed out the Indians' opinion, as he sent to Washington an Indian petition for the retention of the blacksmith shop.

He wrote that he had been visited by the Ottawas and Chippewas from both peninsulas and some of the islands. He quoted speeches from the Ottawas Chusco of Mackinac and Pabamatabi of L'Arbre Croche in the Little Traverse Bay region. Chusco reiterated the opinion

⁵³ Bremer, Indian Agent, Wilderness Scholar, 146; Chute, Legacy of Shingwaukonse, 67.

⁵⁴ HRS to Steven T. Mason, Michilimackinac, Aug 18, 1834, NAM1R69 51. James McClurken discusses this episode in "We Wish to be Civilized," 164-165.

that the Mackinac blacksmith shop should be seen as compensation for the 1795 surrender of Bois Blanc Island. He claimed that Major Anthony Wayne had promised at Greenville annually to compensate the Ottawa and Chippewa peoples with the value of 200 pounds of beaver skins, but that the compensation had never been made. Nor did his people receive any annuities; "nothing that was promised us at Greenville (sic), and at subsequent treaties, have been paid to us." He did not accuse the United States of renegeing on the bargain; instead he suggested that the annuities must be reaching "others living east and south of us. . . ." He uttered the standard but exaggerated rhetoric, a formal design to invoke a great leader's pity, that "Our lands are almost gone, our hunting has failed, when our young men go out, they cannot see any animals." But at the same time, contradicting the decline of hunting, he called upon Schoolcraft to keep the blacksmith, because hunters needed him: "if you withdraw the shop, the hunters will have to throw away many of their traps and guns, for want of a blacksmith, to mend them."⁵⁵

Pabamatabi reinforced Chusco's argument with an appeal to history. The French and British, who had earlier established posts in northern Michigan, had ordered blacksmiths to "mend our Iron works," as a mark of friendship. When "the American flag, was hoisted on this island [Mackinac], a shop was also allowed for the Indians." The blacksmith repaired "a great part of the implements we use in hunting and cooking," which made them "twice valuable to us." The Ottawas had one young man who knew a little of the craft, and they hoped that he might work with the blacksmith on Mackinac to fully develop his skills. Pabamatabi then leaned into his argument, informing Schoolcraft that the elders recalled having granted the federal garrisons

⁵⁵ HRS to Senate and House of Rep, in Congress, Oct. 15, 1834, NAM1R69 p. 74-75. McClurken points out that Schoolcraft, in another of his writings, denotes Chusco as a Chippewa, but McClurken identifies Chusco as a Presbyterian Ottawa from Mackinac; see "We wish to be Civilized," 165, 386 n.9.

the use of only three miles around each fort, and that the Ottawas would be happy to accompany surveyors to mark these boundaries carefully. In the event of the shop's withdrawal, soldiers would thenceforth not be permitted to cut either wood or hay beyond these boundaries. "It is now valuable to you, you could not live on the Island without. Were our means ample we would not ask for remuneration. But we are impoverished in many ways. And we therefore ask of you that the shop may be kept open."⁵⁶ In short: their 1795 Bois Blanc Island gift had put Washington under a moral obligation to maintain the shop; if it reneged, they would demand payment for the hitherto free access they had allowed U.S. troops to fuel and animal fodder.

The petition sent by the "Chiefs and headmen of the Chippewa and Ottawa Nations, residing in the vicinity of Michilimackinac" to President Andrew Jackson mainly concerned the retention of the blacksmith shop as "compensation" for the cession in 1795 of Bois Blanc Island.⁵⁷ Ottawas and Chippewas from Grand River to Grand Traverse seem not to have been represented; the distance to Mackinac from these places would have made the Mackinac blacksmith a lesser matter of concern.

⁵⁶ HRS to Senate and House of Representatives, in Congress, Oct. 15, 1834, NAM1R69 p. 75-76

⁵⁷ HRS to Senate and House of Rep, in Congress, Oct. 15, 1834, NAM1R69 73-76 includes the HRS letter and his record of Indian speeches; the petition is on 77. See McClurken, "We wish to be Civilized," 165, for elaboration on this petition, and the locations of the villages and the leaders. I add his spellings of each individual's name in brackets. It was marked by the following individuals, as spelled on the petition: Chabowawa of Chenos; Ainse of Oak Point (near St. Ignace); Saganosh of St. Martin's; Akukojeesh, Chibyawbos, and Miss satigo of St. Ignace; Wayishkee, Chegud, Osawatonace, and Shingabawossin of St. Mary's; Chusco of Mackinac; Chingasano [Chingassamo], Nemoceyee, and Missinushcotawa, of Cheboygan; Nodin and Wiawenid of St. Croix (Cross Village); Penais Wegeeghig and Tibbus Equeezhig of Epoufette on the Upper Peninsula; Nishcadjinine [Niscaginin], Paukoozzegun [Apokisigan], Pabanmitabee [Pabamatabi], Muckkudday Pense [Mackatabenese], Chemokoman [Chenmokoman], Kemjnewn [Kemewan], Ningweegun [Negwegon], Nawishkinabi, Waishkee, and Keenus of both the Upper Peninsula and L'Arbre Croche; Deemootawa, Wabigeezhig, Lessinkeengua, Namushcoda [Mamouschota], Nissowankwat [Nissowaquot], Edoshcosh, and Sagetamoowee[Sagitandawe] of Lake Michigan; Paimossiga [Pamoosiga], Keminejahgun, Paimaukineeng, Pagancakininung, and Aputto, of the Little Traverse Bay region. Pabawtabi signed on his own.

The idea of a limited land cession came again in June, 1835, when two Mackinac Straits-region Ottawas who had recently moved to Manitoulin (also then known as Ottawa) Island, under British authority, visited Schoolcraft at Mackinac. "Taibossiga and Niganikaum . . . propose to sell to the government their claim to Drummond Island. . . . they have made up their minds to emigrate from this part of Lake Huron, and suppose it may be valuable to white men."⁵⁸

As that summer waned, Schoolcraft received instructions to expand the discussions of a possible cession. Herring informed him that the United States was interested in the Manitoulin Indians' proposal to sell Drummond Island; the republic was also interested, moreover, in knowing "if the Indians residing north of Grand river are willing to part with any portion of their lands; and if they are, to what extent, and upon what terms."⁵⁹ Schoolcraft wrote to the commander of Fort Brady at the Sault, Brevet Major W. V. Cobbs, who then acted as a subagent for the Indian office. The blacksmith shop, clearly on Indian minds, entered Schoolcraft's discussion of a possible cession of lands. Schoolcraft observed that, whatever Indians thought about federal promises of a blacksmith shop at the Sault, he could recall nothing in the negotiations that had taken place in 1820. But if the Chippewas in the Sault region wished to have such a shop, he thought that they might secure one in a new treaty, following a new cession of all the lands that lay between Forts Brady and Mackinac, that is, the lands along the eastern edge of the Upper Peninsula. He sought the lands, in part, for reasons of national security, specifying that the boundary with Upper Canada should be included. (Since the United Kingdom

⁵⁸ "Agency of Michilimackinac," June 19, 1835, NAM234R402 fr. 181, enclosed in HRS to Herring, Michilimackinac, June 20, 1835, NAM234R402 fr. 180; also in NAM1R69 174. Note their names on the petition cited in the previous note.

⁵⁹ Herring to HRS, Washington, August, 29, 1835, NAM21R17 27.

was at the time the world's great power, and since the United States had fought two wars with Great Britain within the memory of many a living person, including President Jackson, defending that boundary was a serious strategic concern to the United States until Canada achieved dominion status in 1867.) Conscious of appearances, Schoolcraft cautioned Cobbs that the initiative for this cession should appear to come from the Indians themselves: "this offer should come from them as soliciting a boon."⁶⁰

The "boon" Schoolcraft proposed that the Indians themselves appear to solicit included not only the blacksmith shop, but also reservations, an annuity, and, in a line written on Sept. 23, 1835, that clearly foreshadows Article 13: "the right to hunt and live on the tract, until it is required."⁶¹ It is important to note that the "right" that Schoolcraft proposed went vastly beyond hunting, to include the right "to live on." In the final treaty, this right would fall under the phrase: "the usual privileges of occupancy." Also important is the difference between this September wording, "until it is required" and the following March treaty's actual wording, "until it is required for settlement." "Required" had been strongly modified.

Schoolcraft again took up the issue of usufructuary rights, when he penned a letter on Nov. 3, 1835, discussing the general opinion of Indians regarding a cession of the lower peninsular lands north of the Grand River. While he acknowledged divided opinions, he had favorable responses from Indians in the "eastern, middle, and northwestern portions of the country." In exchange for the cession, the Indians had several "considerations," including "reservations, and a defined right of hunting on the lands sold." A vague line refers to a desire

⁶⁰ HRS to Major Cobbs at Fort Brady, Michilimackinac, Sept. 23, 1835, NAM1R69 121.

⁶¹ HRS to Major Cobbs at Fort Brady, Michilimackinac, Sept. 23, 1835, NAM1R69 121.

that the government establish for them "a future place of permanent residence," which, it is likely, Schoolcraft intended to suggest would be in the West.⁶²

Later in the month, the commander of Fort Mackinac also discussed a term that closely foreshadows Article 13. After conferring about the proposed cession of Drummond Island with several leaders, Captain John Clitz observed that the Indians wished, among reservations and other considerations, to "have a full right to hunt on the ceded lands, as long as they are unoccupied. . . ."⁶³ This is a far cry from Schoolcraft's initial phrase of September, "until it is required." Here the phrase, "as long as they are unoccupied," informs us of the Indians' understanding of the later treaty language, "required for settlement." Settlement is equated with occupation, with actual habitation. William Johnston, Schoolcraft's brother-in-law and an interpreter, was involved in the discussions, and his report exactly concurs with Clitz's on the stipulation "to have a full right to hunt, on the ceded lands, as long as they were unoccupied. . . ." The Chippewa leaders included law bawanchiek (Waishkey of the Sault), Showons (Oshawwano or the South, of the Sault), and Oconogeeg (probably Keewyzi of the Sault).⁶⁴

Journeys to Washington

Ottawas from the Little Traverse region had become convinced by 1835 that Schoolcraft was not adequately representing their voices to federal authorities, and they distrusted his versions of what Washington had to say. After the September meeting, they worried that he would travel to Washington and possibly misrepresent their views. An Ottawa and Chippewa

⁶² HRS to Elbert Herring, Michilimackinac, Nov. 3, 1835, NAM1R69 140.

⁶³ Capt. John Clitz to Elbert Herring, Michilimackinac, Nov. 17, 1835, NA1R69 147.

⁶⁴ William Johnston to HRS, Michilimackinac, Nov. 17, 1835, NAM1R72 323-324.

council in May appointed Augustin Hamelin, Jr., as a head chief to deal with the United States. Attending the council were important members of the Little Traverse Bay area Ottawas, as well as individuals from the Grand Traverse, Manistee, White River, Pere Marquette, and Grand River regions. Hamelin and one of the signers of that document, Apokisigan, headed with a small delegation for Washington, contrary both to Schoolcraft's instructions and to the Indian department's orders, in October.⁶⁵ As late as the last day of November, the Commissioner of Indian Affairs expressed "regret" that the Ottawa party had journeyed so far, and he predicted that "it is a vain visit, because it could have been transacted through the medium of its agents, and have saved them very considerable and altogether unnecessary expense."⁶⁶

Augustin Hamelin, Jr., (his Ottawa name was Kanapima) was the grandson of Mackatabenese (Black Hawk or, sometimes, Black Bird), and he was related to Apakosigan. Both had been prominent men in the Little Traverse Bay region. Augustin Hamelin, senior, had been a resident of St. Ignace on the Upper Peninsula, and he was of French-Ottawa decent. Schoolcraft in 1838 described the elder Hamelin as a "French half breed trader." At other times, perhaps in an effort to discredit the son's standing as an important leader or even a member of the

⁶⁵ HRS to Herring, Michilimackinac, Oct. 30, 1835, NAM1R69: 137, also in NAM234R402 frame 201. Apakosigan is spelled Pakoosisgun in Schoolcraft's letter; McClurken, "We wish to be Civilized," 167-168, 176. Little Traverse Bay and L'Arbre Croche Indians, May 3, 1835 NAM234R424 frs. 88-89 (this is a certified copy. It is marked by the following individuals: Nisawakwat, Apakosigan, Sagitandawe, Kakatebinessi, Miskomemengwa, Tekamasimon, Kimimtchagan, Anwatinochkami, Pitasige, Wisagisi, Chawanakoam, Mesisweurimini, Tagwagane, Neogima, Wasan, Asagon, Onaasanon, all of L'Arbre Croche and Little Traverse Bay; Nawimachkote, Pebamitabi, Itawachkachi, Saganikoam, Wechki, Wabiwindigo, Menitowachi, Netweilandagachi, Kinochameg, Nawaso, Naososinebi, Nabanekejig, Wchinaweto, Kisiswabe, all of Cross Village; Misatagon, Chabwewechkam, Ense, all of the Mackinac region; Echkegwonebi, Akowise, Chaiabwasang, Nibakoam, Mikinak, Omisinachkotewe, all of Kitchi Wikwetong, or Grand Traverse Bay; Makonsewaian, Matchikijig, Kinonje, Adenimi, Paiechigwewidang, Wabinessi, Makatebinessi, Nabitasawe, Witanesa, Monjabe, all of North Manistee; Naganabi, Kiwekochkam, both of South Manistee; Kegwetose of the Plate River; Sagima of the Pere Marquette River; Noweikosi, Wenawe, Nabanekejig, all of the White River; and Nemamatabi of the Grand River.)

⁶⁶ Herring to John Horner, Washington, Nov. 30, 1835, NAM21R17 316-317.

Little Traverse Bay band, Schoolcraft called the senior Hamelin, simply, a "Canadian." No one doubted that the son's mother was Ottawa. Schoolcraft would later report that Hamelin should not be considered an Indian, but even while he did so, he would assert that Hamelin had the "bias of opinion peculiar to the aboriginal races."⁶⁷ In 1840 Hamelin was refuting these claims, garnering the support of one of Michigan's Senators (John Norvell) and waiving a document of May, 1835, in which he had been appointed "head chief" of the Ottawas and Chippewas of the Little Traverse Bay and Michilimackinac regions.⁶⁸ This was not an undisputed appointment, and it had little basis in Ottawa culture.

Augustin Hamelin, Jr., had a fine education, having attended the College of Propaganda in Rome, along with his cousin William Blackbird. He had returned from Rome in 1834, not long after his cousin's death in that city.⁶⁹ Later generations of Ottawas would suspect other American students in Rome of having murdered young Blackbird in "a secret plot originating in this country to remove this Indian youth who had attained the highest pinnacle of science and who had become their equal in wisdom. . . ." Although William Blackbird died in 1833, he was remembered as one who had been "counseling his people on the subject of their lands and their treaties with the Government of the United States."⁷⁰

Augustin Hamelin, Jr., then, an educated Roman Catholic with ties to the church

⁶⁷ HRS to Harris, Michilimackinac, June 16, 1838, NAM1R37: 507; HRS to T. Hartley Crawford, Washington, D.C., July 29, 1840, HRS to T. Hartley Crawford, Sept. 29, Michilimackinac, 1840, NAM1R38 312, 360.

⁶⁸ John Norvell to J.R. Poinsett, May 10, 1840; Augustin Hamelin to J.R. Poinsett, Washington, April 10, 1840, NAM234R424 frs. 82, 85; Little Traverse Bay and L'Arbre Croche Indians, May 3, 1835 NAM234R424 fr. 88.

⁶⁹ McClurken, "We wish to be Civilized," 167; Blackbird, History, 35-36, 41-43.

⁷⁰ Blackbird, History, 42.

hierarchy, was not someone with whom Schoolcraft, who disliked what he saw as Catholic interference with Indians, wanted to work. Neither man trusted the other.⁷¹ The two would feud for the remainder of Schoolcraft's career as agent. Schoolcraft later wrote that Hamelin "has been found opposed to the policy of the department, in every instance known to me."⁷²

Neither did Hamelin have the backing of all Ottawas. William Johnston, Schoolcraft's brother-in-law and a man of Chippewa-British parentage, wrote a "speech" that he hoped would convey a sense of the opposition to Hamelin on Nov. 24, 1835. It accuses Hamelin of attempting to undermine Schoolcraft's authority. Apakosigan, the "speech" claims, had meant to visit Schoolcraft, but Hamelin had prevented this by convincing Ottawas that the agent had misrepresented a letter from the President. Johnston said that Hamelin claimed to understand what happened in Washington, declaring that "the letter was from some great Farmers who wished to get their lands for nothing, so that they could sell it for a great deal, and that the agent [Schoolcraft] himself was concerned with them." If true, Hamelin was clearly trying to explain land speculation to listeners whose concepts of property differed considerably, as we have seen, from those current in the United States. Johnston went on to paraphrase Hamelin's declarations:

Father, he said, that if our great Father should send us money or goods, that they would never be given to us by him (Agent) even when you send a message to your great Father, he never sees it, or hears of it, it is burnt before it gets to him. Your agent steals from you what your Great Father gives, you have heard what was done to the Indians at Chicago, agents all steal, even the English agents steal from the Indians. I wish to help you, and not see you informed upon, and what ever I say or do for you, I am aided in by the Bishop, he is strong, he is great. If you wish to see your great Father, with me he will furnish us with seven hundred dollars.

⁷¹ McClurken, "We wish to be Civilized," 168.

⁷² HRS to Harris, Michilimackinac, June 16, 1838, NAM1R37: 508.

Johnston acknowledged that not all the gathered Indians had agreed with such provocative, defamatory speech. Johnston said he wrote on "behalf of Maueuseowane [Makonsewaian of North Manistee?] and Anse Actobymingaus," a leader at St. Ignace, that Hamelin "has no right to go down [to Washington], and speak about our lands, we can speak for ourselves, and we will not listen to what he says." They disputed Hamelin's standing as their chief. Johnston had been sounding out Indians for a possible meeting with Schoolcraft, and he said that most were agreeable to the suggestion. But he accused Hamelin of having obstructed his progress among the Little Traverse Bay people, "using the Bishop's name as a secondary to what he tells the Indians."⁷³ It might be worth noting that by 1840, Johnston was fully supporting Hamelin's standing among the Ottawas, against the wishes of Schoolcraft, his brother-in-law and patron.⁷⁴

Hamelin and the delegates, meanwhile, en route to the nation's capital in the fall of 1835, paid their respects to the Roman Catholic Archbishop of Detroit, Frederic Rese (or Rése). The Ottawas of the Little Traverse region had Catholic connections as deep as those of any Indians in Michigan; indeed, they may well have been the most Catholic of all Ottawas or Chippewas in the United States, so it is not at all surprising that they dealt with the Bishop in their deliberations. This is not to say that they were all Catholic, or that their Catholicism was uniformly orthodox as Rome might understand orthodoxy, nor is it to suggest that the Bishop called the shots. Instead, it is simply to point out that experience had taught these Ottawas, whose religious inclinations were varied, that the Catholic Church was a strong institution that might assist them in their

⁷³ John Clitz, Michilimackinac to HRS Nov. 26, 1835, and Speech, Nov. 24, 1835, NAM1R69 149-150; William Johnston to HRS, Michilimackinac, Nov. 24, 1835, NAM1R72 332.

⁷⁴ John Norvell to J.R. Poinsett, May 10, 1840, NAM234R424 frs. 82. Johnston would call himself a Chippewa chief.

desire to remain in Michigan.

The bishop soon wrote to the "senator" of the as-yet unrecognized state of Michigan to describe his conversation with Hamelin. Hamelin had told Rese of that spring's council at L'Arbre Croche, one of the principal towns of the Little Traverse Bay region. The delegates were to propose ceding to the United States only the two Manitou Islands and lands along the southern coast of the Upper Peninsula. They were explicitly not to agree to sell the lands north of Grand River, which is what Schoolcraft was now proposing. The delegates who spoke with Rese knew that Schoolcraft was also organizing a trip to Washington, D.C., but they distrusted him: "They think Mr. Schoolcraft has not dealt openly with them." Recalling the national context in which they headed to the Potomac, the Ottawas said that they were "unwilling to cede all their land and remove, but prefer to remain and become subject to the laws." As it turned out, those laws would apply unequally to Indians and whites, which would soon render unappealing such subjection. Apart from thwarting what they guessed was Schoolcraft's plans to remove them, their main objective in approaching the federal government was "to procure the means for paying their debts, amounting to about \$40,000." Rese pointed out that many of these debts were poorly documented, so the actual figure that the federal government might ultimately pay to secure the cession would probably be lower.⁷⁵

Shortly after Hamelin and his party reached the District of Columbia in late November, they addressed a memorial to the federal government, shedding more light on their desires. Hamelin, the author, excused his party for coming to the capital without federal permission: for

⁷⁵ Conversation with Hamelin, enclosed Frederic Rese to Hon. John Norvell, Senator for Michigan, Detroit, Nov. 18, 1835, NAM234R421 768, 771-773.

years the Ottawas had applied for but had never received such permission. Still, "we have endeavored to reach the seat of government (so far at our own expense) in order that we might have the satisfaction of knowing its true sentiments in regard to us. . . ." They sought

arrangements with government for remaining in the Territory of Michigan in the quiet possession of our lands, and to transmit the same safely to our posterity. We do not wish to sell all the lands claimed by us, and consequently not to remove to the west of the Mississippi.

Removal, he said again, was out of the question: "It is, we say, a heart-rending thought to us to think so; there are many local endearments which make the soul shrink with horror at the idea of rejecting our country forever...."⁷⁶

If removal was unthinkable, land sales were on the table. The Ottawas offered surplus lands, and they asked in return for several conditions: the promise of debt forgiveness, federal compensation to their legitimate creditors, lessons in Anglo-American civilization, and eventual incorporation within the state as equals. The lands Hamelin and the Ottawas offered in their memorial were exactly those that Rese had reported: "we might sell some Islands on Lake Michigan; and also our claims (with some reserves) on the North side of the Straits of Michilimackinac, a tract of land beginning somewhere near the Menominies on the west, and terminating at Pt. de Toure on the east. The claims which we have on that side of the Straits, we claim them by right of conquest."

When Schoolcraft heard the last claim, he ridiculed it, and not without reason. The lands from the Bay de Noc eastward almost to St. Ignace were mostly Chippewa, not Ottawa, country. But the Ottawas did have a presence at St. Ignace, and many of the ancestors of the Little

⁷⁶ A. Hamelin, Jr., Memorial of the Ottawa Delegation, Washington D.C., Dec. 5, 1835, NAM234R421 f. 722-25.

Traverse Bay Ottawas had moved from the Upper Peninsula around the Straits of Mackinac to the Little Traverse Bay region in the 1740's.⁷⁷ Not uncommonly for Ottawas and Chippewas, this was a region whose resources were often shared, and it is conceivable that the Ottawas referred, not to an unlikely conquest of Chippewas, but to an allied Chippewa-Ottawa victory over enemies, such as the Six Nations Iroquois in the late seventeenth century. This is speculative, but not at all ridiculous. Hamelin himself was originally from St. Ignace, though he was also connected by family with the Little Traverse people.⁷⁸ Schoolcraft, moreover, later visited the region north and west of the Straits, and he concluded

from the number and extent of old abandoned clearings, that the former population of this part of the country, must have been greater, than the present. . . . Many of these old fields, in this vicinity and north and west of it, are so overgrown with bramble and young growth of trees, as to give little or no additional value to the soil. Some of the openings shown to me, are abandoned village sites, now overspread by drifting sands from the lake shore.⁷⁹

Schoolcraft did not suggest that Ottawas had abandoned the territory for a richer place to the south, but it is likely he was encountering their old Lake Michigan sites. In any case, Hamelin referred to *claims* that Ottawas possessed north of Lake Michigan; he did not refer to any *exclusive* Ottawa title there.

Hamelin's voicing of a request for instruction in "civilization" needs some explanation. The lessons in "civilization" were needed because, Hamelin wrote, "we are aware of this plain fact, that we Indians cannot long remain peaceably and happy in the place where the tribe is at present, if we persist in pursuing that way and manner of life, which we have hitherto loved,

⁷⁷ McClurken, "We wish to be Civilized," 49.

⁷⁸ HRS to T. Hartley Crawford, Michilimackinac, Sept. 29, 1840, NAM1R38: 360.

⁷⁹ HRS to T. Hartley Crawford, Michilimackinac, Oct. 29, 1839, NAM1R38 161.

although now in a less degree." The life Hamelin sought for his people, he said, was the life of "a civilized man." Hamelin's views on Indian assimilation went very far, but he was vague about how quickly he expected this to happen. He did not believe that it made sense immediately to bring Indians under federal or state law. He may well have known, too, that the suffrage in the Michigan Constitution of 1835 was restricted to white men.

we propose to submit ourselves to the Laws of that country within whose limits we reside. Only, perhaps, a few years hence, our people could not very well submit themselves to the laws of that State, we are confident, however, that when the benefits of civilization would be more generally diffused amongst them, they would embrace those salutary regulations with cheerfulness.

Standing in the way of this happy ending, Hamelin saw, were many obstacles. For the purposes of an agreement, he asked that the federal government supply Indians with "implements of husbandry, and a fund for procuring things in this line." Also, he and his people sought the "education of our young people and children in the necessary and useful branches of arts and sciences."

Politely expressing gratitude to the federal government for fulfilling its past obligations to the Indians, Hamelin asked that the annuities be increased and that they be managed, not by Schoolcraft, but by Rese. He wanted them "placed in the hands of the Rt. Rev. Frederic Rese Catholic Bishop of Detroit, who has the care of the Indian schools of Green Bay, St. Joseph, Grand River, L'Arbre Croche, and of other places."⁸⁰

Avoiding Schoolcraft, Little Traverse Bay Ottawas wished to sell but a portion of their land claims, none of which were on the Lower Peninsula, in exchange for a guaranteed future in Michigan, debt relief, education in modernity, Roman Catholic management of federally

⁸⁰ A. Hamelin, Jr., Memorial of the Ottawa Delegation, Washington D.C., Dec. 5, 1835, NAM234R421 f. 722-25.

provided tribal funds, and a future at a some indefinite time as Michigan citizens. The treaty that resulted four months later would not much resemble that which Hamelin and his fellow Ottawas had envisioned.

Schoolcraft left Mackinac by schooner on Nov. 8, was in Detroit in mid-November, and after brief visits to Rochester, Albany, New York, and Philadelphia, he reached, after canal-rides, steamboat and rail travel, Washington in mid-December, 1835.⁸¹ There he met with the Secretary of War, Lewis Cass. He, Cass, and the Indian department agreed that it was finally time to procure a cession of the remaining lands in the Lower Peninsula. This could not be done without more Indian delegates, nor could it be done, as it was at the moment, "without an interpreter to communicate a sentence from, or to them." Apparently, Schoolcraft's knowledge of the language of the Ottawas and Chippewas was not sufficient for interpreting. On Christmas Eve, 1835, he sent word to the Mackinac commander, Captain John Clitz, that Cass had ordered him to treat in Washington "with the Ottawas and Chippewas for the purchase of the lands they possess in the peninsula, north of Grand and Thunder Bay rivers...." Schoolcraft's use of the singular, "peninsula," is striking, and suggests that he did not have the Upper Peninsula much in mind. That glaring omission aside, to arrange a satisfactory purchase of so vast a region, Schoolcraft needed more Indian delegates. This was true on its face, because the Little Traverse delegation could not represent all the bands of Ottawas and Chippewas in the region. Nor, given the distrust already manifest between Schoolcraft and Hamelin, was the Little Traverse delegation certain to be cooperative. So Schoolcraft began writing to various officials and traders across Michigan, seeking to mobilize the necessary Indians to make a larger cession. "It

⁸¹ To trace his movements, see HRSP/DLC/WMUL container 40: 13519, 13534, 13562, 13599, 13617.

is essential," he wrote to Clitz, for example, "that five or six of the principal men in the vicinity of Michilimackinac, representing both tribes, should proceed, without delay, to this place, to act with others, who are expected from Grand river and Grand Traverse Bay, and the villages intermediate.... It is also desirable that one or two persons should attend from the vicinity of Thunder Bay."⁸² A few days later he sent to Clitz a "power of sale," on which he instructed the commander to "procure the signatures of as many Indians as practicable." His object was "to give full efficacy to the acts of the deputation" that Clitz was arranging.⁸³ Schoolcraft hoped that this "power to cede," as he also called it, might "become a part of the treaty, either by way of preamble, or an appendix." It did not. Note that it does not define the extent of the cession, and it confines itself to the "peninsula of Michigan," which meant the Lower Peninsula.⁸⁴

He also at this time wrote to his wife, also at Mackinac, and asked her to tell her brother, William,

to send no Catholics, as we shall have enough of them, without further aid. I am anxious

⁸² HRS to Capt. John Clitz (Commanding Officer and Acting Indian Agent, Michilimackinac), Washington, Dec. 24, 1835, NAM1R72: 346; Bremer, *Indian Agent, Wilderness Scholar*, 159, 160; McClurken, "We wish to be Civilized," 172. For Schoolcraft in Detroit, see NAM234R402 frames 208-209. For the need for an interpreter, see Schoolcraft to Ramsay Crooks, Washington, Dec. 26, 1835, in HRSP/DLC/SHSW container 13: frame 2294. Richard Bremer prudently discusses Schoolcraft's valuable research into Chippewa linguistics, while at the same time pointing out that his wife, Jane, along with other relatives, had translated "from the original Chippewa" most of the stories he published. See Bremer, *Indian Agent, Wilderness Scholar*, for the help of Jane and her relatives, 249, and for Schoolcraft's contribution to linguistics, 235-239.

⁸³ The power of sale is not filed with Schoolcraft's letter. HRS to Clitz, Dec. 28, 1835, NAM1R72 348. It is in his personal papers, HRSP/DLC/WMUL Container 40: 13635.

⁸⁴ *Idem.* and cover, container 40: 13638. Thirty-two Ottawas and Chippewas from the Mackinac Straits region and three "from Lake Superior" marked the document. Of these, at least five – Ance [Ainse], Macadabenace [Mukuday Benais], Shob wa wa [Chabowaywa], Iau ba wau dick [Jawba Wadiek, actually Waishkee], and Waubo jeeg [Waub Ogeeg, actually Keewyzi] -- attended the deliberations in Washington. The "Lake Superior" Chippewas, for example, were the controversial "delegates" from the Sault. It appears that the presence of so many of the signers in Washington, along with the substantial difference between the "power" and the treaty itself, rendered it useless. It certainly does nothing to strengthen representation from the Sault or from the Little Traverse Bay region southward to the Grand River.

that the Chippewas should be well represented, in order that they may obtain their just rights. The Ottowas have offered to sell the Chippewa country north of the Straits of Michilimackinac, before I came on.⁸⁵

In mid January, Schoolcraft was more specific:

I wish you to say to William, that, if possible, I should like to see some of the Sault Indians, and some persons of the north shore, who may represent them. Could not Wayishkee, or one of his sons, or Chegud, or Shingabawossin's son, be sent. At any rate the Ance, and Shabowawee[illeg] could send an authorized man from each of their bands.⁸⁶

Robert Stuart, a trader, recommended traders Rix Robinson of Grand Rapids and John Drew of Mackinac as important participants in the meeting; with them present, "a treaty can be effected without difficulty." Robinson could collect Indians from Grand River to Grand Traverse Bay; Drew could bring Indians from Little Traverse, from Mackinac, from Cheboygan, and from Thunder Bay.⁸⁷ Schoolcraft had already contacted them. Despite Stuart's optimism, it is worth recalling that as recently as September, Schoolcraft, then still in Michigan, had argued that it would be impossible to gather a proper delegation for a vast cession this winter. Now, from distant Washington, D. C., he was attempting to do just that, at least from the Lower Peninsular bands.⁸⁸

As Schoolcraft's correspondents struggled against the odds to put delegations together, they explained some of the difficulties. From Mackinac, Capt. John Clitz sent Schoolcraft a letter, enclosing, he said, the "Power of Sale signed by as many of the Chiefs and Men, as was

⁸⁵ HRS to Jane Schoolcraft, Washington, Dec. 26-Dec31, 1835, HRSP\DLC\SHSW 13: 2298.

⁸⁶ HRS to Jane Schoolcraft, Washington, Jan. 15, 1836, HRSP\DLC\SHSW 41 pt. 1. Fr. 99ff.

⁸⁷ C. C. Trowbridge to HRS, Detroit, January 25, 1836, NAM1R72 388.

⁸⁸ HRS to Stevens T. Mason, Michilimackinac, Sept. 17, 1835, NAM1R36 218. See also McClurken, "We wish to be Civilized," 169.

practicable to obtain at this inclement season."⁸⁹ Clitz was also trying to organize delegations, from Sault Ste. Marie to Little Traverse, but it was not easy. Two Ottawas whom he invited to Washington, "Saw go daw wa and Naw wa quo da," refused to join any delegations or sign any papers, saying that their delegation was already in Washington. The two men, both Catholics, had apparently entrusted the Hamelin delegation to treat for them, a delegation that had expressed no intention of ceding any lower peninsular territory. Clitz blamed "some meddling persons" for the refusal, and he noted that when the two leaders refused, "as a matter of course, some of their young men who were with them also declined." Schoolcraft's brother-in-law, William Johnston, added that the region's Indians were generally unwilling to sign any documents, and that this was particularly true of the Catholic Indians from L'Arbre Croche.⁹⁰ The prospects for gathering an adequate delegation dimmed further when the Thunder Bay delegate abandoned the embassy. That leader, "Naw she kewis" (William Johnston calls him MitchjeRewit), excused himself on account of his "sore eyes," but Clitz suspected that he had been interfered with by "a half breed by the name of Boraso."⁹¹

On the positive side, Clitz could report that John Drew would soon leave for Washington with the Anse, Big Sail, Shob wa wa, and Black Bird. The first Ottawa would represent villages

⁸⁹ Clitz to HRS, Mackinac, Feb 17 1836, NAM1R72: 422-423.

⁹⁰ Clitz to HRS, Mackinac, Feb 17, 1836, NAM1R72 422; William Johnston to Schoolcraft, Mackinac, Feb. 16, 1836, HRSP/DLC/SHSW P79-1997, container 41, part 1, frame 13853. From Mackinac, Samuel Lasley wrote to Schoolcraft that "the Catholicks (sic) will make hard against you there is considerable excitement at this place among them. . . ." Feb. 11, 1836, NAM1R72 426. It is likely that these individuals represented families of partial French ethnicity connected with the Catholic Indians of the Little Traverse Bay region. See McClurken, "We wish to be Civilized," 175.

⁹¹ Clitz to HRS, Mackinac, March 13, 1836, NAM1R72: 458, also in NAM1R69: 169; William Johnston to Schoolcraft, Mackinac, Feb. 16, 1836, HRSP/DLC/SHSW, container 41, part 1, frame 13853. I do not find a name similar to either rendering of the Thunder Bay leader on the "power of sale," nor is Thunder Bay listed. HRSP/DLC/WMUL container 40: 13635-13636.

north of Lake Michigan, near St. Ignace on the Upper Peninsula. Big Sail (Chingassamo) was of Cheboygan. Shob wa wa is rendered Shawanna by William Johnston in a letter from the same place, written the previous day, but he is more likely the Chabowaywa of Michilimackinac, who later would sign the treaty. There were several Black Bird's in 1836, but the man Clitz named was the Black Bird from L'Arbre Croche who later did sign the treaty. William Johnston thought that these men were willing to sell lands, but he recommended that Schoolcraft deal with each man privately and promise each "land for their children" in a grant or a sale from the federal government, "for when they are together they are afraid of each other."⁹²

When a writer connected with the American Fur Company reported that Drew was but a day away from Washington on March 11, he noted that he was accompanied by "three chiefs from Mackinac." It is likely that the three were Anse, Big Sail, and Shob wa wa. Black Bird was not from the immediate Mackinac region and may well have traveled to Washington with another party.⁹³

On February 19, Clitz notified Schoolcraft that two Chippewa delegates were en route to Washington from Sault Ste. Marie. He called them Ias ba wau dick and Wawb oqueg.⁹⁴ Charles Cleland notes that these two are better known as Waishkey and Keewyzi. When they would sign the treaty in late March, says Cleland, "Waishkey used his caribou clan name, Iawbawadic (Young Caribou Buck), while Keewyzi used his father's chiefly name, Waubojeeg (White

⁹² Clitz to HRS, Mackinac, Feb 17, 1836, NAM1R72 422; William Johnston to Schoolcraft, Mackinac, Feb. 16, 1836, HRSP/DLC/SHSW, container 41, part 1, fr. 13853. All marked the "power of sale," HRSP/DLC/WMUL, container 40, 13535-36.

⁹³ Mary Holiday to Ramsay Crooks, Washington, March 11, 1836, AFCP 23: 1366

⁹⁴ Clitz to HRS, Mackinac, Feb 19, 1836, NAM1R72 424.

Fisher)." Waishkey led a band on what was then called the Red Carp River, now the Waiska River in his honor. Cleland and others have remarked on the dubious character of this delegation as properly representative of Chippewas of the Sault Ste. Marie region:

This representation, which was arranged by Schoolcraft, greatly angered the traditional crane clan chiefs at the Sault, among them Gyaushk, Oshawwano (South), Shingwauk, and Shingabawassin. These chiefs believed they should have properly represented the Ojibwe (Chippewas) of the Sault, since Waishkey and his nephew Keewyzi were not only of the caribou clan but supported Schoolcraft's devious interest in the treaty. Since Schoolcraft had married Ozhawguscodaywaquay's daughter, Jane Johnston, and the Johnston family hoped to claim enormous trade debts, Schoolcraft obviously hoped to advance his own interest by the appointment of Waishkey and Keewyzi, his mother-in-law's brothers, to negotiate for the Sault bands. Thus when the treaty was negotiated, the interests of the Sault Ojibwe [Chippewas] were not represented in any meaningful way.⁹⁵

William Johnston, reflecting on the difficulties of getting a proper delegation from the Sault, said that he had written to the region seeking delegates, but that "there was no one at the Sault of the chiefs," except Keewyzi. It is even striking that Keewyzi signed with the name Waub Ojeeg, for that great man's territories had lain, as Schoolcraft himself once noted, west of the Montreal River. Of "Whaiskee's going to Washington," Schoolcraft's brother reported that it caused at Sault Ste. Marie "a terrible affair," which he felt was vastly overblown. Whatever his opinion, five leading Chippewas of the Upper Peninsula did lodge a formal objection to Whaishey's status as a delegate to Washington.⁹⁶ Gyaushk, described as a "British chief," is said

⁹⁵ Cleland, Place of the Pike, 21; see also McClurken, "We wish to be Civilized," 182-184, who sees the delegation of six Chippewas, including two from the Lower Peninsula, as grossly inadequate. See also Janet Chute, Legacy of Shingwaukonse, 67-68. Chute further treats Schoolcraft's meddling in the political leadership of the Sault Ste. Marie area Chippewas. She argues that, in the end, the Chippewas resisted his efforts to control their religious and political leadership. She reports that one Crane leader, Kaygayosh, was permitted to attend the treaty, but Cleland states that, "Although the name of Kaygayosh (Gyaushk) from Tahquamenon appears on the treaty, he was not present but was represented by Maidysagee a headman." Refer to the same pages for each author. For Schoolcraft's own report of his meddling see Personal Memoirs, 570.

⁹⁶ William Johnston to Schoolcraft, Feb 16, 1836, HRSP/DLC/SHSW P 79-1997 frame 13853; Mason, ed., Schoolcraft's Ojibwa Lodge Stories, 54; James L. Schoolcraft to Henry R. Schoolcraft, Sault Ste. Marie, March 12, 1836, in Clarence Edwin Carter, ed., The Territorial Papers of the United States; The Territory of Michigan vol. 12

to have demanded of Major Cobbs to know why Waishkee, whose family was more properly of La Pointe, had gone to Washington without informing leading Chippewas of the Sault “of the nature of his mission,” which these men still did not know in early March. Cobbs apparently replied that he was also ignorant of Waishkee’s going. James Schoolcraft, who reported the distress at the Sault to his brother, admitted that he “did not know upon what authority Waiskee [Waishkee] and Son went to Washington, as William [Johnston] only requested me to bid him go to Mackinac. . . .” But he dismissed all the “fuss” as the result of “Waiskee being a relative of the Johnstons and Schoolcrafts. You being somewhat in power and influence, they will do all which can be done to oppose and thwart.”⁹⁷

Major W. V. Cobbs, Commanding Fort Brady at the Sault, indeed knew that land cessions were in the air, but as late as January, when he wrote of detailed Chippewa views on the subject of a narrow land cession, he knew nothing of the impending Treaty of Washington. Unaware of events in Washington, the chiefs in the region were ready to negotiate “at a Treaty, at such place and time as the president of the U. S. may be pleased to appoint.”⁹⁸

The American Fur Company Factor at the Sault, Gabriel Franchere was, like James Schoolcraft and Major Cobbs, poorly informed about events in Washington. As late as March 1, just two weeks before the opening of the treaty, Franchere wrote to Lyman Warren, a company factor in Wisconsin, that

The Indians of Mackinac are gone to Washington where a treaty is to be held next month

(Washington, 1945) 1139-1140; see also editor's note 4.

⁹⁷ James Schoolcraft to HRS, Sault Ste. Marie, March 9 1836, March 10, 1836, HRSP/DLC/WMU container 41 pt. 1, 13879ff., 13886 ff.

⁹⁸ Major Cobbs to Elbert Herring, Fort Brady, Jan. 4, 1836, NAM234R770 fr. 200.

for the purchase of their lands by the General Government, and the Taquamionon [Tahquamenon] and Saut [sic] Ste. Marie are invited to do the same.

It is the General impression here that the treaty is to be held at this place [the Sault], if so, it will enable us to collect our old Indian debts, as I have no new ones not having trusted an Indian since last spring. I hope it will give us a good business besides.⁹⁹

It is hard to believe that a leading company factor with long experience in Indian affairs could have been so misinformed, unless the lack of information was more general. Franchere understood that the treaty might take place at the Sault itself. He also understood that the Tahquamenon and Sault peoples had been invited to form delegations, but he said nothing about them actually doing so. His professional interest was in the business the treaty could bring him, and the relief it could provide to Indian debtors to whom his company was a creditor. Franchere's ignorance of the scope of the impending treaty, his ignorance of the formation of a purported Sault delegation, underscores not only the gross underrepresentation of the Chippewas of the entire Upper Peninsula, but the devious manner in which Schoolcraft secured their assent.¹⁰⁰

Franchere and others believed that the treaty to be held in Washington was an Ottawa treaty. Company head Ramsay Crooks had written him in January that the Ottawa delegation then in Washington was in the process of recruiting a fuller delegation for the cession of "the entire Michigan Peninsula north of the Grand River." It was possible, Crooks added, that "they

⁹⁹ Franchere to L. M. Warren, Saut [sic] Ste. Marie, 1 March, 1836, in AFCR, Box 2, folder 1, 44-46, Bayliss.

¹⁰⁰ On the same day, Franchere, who generally wrote in English, wrote in French to the Lake Superior Chippewa factor, Eustace Roussain, a similar letter. He noted that John Holiday was in Washington as "interpreter for the Ottawas of L'Arbre Croche and Mackinac who will make a treaty for their lands in the course of this month" [the French original reads: "interprete pour les Otawas de l'arbre Croche et Mackinac que doivent se rendre à un traité qui doit se terres dans le cour de ce mois."] Toward the end of the same letter, as in his letter to Warren, he raises the possibility of a separate treaty, to be held at the Sault the coming summer, for the Upper Peninsular lands. He mooted "un traité pour la cession des terres Sauvages depuis Taquaminan jusqu'a l'isle Drumonds, ce sera probablement pour l'été prochain," in AFCR, Box 2, Folder 1, 43-44, Bayliss.

may also invite the Chippewas of the Sault or Taquamianan [Tahquamenon] -- If they do, you must send me by the very first opportunity a statement of every cent they owe your outfit. . . ." Franchere also received a letter from Samuel Abbott at Mackinac that, like Crook's letter, only moots the possibility of Chippewa participation: "a Treaty is to be held at Washington this Winter with the Ottawas. Should any of the Chippewa Chiefs receive an Invitation to attend, he [Ramsay Crooks] requests you to make out a Statement of what the Indians owe to the Compy [Company] at the Sault, and forward it to him." In both letters, one written just a month before the council began, Chippewa participation is merely mooted.¹⁰¹

A full twenty days after the treaty had been signed in Washington, the Commissioner of Indian Affairs wrote a letter to Cobbs at Sault Ste. Marie, a letter as startling in its lack of information about the Upper Peninsula as it is vague as to the nature of Indian representation.

I have the honor to acknowledge the receipt of your communication of the 10th ult°, together with the Indian talk therein enclosed.

Before your letter reached me, a treaty had been made with the Ottawas (sic) and Chippewas for a cession of their lands in the peninsula of Michigan, north of Grand and Thunder Bay Rivers. Some of the Chiefs were here in December last and were willing to treat; but it was thought that a portion of the Country to be ceded was not fully represented. Measures were accordingly adopted to obtain an additional number of delegates to act with those already here. Capt. Clitz was written to on the subject by Mr. Schoolcraft, who had been appointed commissioner to treat with them; but in his communication he did not name any of the Chiefs to be sent on. The object of the Government was to have all the villages of both tribes represented in order to give a general satisfaction, and it is believed that all will be satisfied with the terms of the treaty.¹⁰²

Herring misled Cobbs, first, on the extent of the cession (he wrote only of the Lower

¹⁰¹ Ramsay Crooks to Gabriel Franchere, New York, Jan. 2, 1836, and Samuel Abbott to Gabriel Franchere, Mackinac, Feb. 11, 1836, both in AFRCR, Box 2, folder 2, Bayliss.

¹⁰² Herring to Cobbs, April 18, 1836, NAM21R18 310.

Peninsula, though Cobbs served on the Upper Peninsula); second, on Schoolcraft's earlier communications (he did name chiefs in letters to his wife, asking her to pass on the information to her brother, William); and, third, we can speculate with some confidence, on the desire of the government to have "all" of the villages represented. For the Upper Peninsula, this was woefully not the case.

At Grand River, from his post at what is now Ada, Michigan, Rix Robinson wrote of serious divisions over the impending negotiations with the United States, and he noted practical difficulties in assembling a proper delegation. He pointed to a "clamour raised by the half Bloods and some others objecting to the Treaty," and he observed that "I shall have some opposition in carrying your wishes into effect." But he nonetheless thought that "I shall be able to get a sufficient number of the principal Indians under way," probably by the end of January. He was more sure of Grand River than of Grand Traverse, which, "being some considerable distance from this and the Indians at this season of the year scattered throughout the woods on their hunting grounds will consequently cause some delay."¹⁰³ Robinson and six Grand River leaders arrived in the capital on March 11.¹⁰⁴

The Grand River people generally opposed the idea of a treaty, especially one conducted far away in Washington where they could not monitor and inform the proceedings. They recalled the Treaty of Chicago, 1821, whose signer, Kewaquocum (or Kewagoushcum), had lost his leadership and influence after he, at a lesser distance from his people, signed a treaty unfavorable

¹⁰³ Rix Robinson to HRS, Grand River, January 13, 1836, NAM1R72 380.

¹⁰⁴ Mary Holiday to Ramsay Crooks, Washington, March 11, 1836, AFCP 23: 1366.

to them.¹⁰⁵ On January 27, the Grand River opponents drew up a petition objecting to the negotiations in Washington. They were surprised that the government wanted their land "already." They had decided "not to shoulder this our land, and carry it where you are, it is too heavy." They intended "to remain on our land here and not sell it. You know we obtained our land from the Great Spirit. He made it for us who are Indians." They objected to leaving the graves of their relations and they expressly opposed removal westward. They doubted the legitimacy of those who were negotiating in Washington, saying, "We are not pleased to have that white man sell our land which the Great Spirit gave us to dwell on and not sell." The petition is signed by thirty-seven individuals claiming to represent eight towns. Slater was present and interpreted. Robinson, who worked hard to bring the Indians to the Treaty, wrote in mid February that "The Indians are most of them opposed to selling their lands and extremely shy of papers and accounts."¹⁰⁶

Grand River opponents of the negotiations decided to send delegates. Three opposing leaders went to Washington, escorted by Slater. According to Slater's fellow Baptist, McCoy, only one of these was a chief of status, the others were too young, and their intention was to prevent a treaty from being signed. The one legitimate leader, according to James McClurken, was "Muckatosha." His name appears on the Treaty as "Mukutaysee," and on the anti-Treaty petition, cited above, as "Maketee eze." He and the others arrived on March 3. Mary Holiday, the daughter of John Holiday, a trader and interpreter, claimed that this group had actually been

¹⁰⁵ Henry Conner to Lewis Cass, Grand Marais, Feb. 8, 1836, NAM234R422, 18; Kappler, Treaties, 2: 198-201, esp. 201.

¹⁰⁶ Chiefs of the Ottaways, Rapids of the Grand River, Jan 27, 1836, NAM234R422, 145; Rix Robinson to Ramsay Crooks, Grand River, AFPC23, 1275ff.

ignorant of the American intention to form a land-cession treaty, and that it had come mainly to oppose the Hamelin party that had arrived in Washington the previous autumn.¹⁰⁷

To help persuade the Grand River people to come to Washington, Hamelin, at Cass's urging (and with the promise of compensation), had returned to Michigan with two of the Little Traverse leaders. They went straight to Grand River and then to the Muskegon in order to drum up support for a general negotiation with the United States. Hamelin had little success, though he did achieve the concession that the Grand River people would be willing to treat, the next summer, at Grand River itself. Sometime in late January, Hamelin returned to the District, with but one of the Ottawa leaders.¹⁰⁸ The delegations from Grand River (six traveled with Robinson and three with Slater) converged on Washington. The Grand River Ottawas would stand among the most divided about, and least supportive of, the treaty. Already we see a party affiliated with Robinson acting at cross purposes with the party affiliated with Slater.¹⁰⁹

From one end of the cession to the other -- from the badly represented Upper Peninsula to the badly divided Grand River valley -- there stretches a question mark over Ottawa and Chippewa representation at the event that marked Michigan's greatest Indian land cession.

As inadequate and divided as was the delegation with which the United States would deal in 1836, as powerful as American technology and organization may have been, the United States could not, would not, simply have its way. Honor constrained the Republic; its traditions

¹⁰⁷ McCoy, History of the Baptist Missions, 494; HRS to Ramsay Crooks, Washington, March 3, 1836; Charles Gratiot to Ramsay Crooks, Washington, March 4, 1836; Mary Holiday to Ramsay Crooks, Washington, March 5, 1836, all in AFCP 23: 1344, 1346, 1350; McClurken, "We wish to be Civilized, 178; Kappler, ed., Treaties, 2: 454.

¹⁰⁸ Rix Robinson to C. C. Trowbridge, Grand River, February 1, 1836, NAM1R72: 410.

¹⁰⁹ See Augustin Hamelin to Lewis Cass, Mackinac, July 21, 1836, in NAM1R41 95.

demanded some attention to justice; its circumstances gave Ottawas and Chippewas some negotiating strength. The next three sections treat these circumstances in some detail. The last is particularly important for an understanding of Article 13.

British Canada as a Factor in Michigan Indian Affairs

The United States clearly had the upper hand in the negotiations. The Indians did not doubt federal power. But neither were the Indians without some leverage. It is easy to forget that the border between what are now Michigan and Canada was neither perfectly defined nor entirely peaceable in the early nineteenth century. One major war shook it from 1812 to 1815; occasional violence both preceded and followed that conflict. On the American side of the St. Mary's River, it was not until 1820 that it became clear that the United States would occupy the place, and when it did so by erecting Fort Brady in 1822, its main aim was to curtail British influence over the Indians of the Upper Great Lakes. Cass, seeking to garrison the Upper Peninsula, observed in 1820 "the effects produced upon the feelings of the Indians by the prodigal issue of presents to them at the British Posts of Malden and Drummonds Island." He added that "there will be neither permanent peace nor reasonable security upon this frontier, until this intercourse is wholly prevented."¹¹⁰ British Upper Canada's boundary with the United States was not settled in the Lake Superior region until the signing of the Webster-Ashburton Treaty of 1842, and it took four more years to settle the British boundary in Oregon. War with Great Britain remained a possibility.¹¹¹ Indians could, in a pinch, retreat to the British territories to the north; it would be

¹¹⁰ Cass to John C. Calhoun, Sault Ste. Marie, June 17, 1820, Carter, ed., Territorial Papers of the United States, vol. 11, Territory of Michigan, 1820-1829, 37.

¹¹¹ Satz, Chippewa Treaty Rights (Madison, 1991), 6, 17; Bieder, "Sault Ste. Marie and the War of 1812," 4.

very difficult to force most of these people to the trans-Mississippi west. Canada gave the United States reason to be very careful not to provide the United Kingdom with allies who knew their way around both a rifle and a vast territory.

The state of affairs after the establishment of Fort Brady in 1820 did not often cause American officials much outright alarm, but it did cause some of the most experienced among them much concern. In 1828, for example, William Clark (of Lewis and Clark fame) and Cass (who was Secretary of War at the time of the making of the Treaty of 1836) put their pens together to warn Washington of dangers:

Most of our Indians are migratory tribes, roaming through the forest and the prairies, and occupying a border country, divided partly by a natural, and partly by an imaginary boundary, between the United States and Great Britain: along this boundary, and in many cases upon our side of it, the British traders are stationed with ample supplies for the Indians. . . .

It is certainly not uncharitable to suppose that the preservation of this influence is important to the British Canadian authorities. No other motive can be rationally assigned for the large distribution of goods which is annually made at Amherstburg and Drummond's Island to the Indians living within our jurisdiction. . . . [W]e believe that a large proportion of the Indians east of the Mississippi annually resort there for presents; and about sixteen months since, one of us actually counted 160 canoes at one time, crossing the western extremity of Lake Huron, to Drummond's Island. Each man receives a blanket, shirt, leggins, breech cloth, and each woman a blanket, stroud, and leggins. To the children similar articles are given: and guns, ammunition, kettles and other things, are freely distributed. The tribes who principally make this annual pilgrimage are the Ottawas, Pattawatimas [Potawatomis], Chippewas, Wyandots, Shawnese, Miamies, Menomonies, Winebagoes, Sacs, and Foxes. . . . It is no part of our duty to investigate the right which a foreign power has of thus subsidizing, in effect, a body of men living within our territories; but we have no hesitation in saying, that its practical operation is seriously injurious. If presents are given, counsels also may be given, and they are given by persons with strong prejudices, in remote positions, and in languages which few civilized auditors can understand. That in many cases they transcend their instructions is very probable; but that system must be radically wrong which necessarily leads to such results. The Indians are kept in a state of excitement; they are taught to look to a foreign Government for advice and protection; and above all, they believe that the present

benefits on the one side must be repaid by future services on the other."¹¹²

In the years before the treaty, three key players -- Cass, Schoolcraft, and Waishkee -- had confronted the problem posed by the British Empire to the North. The British shortly abandoned Drummond Island, acknowledging it as part of American territory.¹¹³ But British Indian policy did not radically change, instead, Indians were invited to visit His Majesty's forces on Manitoulin Island, often also called Ottawa Island.

Reports of such Indian gatherings at British posts filtered regularly through the Michigan Indian office. Francis Audrain, an interpreter at the Sault, told Schoolcraft in January, 1834, that several leading Chippewas (Negawbean, Ketaquoqawbewa, Old Shawewewano, Kewauqi Shawewewano, Shaganabee, Nawmawen Eqawbewa, Sawwqonee, Fellowushewa) had signed a British document promising to remove to Upper Canada. He added that "The most respectable Indians, however, refused to sign, viz. Wayshkee, Wenckis, Shegud, and all the members of the Methodist church."¹¹⁴ The commander of American Fort Brady at the Sault notified Schoolcraft the next year that all the Indians on Drummond Island were planning to move to Manitoulin to rejoin the British.¹¹⁵ Only days before the treaty council opened, as James Schoolcraft reported in two letters from the Sault, leading Indians were protesting the nature of the delegation; he pointedly called one leader, "the British Chief."¹¹⁶ No one could neglect the empire.

¹¹² William Clark and Lewis Cass to the Senate, "Proposed Revision of Laws on Indian Affairs," Dec. 27, 1828, in NASPIA 1: 188-189.

¹¹³ Bremer, Indian Agent, Wilderness Scholar, 177.

¹¹⁴ Fr. Audrain to HRS, Sault Ste Marie, Jan 6 1834, NAM1R68 601.

¹¹⁵ Major Cobbs to HRS, Jan. 10, 1835, NAM1R72 374-375.

¹¹⁶ James Schoolcraft to HRS, Sault Ste. Marie, March 9 1836, March 10, 1836, HRSP/DLC/WMU container 41 pt. 1, 13879ff., 13886 ff.

As it turned out, the treaty did not reduce anxiety about Great Britain. Rumors and possibilities of war between the United States and Great Britain persisted for decades, making it imperative for the United States to maintain good relations with its border peoples. In 1837 there was a vast gathering of Upper Great Lakes Indians at Manitoulin Island. Schoolcraft noted that many of the St. Mary's Chippewas attended meetings there, and that disaffected bands of Potawatomis also attended. He received word of this from a former Sault Ste. Marie Chippewa, Shingwaukonse, who so distrusted Americans that he had already moved a band across the river to the Canadian side. Schoolcraft reminded his superiors that the episode "brings to mind the necessity of vigilance. . . ." Less than a month later he added that the annual visits to Manitoulin were "calculated to foster sentiments of hostility to the United States in the Indian mind."¹¹⁷ After signing the articles of agreement to the Senate modifications of the treaty under discussion, Assiginack went over to the British at Manitoulin; in 1838 he carried a message from the British into the American territory south of Lake Superior.¹¹⁸ Assiginack would recruit other Little Traverse Bay people to join the growing colony on Manitoulin Island.¹¹⁹

Grand River Ottawas, whose annuity payments were very late in 1838, grew anxious enough to cause alarm (but not panic) among local citizens; one of them wrote to the Commissioner of Indian Affairs that "The exasperated feelings of those Indians, now in the immediate vicinity of impending war in Canada, where other Indians are engaged to enter the field of blood and carnage, their favorite pursuit, render the situation of the northern settlements

¹¹⁷ HRS to C. A. Harris, Aug 29, 1837 and Sept. 15, 1837 NAM1R37, 299, 318.

¹¹⁸ Chute, Legacy of Shingwaukonse, 80.

¹¹⁹ McClurken, "We wish to be Civilized," 205.

of that State extremely exposed, not only to depredations upon property, but to massacre and Savage butchery!"¹²⁰

There is further evidence for American concerns over British interference with Indians. Schoolcraft noted in May, 1838, that Congress passed a resolution "respecting the intermeddling of foreign governments with Indian Affairs within the U. States."¹²¹ In his formal annual report of that year, he wrote

I am of opinion that, if closely inquired into, it will be found that these tribes generally acknowledge a fealty to Great Britain. Strenuous efforts have been made for a few years past, to colonize the Ottowas and Chippewas, in Upper Canada. If it be wisdom on the part of the Canadian Executive Government to effect this object, it would seem to be equally politic on the part of our own to prevent it.¹²²

In December of that year, a minor outbreak of violence actually did trouble the Michigan-Upper Canadian border, though the event did not involve Indians in a significant way. Americans attempting to support a rebellious Canadian faction crossed the Detroit River and attacked Canadian volunteers, but the filibusters were shortly counterattacked and defeated by British regulars from Fort Malden. While this was occurring, and as reports of the events were received in Michigan and nearby portions of Ohio, there was great "excitement" on the American side. But authorities on both sides of the river deplored this so-called "patriot" movement, and it did not bring about war.¹²³

Schoolcraft reflected on the dangers of Indian defections to the Canadian colony at

¹²⁰ N.H. Finney to C. A. Harris, March 1, 1838, NAM1R44 127-129.

¹²¹ HRS to Henry Connor, Michilimackinac, May 21, 1838, NAM1R37: 489.

¹²² Extract of a Report by HRS in T. Hartley Crawford, Report of the Commissioner of Indian Affairs, Nov. 25, 1838, in NASPIA 1: 532.

¹²³ Col. Henry Smith to T. Hartley Crawford, Detroit, 6 Dec. 1838 NAM234R423 226ff.

Manitoulin: "portions of the Michigan frontier, nearest to the British Colony, are almost a wilderness. There are no settlements on the extensive coast above Fort Gratiot [presently Port Huron], but those at Mackinac and Sault Ste. Marie. And in case of a rupture the whole frontier would be badly exposed."¹²⁴ Note that in this letter he employs the term "settlements" in a conventional manner, to refer to farmsteads, hamlets, villages, and other occupied land. War against the British Empire was a prospect that colored the American approach to Indians who lived along the border throughout the early national period.

Neither Ottawas nor Chippewas possessed much particular affection for Great Britain, whatever American agents thought. To be sure, they might seek an alliance if it made practical political sense, but there was little in the historical relationship between the two peoples to inspire real trust. In the nineteenth century, in fact, we find recorded Ottawa and Chippewa legends whose main lessons involved a profound distrust of imperial Britain. That the United States was, in a very real sense, an heir of Britain in North America makes the lessons somewhat ambiguous, but they do nothing to suggest that Ottawas and Chippewas had gained some deep affinity for the Crown.

Andrew Blackbird, for example, tells a remarkable story set at the end of the French and Indian War (1754-1763). Ottawas, the story goes, returned from fighting in the East with a box that the British had sold to them. They had been told not to open it until they got home, but that it would do their people "great good."

Accordingly, after they reached home they opened the box; but behold there was another tin box inside, smaller. The took it out and opened the second box, and behold, still there was another box inside of the second box, smaller yet.

¹²⁴ HRS to T. Hartley Crawford, New York, Feb. 26, 1839, NAM1R37 624-626.

And so on until they opened the tiniest box, which revealed nothing but "mouldy particles."

Soon, there "burst out a terrible sickness. . . ."

Lodge after lodge was totally vacated -- nothing but the dead bodies lying here and there in the lodges -- entire families being swept off with the ravages of this terrible disease. The whole coast of Arbor Croche, or Waw-gaw-naw-ke-zee, where the principal village was situated. . . . was entirely depopulated and laid waste. It is generally believed among the Indians of Arbor Croche that this wholesale murder of the Ottawas by this terrible disease sent by the British people, was actuated through hatred, and expressly to kill off the Ottawas and Chippewas because they were friends of the French Government or the French King, whom they called "Their Great Father."¹²⁵

That story from the northwestern portions of the Lower Peninsula is supplemented by one, told by the Chippewa Charles Kawbawgam, from the Upper Peninsula. Kawbawgam relates that as the American Revolution approached,

the English made a treaty with the Indians, saying that if the Americans came they would steal the land and make slaves of the Indians, while the English would give the Indians presents. Therefore, the Ojibwas helped the English.

But afterwards the English stopped sending presents and turned from the Indians. The governor said: "These are the last presents. We give them no more."

The Ojibwas then turned to the Yankees and made up their minds not to help the English if they got into trouble again. This was decided about forty years ago when there was a meeting and council on the Island of Manitoulin.

The reason that the Indians do not believe in "papers" is that they learned from these happenings that "papers" cannot be depended on, for the promise signed by the British in the treaty, agreeing to make presents to the Indians "as long as the sun rose and set," was broken.¹²⁶

But even if Great Lakes Indians were not Anglophiles, the continued British imperial presence in North America profoundly colored American relations with the Indians of the Upper

¹²⁵ Blackbird, History, 9-10.

¹²⁶ Bourgeois, ed., Ojibwa Narratives, 125.

Great Lakes, including the Ottawas and Chippewas. Great Britain was emerging as the most powerful nation on earth; its empire was in dynamic ascent. No one living across the St. Mary's River, the St. Clair River, or the Detroit River from the British empire could ignore it. The War of 1812 was just twenty-one years behind the negotiators of the Treaty of 1836. The potential of Indian alliance with Great Britain gave Michigan's Indians some bargaining strength; knowing this, America could not simply impose its will.

The Black Hawk War (1832) and Michigan-Indian Relations

When the various delegates signed the Treaty of Washington, it had been only four years since the most recent war in the Great Lakes region, the Black Hawk War, 1832. This brief effort on the part of a band of Sauk and Fox Indians to resist their removal across the Mississippi--an effort disastrous to both the band and to the Sauks and Foxes generally--did not much affect Michigan. To be sure, the Great Sauk road, which Black Hawk and his so-called "British Band" had once traversed en route to British Fort Malden, ran through what is now Michigan. But Black Hawk's War was not supported by Great Britain, nor did he raise many Indian allies. Fought mainly in Illinois and Wisconsin, at little cost to American troops in terms of lives, few in the Michigan peninsulas were in danger. Schoolcraft remained calm throughout the affair. A war club, along with calls for alliance, apparently did circulate among the Ottawas and Chippewas, but far from accepting the call to arms, they sent the object to the American agent, and he forwarded it to the territorial governor. If the Black Hawk War meant anything in Michigan, it meant that relations with the Ottawas and Chippewas were generally good and worth preserving. This may have worked in Ottawa and Chippewa favor in 1836.¹²⁷

¹²⁷ For the war club see George Porter to HRS, Detroit, Sept. 26, 1832, NAM1R68: 506.

The Second Seminole War (1835-1842) and the Treaty of Washington (1836)

While the Ottawas, Chippewas, and American officials were dealing with one another in Washington between December, 1835, and March, 1836, the War Department was busy with a far more urgent matter, and, as it would turn out, a matter far more costly. That very December, the Second Seminole War had erupted in Florida over the issue of Seminole Removal. No one could then know that it would be the most costly American Indian war ever fought by American troops, who lost almost as many lives, some 1,500, fighting the Seminoles as they soon would lose fighting Mexicans in the Mexican War. No one could then know that the war would drag on for seven years, never completely removing the Seminoles, and killing, in a ghastly equation, one American soldier for every two or three Seminoles sent to what is now Oklahoma. If the future was unknown, however, the War Department was full of informed and intelligent men, and few of them were optimistic about combat in Florida, at least that was Schoolcraft's impression. In January, from Washington, he wrote that the "state of things with the Indians in Florida has kept the military gentlemen here in commotion this week." He noted that the conflict would be costly in both men and dollars: "The affair is not a light one, and it will cost many a man, and many a dollar, to put them down." At the very end of the month, he observed of the movement from the city of the expedition against the Indians: it "departs with some degree of gloominess."¹²⁸

Schoolcraft followed the course of the Second Seminole War with great interest. In the winter of 1836, while preparing for the treaty negotiations, he sent information about it to his

¹²⁸ HRS to Ramsay Crooks, Washington, Jan. 23 and Jan 30, 1836, in AFCP 23: 1208-1234.

brother.¹²⁹ He recorded and published in his memoirs the reflections of some American officers.

He had written to one, asking when the war would end, and he received this 1838 reply:

You ask when the war will terminate? You could not puzzle any of us more than by putting such a question. We are more at our wits end than the war's end. And yet I do not see that anything has been left undone, that might have been done. The army has moved steadily toward its objects. But those objects are like a mirage, they are always nearly the same distance off.¹³⁰

Schoolcraft also quoted a startling letter from Major General Thomas Jessup, the Virginian charged with quelling the insurgents. The letter is worth noting in this report not only because it expresses an opinion on the folly of forcing the Seminoles to leave their homes against their will, an opinion that directly engages American policy in the late 1830's, but also because its very language reflects the treaty article that most concerns this report. Schoolcraft's entry in his memoirs for February 11, 1838, reads:

General Jessup writes to the department that, "we have committed the error of attempting to remove the Seminoles, when their lands were not required for agricultural purposes, when they were not in the way of the white inhabitants, and when the greater portion of their country was an unexplored wilderness, of the interior of which we were as ignorant as of the interior of China." He recommends a line of occupancy west of the Kissamee and Okee Chubbe, which they may be allowed to occupy.¹³¹

Much of Michigan, like Florida, was still unknown to American citizens in the late 1830's, and much of it, like much of Florida, was not in immediate demand by citizen-farmers. Article 13 of the Treaty of Washington, March 28, 1836, stipulated, as we have seen, that the Indians maintained the right to hunt, along with the usual privileges of occupancy, until the land

¹²⁹ James L. Schoolcraft to Henry R. Schoolcraft, Sault Ste. Marie, 12 March 1836, in Carter, ed., Territorial Papers, 12: 1139.

¹³⁰ HRS, Personal Memoirs, 587.

¹³¹ emphasis supplied, HRS, Personal Memoirs, 586.

was "required for settlement." Schoolcraft later quoted Jessup about the error of seizing lands that "were not required for agricultural purposes." Schoolcraft would be proud of his treaty with the Ottawas and Chippewas. After all, it secured a great part of what is now the state of Michigan, and it did so peacefully, even, he could think, honorably. Schoolcraft knew that Article 13, the wording of which would never be repeated in any other treaty, was critical to this peaceful acquisition. Here an American general, engaged in a terrible war, sent a letter to the Indian department closely paraphrasing the very article Schoolcraft had agreed upon with the Ottawas and Chippewas, unwittingly demonstrating Schoolcraft's wisdom. How could the Indian agent resist quoting it? It is important to note that Jessup did not, however, use the word "settlement": he referred instead to "agricultural purposes," and to the presence of "white inhabitants." But these two things, habitation and farming, were roughly the same thing as settlement, in his mind, in Schoolcraft's mind, and in the mind of most of the inhabitants of North America and most speakers of the English language, as we shall see.

This Seminole War deserves our brief attention for another reason. The American Commissioner of Indian Affairs and his subordinates were under the authority of the Secretary of War, then Lewis Cass; Indian Affairs were military matters. This Seminole War, even in its very beginnings, underscored the importance of peaceful dealings with the Ottawas and Chippewas. The United States clearly had the power to impose its will on the Indians of Michigan, but it had to uphold its honor before both its own citizens and the court of world opinion, and it had a practical interest in maintaining peace and order, particularly when war was costly and government was small. These considerations provided the Indians, particularly Indians living on the northern border, greater weight than their numbers, organization, or military technology

might otherwise suggest. They meant that the United States would make concessions as it sought Indian lands.

The movement toward the Treaty of Washington, 1836, took place in a complicated context. Southern Lower Michigan was in the midst of a land rush. The federal government was in the hands of forces committed to the removal of Indians who lived east of the Mississippi. The government was cutting back its Indian services. Steamers were beginning to ply the Great Lakes, and parties of wood choppers descended from them into Indian Country. American commercial fishermen were muscling in on a lucrative resource. Ottawas and Chippewas were feeling the burden of heavy trade debts, and, in the face of these other difficulties, they offered to a limited cession. Small outbreaks of violence, such as the Black Hawk War (1832), were becoming dwarfed by more perilous struggles, such as the Second Seminole War (1835-1842). The British Empire, against which the new republic had already fought two wars, had posts close by Michigan, and it was in communication with Ottawas and Chippewas. The United States, as much as it sought Indian removal to the West, feared Indian removal to Canada. Already committed to a war of removal in the poorly known lands of the Florida Peninsula, it was not going to force its hand in the marginal lands of the Michigan Peninsulas.

CHAPTER SIX: THE TREATY OF WASHINGTON, MARCH 28, 1836

The Treaty of Washington of March 28, 1836, between the United States and most of the Ottawa and Chippewa bands of Northern Michigan was presented, signed, revised, and ratified over the course of the late winter through the summer of 1836. American officials persuaded reluctant Indians in Washington to agree to the first version at the end of March; that version was significantly modified by the ratifying Senate toward the end of May; some Ottawa and Chippewa leaders agreed to the Senate's alterations at Mackinac Island in July; and it became American law. This chapter follows the continuing movement toward the treaty, the council itself, the Senate's amendments, and the Ottawas' and Chippewas' assent to those amendments in July. Along the way, it discusses the Ottawa and Chippewa understandings of usufructuary rights. The chapter then expands on the Ottawas' and Chippewas' hopes, based on the treaty in general and Article 13 in particular, for a future in Michigan. Finally, the chapter demonstrates that the federal government did much to support those hopes.

Treaty Making

John Holiday, an employee of the American Fur Company, made the long trip to Washington, D.C., under trying circumstances. It is not that travel by steamship, canal, and early rail would have been all that arduous, certainly not for a seasoned trader. Nor would Holiday have been lonely, for he was accompanied by his accomplished and adult daughter, Mary Holiday. But Holiday, who would be the chief interpreter during the meetings that led to the treaty, was confronting a new and serious physical disability: he was blind. A powder explosion had very recently taken away his sight; he could now but distinguish light from dark; he could

barely detect the motion of a hand passing over his face. He hoped that in Washington or some eastern city there might be a physician or oculist who could restore his vision. From the Sault, factor Gabriel Franchere pronounced this impossible; the best oculists in the United States could not help him. In the meantime, Mary Holiday, confident and capable, would be his guide and his pen hand. Indeed, Mary would maintain a brisk correspondence with agents of the American Fur Company, her father's employer, but she would do so in her own voice. There is no sense in the letters that they were dictated by her father. Nor, despite the fact that her mother was a well-connected Chippewa of L'Anse Keewanaw, to the west of the region under discussion, is there any sense that her sentiments or opinions on the developing treaty were in line with those of the Indian participants. Mary and John Holiday were not disinterested parties to the treaty; but they shared the interests of the traders, and particularly of the American Fur Company. John Holiday would receive the then impressive sum of \$4,000 in the treaty itself.¹³² Additionally, in the compensation that the treaty eventually provided for creditor's claims against the Indians, Holiday would secure over \$8,000.¹³³ This was easily rivaled, however, by the sums secured by

¹³² Lt. Richard Clark to Ramsay Crooks, Fort Brady, Sault Ste. Marie, Dec. 29, 1834 (sic., it should read 1835), AFPC23: 1123; Mary Holiday to Ramsay Crooks, Washington, Jan. 23, 1836, AFPC23: 1207; Gabriel Franchere to Eustache Roussain, Sault Ste. Marie, 1 Mars, 1836 ("Sa vu est irrémédiable de l'avis des meilleurs oculistes des Etats Unis."), AFPC, Bayliss, Box 2, Folder 1, 43; HRS to Ramsay Crooks, Washington, April 17, 1836, AFPC23: 1478; Samuel Abbot to Ramsay Crooks, Mackinac, August 23, 1836, fr.1905; HRS to Lewis Cass, Sault Ste. Marie, Oct. 30, 1824, NAM1R15 255-258; Francis Audrain to HRS, Sault Ste. Marie, Sept. 26, 1829, NAM1R68, 103. Holiday's employer, Ramsay Crooks, was glad that Holiday was doing the interpreting, for it relieved his company "of the expense of supporting them the remainder of the winter." Ramsay Crooks to Gabriel Franchere, New York, Jan. 2, 1836, AFPC, Bayliss, Box 2, Folder 2, 43.

¹³³ [Henry R. Schoolcraft, J. W. Edmonds, Henry Whiting] United States. Office of Indian Affairs, Report of the Board of Commissioners assembled at Michilimackinac, September, 1836, On the Claims of Creditors of the Ottawas and Chippewas Presented under the Treaty of Washington (Detroit, G. L. Whitney, 1837), 50-51, 63, ND.

relatives of the officiating American.¹³⁴ Whatever might be said of the justice of such claims, it has to be noted that many of the Americans present at the meetings had personal interests in the outcome. One might, with some justice, call the treaty a family affair.¹³⁵

The Holidays completed the last leg of their journey on January 9, 1836, arriving from Baltimore. Schoolcraft had secured for them an apartment with two rooms and a parlor, and they took their meals separately from the Indians who were also lodged at Mrs. Belt's boarding house on "the Avenue."¹³⁶

On the eve of the treaty, Schoolcraft had received specific instructions from Lewis Cass. Tribal reservations might be established, if necessary. Of these, Cass wrote that the Indians could "hold their country" and "retain possession of it till (sic) it shall be ceded to the United States." Cass found it a national interest to "extinguish Indian title, as our settlements advance, so as to keep the Indians beyond our borders." Cass, though willing to tolerate continued Indian reservations in the north, was looking for a decisive cession of most of the lands; Schoolcraft, who would meet resistance from Ottawas and Chippewas, delivered something short of that.

¹³⁴ In the Report of the Board of Commissioners assembled at Michilimackinac, 26, 27, 32-34, Schoolcraft's brother-in-law, William Johnston, was to receive over \$10,000 in payment for debts, Schoolcraft's mother-in-law almost \$8,000, and his late father-in-law a whopping, \$32,000. Richard Bremer dryly observes that Schoolcraft's relatives "fared somewhat better than average." Bremer estimates that they gained \$56,885 out of a total of some \$220,954 allowed by the commissioners. Bremer, Indian Agent, Wilderness Scholar, 173. That is 25 cents on the dollar.

¹³⁵ Brevet Major 2nd Infantry, W. V. Cobbs, commanding Fort Brady at Sault Ste. Marie, accused HRS of grossly favoring his mother-in-law in the distribution of treaty salt, tobacco, and rice the following year: "nearly as much to one Indian Woman as was sent for the Grand Island and Chocolate (sic: Choccolay) River Indians. . . . Henry R. Schoolcraft has not a right to give so large a proportion of the goods that are procured for the Indians to his Wife's mother and relatives at this place, his course in that respect has caused much discontent among the Indians." Cobbs to C. A. Harris, Fort Brady, NAM234R770, fr. 224-227. For complaints about the way the creditors' claims were handled, see, for example, James Schoolcraft to HRS, October, 22, 1836, NAM234R770 203-204.

¹³⁶ HRS to Ramsay Crooks, Washington, Jan. 9, 1836, AFCP 23: 1180.

Schoolcraft's instructions, it should be noted, included an order to "ascertain in the first place that they are the acknowledged chiefs of the tribes in the quarter of the country from which they come, and authorized agreeably to Indian usages to make a cession of the lands."¹³⁷ There are reasons to doubt the legitimacy of the delegations, especially those from the Upper Peninsula, as we have seen. As to the latter, there is no evidence that any "Indian usages" authorized the participating leaders to make such a vast cession.

Mary Holiday describes the beginning of the treaty council in a letter of March 17, 1836.¹³⁸

On Tuesday [March 15] they assembled in the Masonic Hall and Mr. Schoolcraft offered to them the propositions of the government relative to the purchase of their land. Mr. Schoolcraft told them that he was prepared to make them a liberal offer for their land. . . . He laid before them the Map of the portion of the country which the United States wished to purchase from them. Beside the Peninsula of Michigan, they wish to obtain the country lying South of a line running from Chocolate River on Lake Superior towards Green Bay. The Indians requested to have three days to think on the subject, and tomorrow at 11:00 A. M. they will meet at the Hall again.¹³⁹

John Hulbert, Schoolcraft's son-in-law and his secretary throughout the proceedings, produced a record of some seventeen pages, including cover sheet and lists of attendees, for the five actual, formal days of proceeding. It might be noted that Hulbert would secure close to \$1,000, and his company another \$2,549, in the payment to creditors provided for in the treaty.¹⁴⁰

¹³⁷ Lewis Cass to HRS, Washington, D.C., March 14, 1836, in NAM21R18, 179-180, also in NAM1R72 462, NAM21R 18 279-280, and in Carter, ed., Territorial Papers, 12: 1141-1142. Punctuation varies from copy to copy.

¹³⁸ For two scholarly discussions of the treaty talks see McClurken, "We wish to be civilized," 179-188; and Bremer, Indian Agent, Wilderness Scholar, 161-168.

¹³⁹ Mary Holiday to Ramsay Crooks, Washington, March 17, 1836, AFCP23: 1385.

¹⁴⁰ Report of the Board of Commissioners Assembled at Michilimackinac, 13-14. John Hulbert was dismissed from the Indian department in 1840 because of his corrupt dealings with the Bank of Michigan to the detriment of Indian affairs; see HRS to J. S. Schoolcraft, Michilimackinac, March 18, 1840, in NAM1R38 237.

At an average of less than five hundred words per day of meeting, Hulbert's record of the proceedings is sketchy. One could wish for more thorough notes -- treaty councils often produced a more careful record -- but this is all we have. More typically of such councils, we know little about what transpired in small clusters of participants, or during breaks, or before or after the formal sessions outside of the Masonic Hall. We do not have a clear idea of what happened over the several days of interruptions that punctuated the proceedings. At least two American witnesses to and signers of the treaty, John Holiday and William Lasley, had previously traded liquor with Michigan's Indians in violation of American regulations; the latter, moreover, tried to disguise his dealings.¹⁴¹ An authority on the history of Michigan, Bernard C. Peters, has also found evidence that a younger Lewis Cass, and even a younger Henry Rowe Schoolcraft, had lubricated land deals with alcohol in the 1820's.¹⁴² Having said that, the record reveals no evidence of alcohol abuse in the context of the treaty council. The record, it has to be said, is very brief. Especially disappointing for those seeking a full understanding of Indian views during the proceedings, five of Hulbert's seventeen pages represent Schoolcraft's opening offer, made on the first day; several others express Schoolcraft's rejoinder's to Indian views; and much of the report contains brief descriptions of ceremonies such as calls to order and adjournments. Roughly five pages report Indian views, many of which oppose the treaty terms.

Schoolcraft described the treaty as originating with the delegation of Ottawas from Manitoulin Island (he called it Ottawa Island) who visited him the preceding summer and offered

¹⁴¹ We know this because each man would, later that year, submit claims for Indian debts owed them, and those claims included debts for liquor (which Schoolcraft would reject), see Report of the Board of Commissioners assembled at Michilimackinac, 24, 63.

¹⁴² Bernard C. Peters, "Hypocrisy on the Great Lakes Frontier: The Use of Whiskey by the Michigan Department of Indian Affairs," Michigan Historical Review 18 (1992) 1-13.

to sell Drummond Island. Schoolcraft reminded his listeners that the federal government had expressed interest in the proposal, but it had required that all negotiations be made through Schoolcraft in Michigan. Then, in December, said Schoolcraft, a group of Ottawas from "north of the Straits" -- discounting Little Traverse and emphasizing Hamelin's connection to St. Ignace -- came to Washington, with an offer to sell the Lake Michigan shore of the Upper Peninsula from the Menominee River to Point Detour. He referred to Hamelin ("a young man who accompanied them") as the spokesman for this party, and he mentioned that the Ottawas claimed the lands by conquest. In return for the lands, these Ottawas sought "to raise money to pay off their debts to the traders, and to secure assistance in agriculture and education."

The United States, he declared, would not accept at face value these Ottawas' claim to the lands, which is why he had called upon other bands to send delegations. Even though the winter might have impeded such a gathering, the United States had decided to bring delegates to Washington, so "that you might act together." Schoolcraft put the adequacy of the present delegation in its best possible light:

You see, in your midst, some men from the north shores of the straits, and a few, even from the foot of Lake Superior. Those men, were also invited here, at the same time that the others were, and come, as I am informed, to speak on the subject of their lands.

Noting, perhaps, the deficiency of the Chippewa representation, Schoolcraft added that the Chippewas of the Sault had offered in writing to sell lands "from the mouth of the Minushco [Minuscong] to a point south west of Grand Island, on Lake Superior," and he reported that the same might be true of the Indians just north of the Straits of Mackinac, though the written

agreement from that quarter had not yet arrived.¹⁴³

As Mary Holiday had reported, Schoolcraft made it clear at the conference that the United States sought a vastly enlarged cession. "It is proposed to extend the cession south to Washtanong on Grand River on Lake Michigan, and north to Chocolate river on Lake Superior." The United States would be generous in return.

Most critically for our purposes, Schoolcraft approached what would become Article 13: "The usual privilege of residing and hunting on the lands sold till they are wanted, will be granted."¹⁴⁴ Hulbert's notes here are insufficient: "wanted," by whom and for what? Why the passive voice, without any identified subject? But even with all the deficiency of the record, this promise, the last he made that day, suggested to many of the attending Indians that there would be no foreseeable, dramatic change in their lives. Those in the northern reaches could foresee an almost indefinite right to live and work on the ceded -- but not yet "wanted" -- lands.

Hulbert's notes go on to discuss other matters. In addition to other compensation and to the promise of continued usufructuary rights, the President would appoint a commission "to ascertain and pay the amount of every just debt and claim against you." Common reservations would be allowed, but not private reservations to individual leaders. As for the descendants of Europeans among Indians who would lose rights to the use of the lands and who would not be classed as Indians with reservation rights, Schoolcraft said that they would be compensated "in

¹⁴³ The document referred to is a power of sale, two copies of which, but only one with signatures (marks, actually), are in the Schoolcraft Papers. HRSP/DLC/WMU, container 40: 1635-1636, 1637. The marks include those of five participants at the treaty: Ance, Iaw ba wau dick (actually Waishkee), Wau bo jeeg (actually his son Keewyzi), Ma ca da be nace, and Asqua go na ba. [Alternate text available \(Hoxie 157 of 205\).](#)

¹⁴⁴ Jn. Hulbert, in HRSP/DLC/SHSW, container 41, pt. 1: frs. 13930 ff., pp. 5-9. Hulbert's record is filed in two places. The first several pages begin at fr. 13973, but then back up to 13930, and proceed from p. 5-18.

money." Schoolcraft closed the day's proceedings by allowing the assembled Indians three nights to deliberate.¹⁴⁵

The references to debts and to private reserves reflect common practices of treaty-making in the removal era. Several removal treaties had provided grants of land to leading tribal members or to their "mixed-blood" relatives. While these provisions, in part, served to demonstrate that the "civilization" of individual Indians was not only possible but was actually progressing, there was an unseemly quality in practice to these provisions. The tactic, says historian Ronald Satz, had amounted to "an ingenious device for bribing chiefs or influential tribesmen into accepting land-cession treaties and for appeasing white traders into whose hands the reserves were certain to fall." Mary E. Young, the leading historian of the practice of including private reserves in treaties, notes that following the scandalous abuses of the system in the cases of the Choctaws and Creeks, the government in the mid-1830's turned away from the practice, not to revive it until the mid 1850's, and again in the 1880s.¹⁴⁶

While the Indians, as we have seen, sought relief from their debts, powerful trading interests hoped for a profitable outcome from the treaty. Land-cession treaties frequently contained provisions for the federal payment of Indians' fur-trading debts. This not only provided needed financial relief to strapped Indian peoples, but it smoothed the way for the land cessions. Ronald Satz and others have criticized this policy:

Since the Indians relied heavily on traders for subsistence and advice in the Old Northwest, the inclusion of traders' debts was often crucial to successful treaty

¹⁴⁵ Jn. Hulbert, in HRSP/DLC/SHSW, container 41, pt. 1: frs. 13930ff., pp. 5-9. [Alternate text available \(Hoxie 157 of 205\)](#).

¹⁴⁶Satz, "Indian Policy in the Old Northwest," 78; Mary E. Young, "Indian Removal and Land Allotment: The Civilized Tribes and Jacksonian Justice," American Historical Review 64 (1958), 31-45.

negotiations. Although the recognition of these debts helped to promote the signing of land cession treaties, the practice also meant that the Indians lost huge sums of money to men who frequently inflated the prices of the goods they sold or falsified their ledgers. Transactions at treaty negotiations relative to the sale of Indian land, the adjustment of traders' claims, and the like, were a complex business, yet many Indians, especially the full bloods, did not know the difference between one numerical figure and another.¹⁴⁷

Much of the correspondence surrounding the Treaty of 1836 is written by traders and their family members, and it is not surprising that the correspondents paid a great deal of attention to the issue of the Indians' debts. Most debts were owed to traders and trading companies, and how the federal treasury would pay for the Indians' private debts to traders sparked considerable interest. William Johnston reported in February that news of the impending treaty "acted like an electric shock on Mackinac Island, in all the inhabitants of the place and all are busy in talking of their claims." Schoolcraft himself assured the head of the American Fur Company, Ramsay Crooks, that if the Indians "make liberal concessions, all their full debts will be ascertained and paid, by the US out of consideration money."¹⁴⁸

John Holiday was interested in the American Fur Company claims, as his daughter's correspondence makes very clear. Mary Holiday, eager to see a treaty signed that resulted in the payment of debts to American Fur Company traders, observed that some of the Indians' "white friends" encouraged the delegates to reject the deal. "I understand some of the gentlemen wish to have reserves of land given to them which will not be allowed." Her father privately met with the Indians, and he found them so divided that their deliberations "did not accomplish

¹⁴⁷ Satz, "Indian Policy in the Old Northwest," 79-80.

¹⁴⁸ William Johnston to Schoolcraft, Michilimackinac, February 16, 1836, HRSP/DLC/SHSW, container 41, part 1, fr. 13853. HRS to Ramsay Crooks, Washington, Jan. 9, 1836, AFCP 23: 1180.

anything."¹⁴⁹ Schoolcraft wrote Jane that self-interested traders formed his "greatest opposition," but he did not specify the obstacles they put in his path.¹⁵⁰

When the parties reassembled in the Masonic Hall on March 18, the formalities of the calumet ceremony preceded the discussions. Then the "chief speaker" arose to reject Schoolcraft's offer. It is not clear from the record who this is, and after his objections no individual is referred to in Hulbert's notes as the "chief speaker." Probably it was Aishquagonabee, the first name listed on the treaty, a "Chippewa Chief of Grand Traverse." He lodged two specific objections: the first obvious, the second more obscure. It was obvious that the Indians simply did not wish to sell their rights to most of their lands. Less obvious was their objection to the provisions that would prevent their friends and relations from obtaining private reservations. The Ottawas and Chippewas were considering giving their intermarried relatives among the American citizens small reservations to encourage them to remain near at hand, where they could mediate dealings with other American citizens: "we fear that the whites who will not be our friends will come into our country and trouble us, and that we shall not be able to know where our possessions are, if we do sell our lands, it will be our wish that some of our white friends have lands among us and be associated with us." The Ottawa Megiss Ininee of Grand River said much the same thing. Apokisigan of L'Arbre Croche spoke up in favor of Schoolcraft's proposals, but Black Bird, also of L'Arbre Croche, flatly opposed the cession.

Schoolcraft then threatened to treat separately with the Chippewas of the Upper Peninsula unless the Ottawas and Chippewas of the Lower Peninsula changed their minds before the

¹⁴⁹ Mary Holiday to Ramsay Crooks, Washington, March 17, 1836, AFPCP 23: 1385.

¹⁵⁰ HRS to Jane Schoolcraft, Washington, March 18, 1836, in HRSP/DLC/SHSW, container 41, Part 1, fr. 13925.

following Tuesday. Since Upper Peninsular peoples had even less to fear from white settlement than did Ottawas, and since the dubiously representative Chippewa delegation from the Sault Ste. Marie region had been practically handpicked by the agent (and was related by marriage to him), it is not surprising that the Chippewas present were more willing to make a deal.

At that point, Augustin Hamelin [spelled Emlin by Hulbert], Jr., intervened. He declared in English that the Ottawas had spoken, not from their hearts, but after having been, he claimed, manipulated by "white men who wanted [private] reservations." Hamelin reassured the commissioner that "if the Indians were left alone they would sell, with some Reservations for themselves, he was confident it was their wish to dispose of their lands and derive present benefit." Schoolcraft arranged for a private room in which the Indians could counsel among themselves, and that no one else be allowed to "disturb them."¹⁵¹ Robinson, meanwhile, wrote to Crooks that he and Robert Stuart had fought hard "to get such terms respecting our claims," as Crooks had ordered. Although the Grand River Indians were still holding out for Robinson, Crooks, and others who sought private reserves, Robinson was ready to concede defeat on this point and to "fall into their ranks upon the best terms that I can get."¹⁵²

By the eve of the resumption of formal discussions, it was clear that most of the treating Indians would mark the agreement. Mary Holiday wrote that, while the preceding Friday "most of the Ottawas refused to sell," they had since "called on Mr. Schoolcraft, telling him they would sell, if they would be allowed to make large, permanent reservations for themselves." Holiday

¹⁵¹ Jn. Hulbert, in HRSP/DLC/SHSW: container 41, pt. 1: frs.13930ff pp. 10-15. [Transcribed at Hoxie record 157 of 205.](#)

¹⁵² Rix Robinson to Crooks, Washington, March 22, 1836, AFCP 23: 1411.

understood that Indian reservations [these are not private reservations] would be established.¹⁵³ This was critical to the Indian acceptance of the treaty: they would have good-sized, permanent reservations in Michigan.

The formal proceedings did not resume until the following Wednesday, but the brief entries suggest that they went smoothly. Apokisigan (of L'Arbre Croche), Megiss Ininee (of Grand River), Black Bird (of L'Arbre Croche), Big Sail (of Cheboygan) and Wassangaje (of Maskigo), all requested sizeable reservations for their people, and agreed to the sale. Private reservations were also requested by Indians for some trading families, such as the Drews, Holidays, Robinsons, and Lasleys, and one such request was made for a missionary, Leonard Slater. The final treaty does not include these private reservations. But it did provide heavy financial rewards to these interests and others. Such rewards, it was understood, might be applied to the repurchasing of lands.¹⁵⁴

Among the most interesting of these rewards is that given to the missionary, Leonard Slater. Slater's Ottawa associates had strongly objected to the idea of a land cession. At one point in the meetings, he was reported to have been offered a bribe of \$1,000 dollars to help secure the treaty. He appears to have turned that down, but he did drop his opposition. Perhaps with Ottawa encouragement, and perhaps with the model already provided by the Pokagon

¹⁵³ Mary Holiday to Ramsay Crooks, Washington, March 22, 1836 AFCP 23: 1398. This is the only record of private consultations between Indians and Schoolcraft during the weeks of treating.

¹⁵⁴ HRSP/DLC/SHSW, container 41, pt. 1: frs.13930ff, pp. 16-18. Rix Robinson accurately described for Crooks the lands that would actually be ceded, and he added that the Indians would retain "some small reserves." [Transcribed at Hoxie record 157 of 205](#). Rix Robinson to Ramsay Crooks, Washington, March 23, 1836, AFCP 23: 1411. Hulbert's and Holiday's gains from the government's payment of Indian debts has already been noted. It might be added that Rix Robinson would secure almost \$23,000; Robert Stuart and his company over \$4,000, the firm of Biddle and Drew over \$45,000. See [Report of the Board of Commissioners Assembled at Michilimackinac](#), 48, 50, 39.

Potawatomis in mind, Slater planned to get money in the treaty that he could use to purchase lands to be held in private and in trust for an Ottawa settlement. Slater thus broke with his more prominent co-religious minister, Isaac McCoy, over the issue of removal. Slater agreed with his Indian congregants and other Grand River Ottawa neighbors that settling the Indians on a permanent basis on a plot of land protected by law was the best option. As McCoy, who was also present at the council, writes, Slater intended to make a

settlement of Indians. To enable him to do this, an article was inserted in the treaty, which resulted in placing in his hands six thousand four hundred dollars. His plan has been carried out, and he has a settlement of Ottawas, consisting of about one hundred forty souls, around him, in the State of Michigan. To heads of families, respectively, are assigned small farm lots, perhaps twenty acres. He has a school, and continues to impart religious instruction to the people of his charge.¹⁵⁵

McCoy predicted degradation for Slater's followers, and he said that other Baptist missionaries had suspended "the usual attachments of their fraternity" with him.¹⁵⁶ But Slater carried out his plan nonetheless, and he actually secured the approval of his parent missionary organization. A decade later, proud of the little "Ottawa Colony" he had helped to found in Southwest Michigan, Slater recalled,

On account of their universal prejudice to a removal to the country assigned them West of Mississippi, I came to the conclusion, with the approbation of the foreign board of Missions, to purchase land and that each person hold the same by a deed. This plan has been followed by others, until I now have the satisfaction of seeing 5 or 6 stations exerting a healthful influence....
I selected the very best timbered openings and contiguous to which are large Lakes which abound with a variety of fish and much game near us, and withal surrounded mostly by a religious and industrious community of white people."¹⁵⁷

¹⁵⁵ McCoy, History of the Baptist Missions, 496.

¹⁵⁶ McCoy, History of the Baptist Missions, 496.

¹⁵⁷ Leonard Slater to William A Richmond (Sup of Ind Af at Det), Ottawa Colony, Sept. 30, 1846, NAM234R426 81-83.

In 1841, Ottawas of the Grand River region petitioned the Michigan Indian Agent to live up to the terms of the treaty; in particular, they wanted the annuities paid in cash, not in kind, for they were intent on purchasing lands. They recalled that the federal government had suggested that they do so: "A Number of us have bought land with our money as we were advised to do by our great Father and a[re] beginning to cultivate but we need assistance."¹⁵⁸ The possibility of purchasing agricultural and village lands would be crucial to the Indians' acceptance of the treaty following changes that would be made by the Senate.

Indian delegates concluded that reservations, the usufructuary rights maintained in Article 13, and the promises of federal services and funds were the best deal they could get from a government that had already committed troops to remove other Indians and that was threatening to treat separately with the Chippewas for lands on the Upper Peninsula used by both Ottawas and Chippewas. The reservations would provide critical habitations, settlements, places of federal service, and home bases. The usufructuary rights would provide continued hunting, fishing, gathering, trapping, collecting, and rights of way beyond the reservation boundaries in most of the ceded lands for the foreseeable future. The services would aid in the education of children and the material prosperity of the people. The funds would provide for the purchase of more lands, both for additional "colonies" and for the securing of certain, key satellite locations in the event of American settlement. Hopeful that the treaty would prevent their impoverishment and maintain their good relations with the United States, the delegates signed the Treaty on March 28.

¹⁵⁸ "Chiefs of the Ottawa Tribe of Indians living on or near Grand River" to Robert Stewart (sic), Grand Rapids, Oct. 30, 1841, NAM1R51 503ff.

The Indians surrendered to the United States the sovereign ownership of what was then estimated to be 13,734,00 acres of land, and they granted American sovereignty to their portions of the Great Lakes, as well. In return they were to receive relief from their debts, steady funds in annuities and bonds, schools, services, goods, supplies, the right to use the ceded lands until they were settled, and permanent reservations. These will be discussed below. The sums were to be substantial enough that Indians could apply them to further land purchases.¹⁵⁹ While Ottawas and Chippewas did not secure private reservations for the traders and relatives who might mediate their relations with settlers and the government, they did win funds for those individuals, and the funds were sufficient for those individuals, citizens of the United States, to purchase private land. Indians also saw in those payments some possibility of expanding their land tenure in Michigan after the treaty.

Three years after the forming of the treaty, Schoolcraft described the Indians' expectations from the original, unmodified treaty.

This cession was made by these two leading tribes of the Algonquin Stock, on the principle of making permanent reservations of from 1000 to 70,000 acres, at a few points, reserving at the same time, the usufructuary right of living and hunting upon, and cultivating the ceded portions of the soil until it was actually required for settlement. To provide for their advancement, they set apart, out of the ample sum paid to them by the government, for this large territory, funds, for agriculture, cattle, and implements and mechanics tools, the pay of smiths and artisans, education, books, missions, annual supplies of provisions and salt to enable them to engage in the fisheries, besides a heavy annuity in coin. It was the design of these tribes, in the original sale to have these means applied on their reservations, under the expectation that they would find themselves so far advanced in agriculture, letters, and the arts, at the termination of the 20 years annuity, as to be able to sustain themselves thenceforward without reliance on the chase.¹⁶⁰

¹⁵⁹ For acreage see C. A. Harris, "Report of the Commissioner," Washington, Dec. 1, 1837, NASPIA 1: 483. For other details see McClurken, "We wish to be Civilized," 186-188.

¹⁶⁰ HRS to T. Hartley Crawford, Michilimackinac, Sept. 30, 1839, NAM1R38 120-135, also in NAM234R423, frs. 442ff.

The original treaty provided for permanent reservations in the second and third articles. It established fourteen reservations of varying sizes. By comparison with the lands ceded, these would be very small homelands, but since they were ringed by valuable resources -- riverine, lacustrine, and landed-- it is not difficult to imagine that Indians foresaw a better future on such lands, given that other material resources would also be forthcoming from the federal government. The treaty describes the reserved lands:

One tract of fifty thousand acres to be located on Little Traverse bay: one tract of twenty thousand acres to be located on the north shore of Grand Traverse Bay, one tract of seventy thousand acres to be located on, or, north of the Piere Marquette (sic) river, one tract of one thousand acres to be located by Chingassanoo,--or the Big Sail, on the Cheboigan. One tract of one thousand acres, to be located by Mujeekeewis, on Thunder-bay river. . . . Two tracts of three miles square each, on the north shores of the said straits, between Pointe-au-Barbe and Mille Coquin river including the fishing grounds in front of such reservations, to be located by a council for the chiefs. The Beaver Islands of Lake Michigan for the use of the Beaver-island Indians. Round island, opposite Michilimackinac, as a place of encampment for the Indians, to be under the charge of the Indian department. The islands of the Chenos, with a part of the adjacent north coast of Lake Huron, corresponding in length, and one mile in depth. Sugar island, with its islets, in the river of St. Mary's. Six hundred and forty acres, at the mission of the Little Rapids. A tract commencing at the mouth of the Pississowining river, south of Point Iroquois, thence running up said stream to its forks, thence westward in a direct line to the Red water lakes, thence across the portage to the Tacquimenonc [Tahquamenon] river, and down the same to its mouth, including the small islands and fishing grounds, in front of this reservation. Six hundred and forty acres on Grand island, and two thousand acres, on the main land south of it. Two sections, on the northern extremity of Green bay, to be located by a council of the chiefs. All the locations, left indefinite by this, and the preceding articles, shall be made by the proper chiefs, under the direction of the President. It is understood that the reservation for a place of fishing and encampment, made under the treaty of St. Mary's of the 16th of June 1820, remains unaffected by this treaty.¹⁶¹

Additionally, Article 9 provided for the payment of money to certain “half-breeds” in lieu of the lands and rights to land that they were losing. In several cases, the article provided for payments

¹⁶¹ A printed version of the original treaty can be found in NASPIA 4: 415-421.

to a trader for land Indians had granted or sought to grant "to his Indian family." At least one similar payment was made to "Slater, in trust for Chiminonoquat, for a section of land above said rapids"; this would be used to buy private property for the Ottawa colony.¹⁶²

Article 13

The treaty's thirteenth article modified the great cession of lands to the United States: "The Indians stipulate for the right of hunting on the lands ceded, with the other usual privileges of occupancy, until the land is required for settlement."¹⁶³ This article had a long gestation. Schoolcraft had been considering the possibility of retained usufructuary rights since late in the previous summer, when he had received orders to seek cessions. In September, he had instructed Brevet Major W. V. Cobbs of the 2nd United States Infantry, Commander of Fort Brady at the Sault, to lay the foundations for a Chippewa cession of lands (a much smaller cession than that which would emerge): "Reservations might perhaps in the event of its acceptance be assented to, including their villages, and the right to hunt and live on the tract, until it is required." Here the right is not just to hunt but to dwell upon the ceded lands, even outside the reserves, until the lands were "required," but for what and by whom was unstated.¹⁶⁴ On November 3 Schoolcraft wrote to the Commissioner of Indian Affairs that he planned, among other things, to offer the Indians "a defined right of hunting on the lands sold."¹⁶⁵

The next intimation of Article 13 comes not from Schoolcraft, but from the ranking

¹⁶² NASPIA 4: 418-419.

¹⁶³ Kappler, ed., Treaties, 2: 454; NASPIA 4: 415.

¹⁶⁴ HRS to Cobbs, Michilimackinac, Sept. 23, 1835, NAM1R69, p. 121.

¹⁶⁵ HRS to Elbert Herring, Michilimackinac, Nov. 3, 1835, NAM1R69 140.

officials at Mackinac in Schoolcraft's absence, who sent it as the position of Chippewa Indians. Nine days after Schoolcraft's departure for Washington, in separate but similar letters, Captain John Clitz and interpreter William Johnston described the terms Chippewas had found acceptable for a cession of lands (again, a much smaller cession than would emerge in Washington). Law bawanchiek, Showons, and Ocunogeeg, Clitz wrote, sought "To have a full right to hunt on the ceded lands, as long as they are unoccupied, and to make such other reservations as they shall think proper."¹⁶⁶ These three Chippewa leaders constituted, from the American perspective at least, the Chippewa delegates from the Sault. They were critical, as it turned out, to the making of the treaty. On Schoolcraft's understanding of their willingness to cede lands hung the crucial turn in the treaty council, at least as Hulbert's notes represent it, from Ottawa opposition to acquiescence.¹⁶⁷ The three would come to Washington with an understanding that they would retain their usufructuary rights to the ceded lands "as long as they are unoccupied."

In late December, realizing that the United States sought an enormous cession from Ottawas and Chippewas, and realizing, too, that getting anything like a proper delegation to Washington in the dead of a Michigan winter and an Indian hunting season was impossible, Schoolcraft drafted a "power of sale." The document never became a formal part of the treaty, though it is mentioned in council. It does, importantly, reveal Schoolcraft's hopes and intentions. The Indians would retain "the privileges of hunting upon the land, and residing upon it, until it is surveyed and sold by the government." The tribes never agreed to this in a treaty ratified by the

¹⁶⁶ Capt. John Clitz to Herring, Michilimackinac, Nov. 17, 1835 NAM1R69 p. 147.

¹⁶⁷ HRSP/DLC/SHSW container 41 part 1, frs. 13930ff, pages 13-14 of Hulbert's Journal. [See transcript.](#)

Senate.¹⁶⁸ The document, a power of attorney at best, is not even filed in the National Archives; it remains only in Schoolcraft's personal papers. The actual treaty stipulation differs substantially.

On January 4, 1836, Cobbs wrote from the Sault that Chippewas in the region were considering a cession to the United States. They were still unaware of the coming treaty in Washington; they proposed that a treaty be held in the near future, somewhere. In exchange for a cession of lands, they sought small reserves, the services of a blacksmith and an interpreter (each staffed by the United States for as long as the Indians lived in the "neighborhood" and had "occasion to use the same"), twenty years of annuities, and the right to "reside and hunt on the above named district of country, until the U.S. may want the same." Cobbs, it should be noted, was responding to Schoolcraft's initiative for a far more narrow cession of lands than that comprehended by the actual Treaty of 1836. It is interesting, however, that he uses the phrase, "until the U. S. may want the same," an active construction, but still vague, since "want" can be synonymous with either "desire" or "need."¹⁶⁹

On January 13, 1836, Schoolcraft wrote again of the Indians' usufructuary rights. He stated that the Indians would be able to use and "occupy" a "large portion" of the ceded lands "for many years," and "in the meantime be in receipt of their annuities."¹⁷⁰ Curiously, here he crossed out the words to the effect that they could occupy the lands "until it is required for

¹⁶⁸ HRSP/DLC/WMU container 40, frs. 13635-13636, 13637. The document is dated in brackets, [Dec. 28, 1836]. That is probably the day Schoolcraft wrote it and sent it off to Clitz. Clitz does not date the day he obtained marks from the leading chiefs at Mackinac.

¹⁶⁹ Cobbs to Elbert Herring, Sault Ste. Marie, Jan. 4, 1836, NAM234R770 200.

¹⁷⁰ HRS to C. C. Trowbridge, HRSP/DLC/SHSW : container 13, fr. 2302.

settlement,” and also words to the effect that they could “occupy and enjoy it while they are receiving” the annuities. This, the first document associated with the treaty under consideration to employ the phrase, “until it is required for settlement,” does so in Schoolcraft’s voice, but he corrects himself, and substitutes a vague, temporal limitation, “for many years.”

The phrase, “required for settlement,” is not used in any other treaty, but something very close to it surfaces in a letter written sixteen years earlier by Schoolcraft’s mentor and superior, Lewis Cass. Cass had in 1820 treated in Schoolcraft’s presence with the Chippewas of Sault Ste. Marie. Reporting the Chippewas’ agreement to cede lands for an American fort at the rapids of the St. Mary’s River, Cass wrote that “the land is not required for the purposes of settlement, but solely with a view to its military occupation.” It is interesting that, for Cass, garrisoning a country, its military occupation, was not settlement.¹⁷¹ One wonders if Schoolcraft poured over earlier treaties and documents relating to them as he waited in Washington for delegations to arrive. One wonders if Cass shared with him his letterbooks, or notes from them. Whatever one wonders, there is a startling similarity between Cass’s phrase of 1820: “required for the purposes of settlement”; Schoolcraft’s elided phrase of January, 1836: “required for settlement,” and the final treaty article: “required for settlement.” The phrase, then, originated with Americans.

Nowhere in the documents from before March 28, 1836, is the article exactly foreshadowed, and when it comes closest to being so, it is crossed out. We have little evidence for what transpired during the talks. Somehow, the U.S. position shifted from "survey and sale," to "required for settlement," a phrase closer to the Chippewa position in November, retaining use

¹⁷¹ Cass to John C. Calhoun, Sault Ste. Marie, June 17, 1820, in Clarence Edwin Carter, ed., The Territorial Papers of the United States, vol. 11, The Territory of Michigan, 1820-1829 (Washington, D.C., 1943), 36-37.

of the lands "as long as they are unoccupied."

On March 15, presenting Indians with the U.S. offer on the first day of the treaty council, Schoolcraft announced that "The usual privilege of residing and hunting on the lands [crossed out: will be] sold till they are wanted, will be granted."¹⁷² Days of resistance to the American offer followed. Sensing opposition, Schoolcraft resorted to language that more closely approximated the Chippewa position, stated in Clitz's and Johnston's letters of November.

The usufructuary rights retained by the Indians in Article 13 are very broad; they are not limited to hunting. As Schoolcraft reported in his letter to T. Hartley Crawford of Sept. 30, 1839, the Indians reserved "the usufructuary right of living and hunting upon, and cultivating the ceded portions of the soil. . . ." Equally important is Schoolcraft's use of the word "actually," when he discusses Article 13, saying that the Indians retained their rights in usufruct "until it was actually required for settlement."¹⁷³

Eleven months after the signing of the original treaty, Schoolcraft recalled that Article 13 had been critical to the Indians' agreement to cede such a large territory. "In yielding to the Ottawas (sic) and Chippewas this right, another consideration had weight. They manifested a disposition to sell but a small portion of the country actually purchased. . . . And the right named [in Article 13] combined with the principle of consolidated reservations, was found to be among the most efficacious reasons, brought forward, to induce them to enlarge the tract ceded. . . ."¹⁷⁴ Schoolcraft, in short, deployed the article to induce the Indians to cede the vast lands.

¹⁷² HRSP/DLC/SHSW, container 41, pt. 1: fr. 13930-ff, p. 9.

¹⁷³ NAM1R38 120-135; also in NAM234R423 frs. 442ff.

¹⁷⁴ HRS to Harris, Detroit, Feb. 27, 1837, NAM234R422 631-634.

Hulbert's incomplete notes of the council do not mention discussion of the initial U.S. declaration: "The usual privilege of residing and hunting on the lands sold till they are wanted will be granted." But there is a distance between this declaration and the final Article 13, just as there is a distance between the December "power of sale" and the final article. Hulbert's notes do reveal considerable Indian resistance to the treaty. Facing resistance, Schoolcraft met it, in part, by threatening to make a separate deal with the few delegates from the Sault region who had come to Washington with their own understanding of retained rights in usufruct: the rights would last as long as the lands were "unoccupied."

The Ottawas and Chippewas understood well that they were yielding a great deal to the United States. American citizens would now have the right to enter, use, and settle the lands. The United States would now control the timber and mineral resources on the ceded lands; it would establish villages and farmsteads, build forts, set up mines, timber camps, and fishing stations, construct roads, dredge harbors, and so on, all without tribal consultation. The U. S. had become the superior power on the lands, but it would protect the limited rights that Indians retained. Ottawas and Chippewas also understood that their American allies and protectors had vast rights to the lands, and, as partners in alliance, they could not damage American resources.

For example, they never mooted the possibility of establishing commercial timber operations under Article 13. The harvesting of timber for a variety of purposes, of course, was an ancient practice, but commercial lumbering was not a usual privilege of occupancy, not as anyone saw it in 1836. It would be an exclusive American right to the ceded lands.

They also knew that Article 13 offered only modest protection of their rights to reside on the land ceded. Any improvements – fences, barns, mills, docks, and so on – that Indians might

make on the ceded lands after the treaty went into effect would be liable to forfeiture, without compensation, if the lands became attractive to settlers and were required for settlement.

Permanent residence on the basis of Article 13 alone was impossible.

Nor did they see their rights to use the lands as exclusive. Much as the ancestors of the Ottawas and Chippewas had come up with ways for multiple families and bands to harvest certain resources from the same lands and waters in places like the “eastern part of Michigan’s Upper Peninsula, and especially in the Ste. (sic) Mary’s River and Straits of Mackinac region,”¹⁷⁵ much as bands of Ottawas and Chippewas had earlier worked out arrangements allowing their peoples access to resources on the same lands in various parts of what is now Michigan,¹⁷⁶ much as the Indians of a western place called “Ki - nu - kqu - ne - she - way - boat” had given John Tanner and his Chippewa brother the right to tap maple sugar from several trees without conveying any other sense of ownership, so the Indians understood that the United States was leaving them with the rights to resort to the lands for the traditional purposes of hunting, fishing, gathering, traveling, and camping, expecting them to peacefully avoid confrontations with American citizens who might also use the lands.

The Indians understood they would retain the right to use the lands until they were occupied by American settlers; the government had sought a more limited right. Schoolcraft’s language veers toward the Indian position. He had conceived of it as early as January. It is in the passive voice, and without a subject to explain what or who is to require land for settlement. Since the treaty is in English, a foreign language to the Indians, we have to assign responsibility

¹⁷⁵ Cleland, “Ethnohistory to Archaeology,” 100; see also the discussion in Chapter 3 of this report.

¹⁷⁶ Blackbird, History, 20-21.

for the wording to the American party, which very much wanted to gain cheap, peaceful, and plausible control over the lands in question.

Indian Gains in the Treaty

On reserved lands, surrounded by lands and waters to which they retained usufructuary rights, Indians would receive payments which could assist their development. Once the treaty was finally agreed to, the Indians would receive \$150,000 in goods and provisions. The Ottawa and Chippewa nations would further receive an annuity of \$29,000 in hard money. This annual payment would be made for twenty years, divided as follows: \$18,000 to the Indians between the Grand River and the Cheboygan River, \$3,600 to those between the Cheboygan and Thunder Bay, \$7,400 to Chippewas within the ceded region on the Upper Peninsula. Another \$1,000 would be invested in stock and held in trust for twenty-one years.

All Indian debts to the limit of \$300,000 would be paid. Congress would appropriate \$5,000 annually for twenty years, and as long afterward as it saw fit, in order to provide teachers, schoolhouses, and books "in their own language" for the Indians. It would provide \$3,000 for missions, again for twenty years and for the duration of Congressional approval. The United States would provide \$10,000 for implements, tools, and animals, and \$300 per year for vaccines and other medicines or medical services on the reservations. Further annual distributions of \$2,000 in provisions, \$6,500 in tobacco, 100 barrels of salt, and 500 fish barrels would be given for twenty years. Indians were to be compensated for improvements they had erected on the ceded lands. The leading chiefs would individually receive their portion of a \$30,000 block, according to a schedule included in the treaty, on its ratification.

Blacksmith shops would be opened and maintained at Grand River and at Sault Ste.

Marie in addition to the shop at Mackinac Island, where a gunsmith would also be appointed. An interpreter would live at each of these first two locations. These employees would work in federal pay for twenty years. Two farmers, two assistants, and two mechanics to teach modern techniques would be appointed for ten years. A dormitory at Mackinac Island would be established and managed for ten years.

The freedom from debt, the retention of the usufructuary rights, the cushion of annual payments, and the possibility that private lands could be purchased under the trusteeship of an American ally and then formed into Indian villages and colonies when settlement threatened, the services promised by the federal government: all these incentives coated the bitter pill of an enormous land cession to a powerful nation that was sweeping the East of other Indian peoples.

Twenty-six Ottawas and Chippewas marked the original Treaty (including one, Hamelin, who signed as a witness). The eighteen Ottawa signers far outnumber the Chippewa signers, and there are few marks from the Northern Upper Peninsula.¹⁷⁷ If one compares the list of signers with that of the articles of assent to the Senate revisions, formed in July, 1836, one finds many bands missing from the original treaty. No leaders were present from the Upper Peninsular bands at Millecocquins Point, the Manistique River, Bay de Noc, the Escanaba River, the Chocoday River, Grand Island, the Tahquamenon River (except by Maidosogee, who signed the treaty for

¹⁷⁷ NASPIA 4: 26-27; Kappler, 2: 454-455. For tribal identification see "Records of a Treaty Concluded with the Ottawa and Chippewa Nations," at Washington, D.C., March 28, 1836, in HRSP/DLC/SHSW, Container 41, pt. 1, 13973. Three Maskigo (or Muskegon River) Ottawas signed the treaty. Their names appear as Oroun Ashkum, Wassangazo, and Osawya. Six Grand River Ottawas signed the treaty, appearing as Wabi Windego, Megiss Ininee, Nabun Ageezhig, Winnimmissagee, Mukutaysee, and Wasaw Bequm. Two Straits of Mackinac area Chippewa signed the treaty, appearing as Ainse, and Chabowaywa. Three Sault Ste. Marie area Chippewas signed the treaty, appearing as Jawbawadick, Waub Ogeeg, and Maidosagee, who signed for Kawgayosh. Eight Little Traverse Bay area Ottawas signed the treaty, appearing as Apawkozhigun, Keminitchagun, Tawaganee, Kinoshamaig, Naganigobowa, Oniasino, Mukuday Benais, and Chingassamo, who was, more properly, an Ottawa of Cheboygan. Augustin Hamelin, Jr. signed as a witness. Three Chippewas of Grand Traverse signed the treaty, appearing as Aishquagonabee, Akosa, and Oshawun Epenaysee.

Kawgayosh of the Sault, who was not present), nor, in reality, from Sault Ste. Marie. On the Lower Peninsula, bands not present in Washington whose leaders' names later appear on the articles of assent include the Platte River, Thunder Bay, Beaver Island, and the Manistee River.¹⁷⁸

The Treaty of Washington meets a low standard of representation. Many bands were not represented, they had not received proper and convenient notification, and it is very likely that several of them were unaware in March that their lands were being treated away. This was particularly true of Indians along Lake Superior. Grand River Ottawas were divided, at best, before and after the treaty. Indian participants voiced objections to the treaty throughout, which can be noticed even though the report on council is slender and weighted toward American views. Schoolcraft and the federal government pursued the treaty knowing that representation would be inadequate. Schoolcraft himself had written in the fall that it would be impossible to gather an adequate representation: "The season is now so late, that it would be impossible for me to collect a proper deputation of the several bands interested in the title to the soil north of Grand River, in time to make the visit this winter."¹⁷⁹ That he and his superiors pursued the treaty against that knowledge places a question mark over their integrity. It would not be the last time Schoolcraft changed his mind in a manner that expedited American control over the lands.

The Senate's Modification of the Treaty, May, 1836

The treaty, signed by the Indians on March 28, 1836, still needed Senate ratification,

¹⁷⁸ "Articles of Assent to the amendments of the . . . Senate, . . . concluded at Michilimackinac in Michigan, on the twelfth day of July, Eighteen hundred and thirty six, between Henry R. Schoolcraft, Commissioner, . . . and the Chiefs and Delegates of the Chippewa and Ottawa (sic) Tribes, Assembled in general council," NAM668R8 frs. 106-112.

¹⁷⁹ HRS to Stevens T. Mason, Michilimackinac, Sept. 17, 1835, NAM1R36 218.

never a sure thing, as unratified Indian treaties litter the record.¹⁸⁰ Historian Ronald Satz has identified the ratification process as one of the three main deficiencies of treaty-making (along with inadequate tribal representation and the frequent misunderstanding of treaty provisions by tribal signers). The Senate, without Indian consultation, changed treaties then ratified them.¹⁸¹

The Senate's Indian Committee was chaired by Senator Hugh L. White. Schoolcraft, having testified before the committee in April and awaiting the Senate decision in early May, understood that strong voices in the committee objected both to the debt payment provisions of Article 5 and to the reservations provided by Articles 2 and 3. Schoolcraft believed that White's followers had political motivations. He suggested both that White was angling for financial leverage and that White sought to deny Jackson the patronage provisions that reservations opened.¹⁸² Mary Holiday also awaited the Senate decision; in mid-May she reported that there had "been some trouble with regard to the treaty in the Senate"; but on May 24 she could exalt: "The Ottawa and Chippewa Treaty has been ratified and all the terms secured."¹⁸³

Holiday erred. The Senate had indeed ratified the treaty on May 20, but the changes it made were several, and some were huge.¹⁸⁴ A minor change to Article 8 provided that the Missionary Society would be the beneficiary of funds obtained by selling a tract of 160 acres

¹⁸⁰ Treaties rejected by the Senate before 1871 number almost 80; over 70 others never made it through committee. Vine Deloria, Jr., and Raymond J. DeMallie, Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775-1979, 2 vols. (Norman, Oklahoma, 1999) 2: 746-749, 1238-1240.

¹⁸¹ Satz, "Indian Policy in the Jacksonian Era," 82.

¹⁸² HRS to Ramsay Crooks, Washington, May 2, 1836, AFPC23: 1551; Schoolcraft, Personal Memoirs, 538.

¹⁸³ M. Holiday to Crooks, Washington, May 16 and May 24, 1836, AFPC23: 1604, 1634.

¹⁸⁴ "In the Senate of the United States, May 20, 1836," NAM1R72: 478; see also the Senate ratification in NAM668R8 fr.100-102. President Andrew Jackson confirmed the amended treaty on May 27, 1838, NAM668R8 frs. 98-99.

along the Grand River on which that society had made improvements. This would be, one scholar notes, "a fruitful source of future discord, as there were two" such missionary societies.¹⁸⁵ A more extensive change to Article 8 provided that any voluntary removal would be, not to northern lands west of Lake Michigan, but instead to lands "southwest of the Missouri River. . . ." Several years later, T. Hartley Crawford, a United States Commissioner of Indian Affairs, speculated that the Senate had made that particular change because in the lands to the north, any removed Indians would have faced "collisions with the Sioux."¹⁸⁶ Removal was not, in any case, something that the Indian parties to this treaty desired. Few considered it as a serious alternative, and although an Indian party would in 1838 head across the Missouri River to explore territory, none of the peoples who signed the treaty would remove.

The Senate revised Article 5 to give the Indian agent more responsibility in the payment of the Indian's debts, a payment calculated to cost up to \$300,000. It also allowed the Indians to use any surplus from that funding "as they think proper." These Senate alterations were not particularly important to Indians, since they mainly concerned the manner in which traders were paid for Indian debts. Even trading companies could remain hopeful that they would be paid; that August, factor Samuel Abbot notified Ramsay Crooks that Schoolcraft had assured him that "we shall get paid all the Indians owe us."¹⁸⁷

The most critical changes for this discussion were to Articles 2, 3, and 4. These were, indeed, stunning. The original Articles 2 and 3 had together provided the Indians with some

¹⁸⁵ Bremer, *Indian Agent, Wilderness Scholar*, 171.

¹⁸⁶ T. Hartley Crawford to J. R. Poinsett, January 1, 1839, in NASPIA 4: 436, Senate Document 155, 25:3 (340): 2.

¹⁸⁷ Samuel Abbott to Ramsay Crooks, August 8, 1836, AFCP 24: 1864.

fourteen permanent reservations. The revised Articles 2 and 3 stipulated that these reservations were to be held "for the term of five years from the date of the ratification of this treaty, and no longer; unless the United States shall grant them permission to remain on said lands for a longer period. . . ." It is a great leap from permanent reservations to reservations of merely five years' duration. Understanding this, the Senate added a provision to the fourth article: "and also the sum of two hundred thousand dollars, in consideration of changing the permanent reservations in articles two and three to reservations for five years only, to be paid whenever their reservations shall be surrendered, and until that time the interest on said two hundred thousand dollars shall be annually paid to the said Indians."¹⁸⁸

Schoolcraft later expressed outrage at the Senate's alterations. Schoolcraft had presented White's committee with two treaties that spring, and he thought it dealt badly with each of them. White, declared the disgusted Michigan agent, "violated, in some respects, the very principle on which alone . . . the original cessions . . . were obtained. . . ."¹⁸⁹ This is not the place to speculate about White's motives. As for Schoolcraft, he was alarmed.

Scholars have agreed that the changes were major. Schoolcraft biographer Bremer says they were "of crucial significance."¹⁹⁰ James McClurken has suggested that the Indians had intended the reservations to provide them with a haven while they developed the techniques to engage in American economic life, but then "Congress took from them the land they intended to

¹⁸⁸ Kappler, ed., Treaties, 2: 451-452; "In the Senate of the United States, May 20, 1836," NAM1R72: 478.

¹⁸⁹ Schoolcraft, Personal Memoirs, 538-539.

¹⁹⁰ Bremer, Indian Agent, Wilderness Scholar, 171.

use as their base."¹⁹¹ Cleland has suggested that the Senate's actions amounted to a "ploy" by which "the government hoped to force the Ottawa and Chippewa to removal(sic) west."¹⁹²

"Indefinitely, . . . Until the Land is Required for Settlement"

Schoolcraft returned to Mackinac Island and, in mid-June, sent a series of messages to traders and officials, calling upon them to help him "reassemble the chiefs." He planned the meeting for "on or abouts July 10." He emphasized of these delegations that "the number be limited, and confined to the authorized chiefs," saying, in the case of Upper Peninsular Chippewas that "One or more chiefs from each of the bands of St. Marys, Tauquemina [Tahquamenon], Grand Island, Bay de Nocquet [Noc], will be sufficient."¹⁹³ John Holiday, already back at the Sault, went westward, informing the Tahquamenon, Grand Island, and Chocoday River Chippewas of the need to attend the upcoming council.¹⁹⁴ On July 8, Samuel Abbott of the American Fur Company observed from Mackinac Island that "The Chiefs are assembling here to meet in Council on the 10th on the subject of the Treaty."¹⁹⁵

Not surprisingly, there was trouble over the amendments to the treaty. James Schoolcraft wrote from Sault Ste. Marie of negative rumors circulating among the Indians, and he blamed Holiday for being "very injudicious in his talks and most of the recent dissatisfaction exhibited

¹⁹¹ James McClurken, "Ottawa Adaptive Strategies to Indian Removal," Michigan Historical Review 12 (1986), 35-36.

¹⁹² Cleland, Place of the Pike, 24.

¹⁹³ HRS to Major Cobbs, Michilimackinac, June 16, 1836, HRS to Rix Robinson, Michilimackinac, June 16, 1836, NAM1R69 171, 172.

¹⁹⁴ The U.S. to John Holiday, 1836, in HRSP/DLC/SHSW, container 41, Part 2: 14522.

¹⁹⁵ Samuel Abbott to Ramsay Crooks, Mackinac, 8 July, 1836, AFCP 24: 1780.

may be attributed to his tongue." Nonetheless, James Schoolcraft informed his brother that the Indians were quiet, that he and Hulbert had painstakingly described the merits of the revisions to them, and that the delegates who were assembling "all expect fortunes." That last comment cannot be dismissed: a deal would provide windfalls to the leaders who agreed to sign the treaty.

From the Lower Peninsula came similar news. Robinson promised to assemble a delegation agreeable to the Senate's changes, but he also stated that rumors flew on winds of mistrust blowing throughout the Grand Valley. The business of securing assent, he wrote, would have to be "carefully conducted of which I have no reason to doubt."¹⁹⁶ Although the treaty had not lived up to the trading interests' hopes, though traders would get no direct payments for Indian debts and no private reservations, leading traders sought to see the treaty through, for in it lay gain. Ramsay Crooks instructed Rix Robinson to work for the adoption of the treaty.¹⁹⁷

Andrew Blackbird, a boy in 1836, recalls the sense of confusion, betrayal, and mortification that greeted word of the Senate revisions. If the details depart somewhat from those revealed in written documents, Blackbird's memory nonetheless sheds light on the Indians' reception of the bad news. Indeed, Blackbird's memory plausibly reflects the Indians' sense of events:

A treaty was concluded in the city of Washington in the year 1836, to which my people, the Ottawas and Chippewas--were unwilling parties, but they were compelled to sign blindly and ignorant of the true spirit of the treaty and the true import of some of its conditions. They thought when signing the treaty that they were securing reservations of

¹⁹⁶ James Schoolcraft to HRS, Sault Ste. Marie, 29 June, 1836, HRSP/DLC/SHSW P 79-1998, container 41, Part 2: 14323-14324; McClurken, "We wish to be Civilized," 190; Rix Robinson to HRS, HRSP/DLC/SHSW, container 41, Part 2, frs.14318-14319.

¹⁹⁷ Crooks to Robinson, New York, June 3, 1836, abstracted in Grace Nute, ed., Calendar of the American Fur Company's Papers, Part 1, 1831-1840, in Annual Report of the American Historical Association For the Year 1944, volume 3 (Washington, 1945), 191.

lands in different localities as permanent homes for themselves and their children in the future; but before six months had elapsed from the time of the signing this treaty, or soon after it had been put in pamphlet form so that all persons could read it and know its terms, they were told by their white neighbors that their reservations of land would expire in five years, instead of being perpetual, as they believed. At the end of this time, they would be compelled to leave their homes, and if they should refuse they would be driven at the point of the bayonet into a strange land, where, as is almost always the case, more than one-half would die before they could be acclimated. At this most startling intelligence more than half of my people fled into Canada.¹⁹⁸

The movement to Canada was less extensive and more gradual than Blackbird recalled, but that the Indians' alarm was real is evident in official documents. On July 29, 1836, Schoolcraft noted that three leaders from Little Traverse Bay, "Wqu,be,na,cee," "Pche,be,na,eke,maus," and "Pepeqwain," had applied to him for compensation for lands and improvements at Little Traverse, since they intended to move to Manitoulin Island.¹⁹⁹ The federal commissioner of Indian affairs sent word in 1841 that "The alarm expressed by the Indians in relation to their removal is without cause. There is no immediate intention of removing them, but when the project of a northern settlement is fixed they will have to go. . . ."²⁰⁰

Like Blackbird, a local historian of Grand Rapids in 1874 recalled hostility among the valley's Indians to the treaty and its signers. He claimed that one Kewaykusquom had advocated the treaty, gaining nothing in return but disdain, pursuit, and eventual murder.²⁰¹ This story confuses the aftermaths of the 1836 Washington treaty and the 1821 Chicago treaty, which was also extremely unpopular and which did result in the fall of one Kewagoushcum. The writers's

¹⁹⁸ Blackbird, History, 97-98.

¹⁹⁹ Schoolcraft, July 29, 1836, HRSP/DLC/SHSW, container 41, Part 2: fr. 14430.

²⁰⁰ T. Hartley Crawford to Robert Stuart, Washington, July 19, 1841, in NAM1R51 49.

²⁰¹ Tuttle, History of Grand Rapids, 53.

confusion could well have roots in the Grand River Indians' dismay with the Senate.

American agents later encountered Indian bitterness about the Senate revisions. As Major Jonathan Garland issued annuities in kind (not in specie -- a violation of the treaty), in September, 1837, he noted that the Indians rumored that "their great Father had caused them [the delivered goods] to be infected with some fatal malady and that he never intended to keep good faith with them when he made the treaty; and as evidence of it, instanced the alterations made by the Senate and now the offer of goods in lieu of specie."²⁰²

The council of assent to the Senate revisions opened at Mackinac on July 12. There was no negotiation, either the leaders would agree, or there would be no agreement. No formal minutes survive, if any were taken.²⁰³ Twenty-seven men whom Schoolcraft called "principal chiefs," mostly from the Upper Peninsula and the northern tip of the Lower Peninsula, affixed their marks to the revised treaty that very day. This left Schoolcraft with "no doubt but the Southern chiefs will also yield their assent as soon as they come in." Twelve others, from the Grand River and the Michilimackinac region, waited until July 14. On July 15, Schoolcraft obtained the signatures of thirty-one leaders (among them one woman) from the broad stretch of "L'Arbre Croche" to Grand Traverse Bay. He then declared the revisions as assented to and the treaty as valid, a doubtful maneuver, for more representatives were on their way. On July 16, he secured thirteen more Little Traverse Bay marks. Still, there were delegates who had not yet

²⁰² Major Jonathan Garland to C. A. Harris, Detroit, Sept. 24, 1837, in NAM234R402 frs. 315-319.

²⁰³ Registers of Letters received for 1836 show only the transmission of the Articles of Assent and a memorial accompanying the same, along with some other letters from Schoolcraft. There is no indication in these registers of the transmission of minutes. Registers of Letters Received, Office of Indian Affairs, NAM18R7 fr. 104-5. James McClurken notes in his dissertation, "We Wish to be Civilized," 191, that Schoolcraft "kept no journal" of the proceedings.

arrived and who did not show up until after the council dispersed. Thirteen of these, from the Grand, Muskegon, White, and Pere Marquette Rivers of the Western Shore region of the state, presented with a fait accompli, signed a copy on July 22. By then, the Articles of Assent were already on their way to Washington, having left Schoolcraft's hands on July 18. Casting more darkness on the event, Schoolcraft stated in a letter to Cass on July 21 that what he had previously sent on to Washington had only been a copy of the articles, whereas he was now sending the original, adding, at the bottom (and this *before* he obtained the last group of signatures) that "Several chiefs and principal men, have been permitted to affix their names, since the 18th."²⁰⁴

Overall, Schoolcraft's published Personal Memoirs are remarkably brief on this critical event in Michigan's history. His entries for the relevant dates of his life, dates in which he made a mark on U.S. history almost the size of Michigan, follow, in their entirety:

12th. The chiefs in general council assembled by special messengers at the Agency at Mackinac, this day assented to the Senate's alterations of the treaty. Its principles were freely and fully discussed.

13th and 14th. Signatures continue to be affixed to the articles of assent.

15th. I notified the various bands of Indians to attend in mass, the payments, which were appointed to commence on the 1st of September.

The next entry is for July 27; he made no entries on July 16 or July 22, when he obtained twenty-six of the ninety-six signatures. He did not report publicly that he had declared the treaty

²⁰⁴ "Articles of Assent to the amendments of the resolution of the Senate of the United States, . . . made and concluded at Michilimackinac in Michigan, on the twelfth day of July, Eighteen hundred and thirty six, between Henry R. Schoolcraft, Commissioner, . . . and the Chiefs and Delegates of the Chippewa and Ottawa (sic) Tribes, Assembled in general council," NAM668R8 frs. 106-112; (quotation: "no doubt") HRS to James Ryley, Michilimackinac, July 13, 1836, NAM234R422 162, also in HRSP/DLC/SHSW/ container 13, fr. 253; HRS to Cass, Michilimackinac, July 18, 1836, NAM1R37 3-5, also in NAT494R3 369; HRS to Cass, Michilimackinac, July 22, 1836 in HRSP/DLC/SHSW, container 41, Part 2: fr. 14405 (see also 14368), also in NAM1R37 7; HRS to Cass, Michilimackinac, July 21, 1836, NAM234R402 fr. 235. McClurken, "We wish to be Civilized," 191-192.

done before he had secured signatures from all concerned parties. When he summarized the events for Brig. Gen. Hugh Brady in early August, he similarly compressed time, falsely stating that all ninety-six signatures had been obtained by July 16.²⁰⁵

_____At several moments in his ten-month quest to secure land cessions in Michigan, Schoolcraft had sought to promote U. S. interests, misrepresenting reality. He had, in September, sent an offer for lands to Cobbs at the Sault with instructions to convey it in such a way that “this offer should come from them as soliciting a boon.” He had recruited and accepted slanted delegations to represent the Sault Ste. Marie Chippewas and points northwest, even though he had earlier acknowledged that assembling proper delegations for Washington would be “impossible.” Now, in the all-important articles of assent, he announced the agreement as reached without the consent of all parties. He would, in the next years, treat his Article 13 to the same sleight of hand.²⁰⁶

Indians did mark the articles of assent; it is worth looking into their reasons. First, bands were already counting on the payments guaranteed by the original treaty, and the United States government was now insisting that it would pay nothing until they assented to the modifications. The Senate adopted a proviso shortly after Schoolcraft left Washington that prevented any payments from being made to the Indians “until the assent of the Indians is obtained to the modifications proposed” to the treaty. Healthy payments, too, were to be awarded to the chiefs, a

²⁰⁵ HRS to Brig. Gen. Hugh Brady, Aug. 3, 1836, NAM1R37 16.

²⁰⁶ HRS to Cobbs, Sept. 23, 1835, NAM1R69 121; Cleland, Place of the Pike, 21; James L. Schoolcraft to Henry R. Schoolcraft, Sault Ste. Marie, March 12, 1836, in Clarence Edwin Carter, ed., The Territorial Papers of the United States; The Territory of Michigan vol. 12 (Washington, 1945), 1139-1140; see also editor's note 4; James Schoolcraft to HRS, Sault Ste. Marie, March 9 1836, March 10, 1836, HRSP/DLC/WMU container 41 pt. 1, 138 79ff., 13886 ff.

factor that cannot be dismissed as irrelevant, whatever the signers' plans for the money.²⁰⁷

Second, as James McClurken's dissertation on the Ottawas argues convincingly and as an examination of the evidence makes clear, the Indians understood that the treaty still protected and advanced certain goals against strong odds. At Washington, they had been promised "reserved lands and the cash to develop them, assuring them a place in Michigan society." The Indians were promised

access to the natural resources crucial for their continued residence in Michigan. . . . They accepted reserves in their traditional transitional zone environment, safely beyond the range of American agricultural settlements. They demonstrated their resolve to maintain a land base and access to natural resources once again by signing the document as amended by the Senate only after receiving assurance that they would have rights to use the resources in their ceded territories for many years to come.²⁰⁸

The Senate's amendments meant that the reserves would be guaranteed for only five years. This was an enormous change, to be sure, but it only modified the Indians' strategies, for the additional funds provided by the Senate in lieu of the permanent reservations could be used to purchase a land base for fields, villages, and strategic resources such as sugar bushes that might lie in the kinds of arable lands that lay in the path of anticipated settlement. These two reasons -- the desire for treaty payments and the conviction that even the altered treaty met Indian needs -- are related, because cash became crucial to the Indians' strategy. Once officials in Washington received word of the Indians' assent in Schoolcraft's letter of July 18, they began preparations for the distribution of payments and annuities, which would take place in late summer.²⁰⁹

²⁰⁷ C.A. Harris to HRS, Washington, July 6, 1836 in NAM1R41 9-10 and NAM21R19 133; C.A. Harris to John W. Edmonds, Washington, July 8, 1836, NAM21R19 150-155; C. A. Harris to Major John Garland, Washington, July 9, 1836 NAM1R41 35-37 and NAM21R19 163-165; C.A. Harris to HRS, July 9, 1836, NAM21R19 166-168.

²⁰⁸ McClurken, "We Wish to be Civilized," 193; see also 190-191 for his discussion of the withholding of funds.

²⁰⁹ C.A. Harris to HRS Washington, Aug. 2, 1836, NAM21R19 341-342.

The Indians' strategy for securing a permanent place in Michigan, one well-adapted to their modes of living, eventually became clear to Justin Rice, an American employee. In 1844 he discussed land ownership with the Indians around Cheboygan and Little Traverse Bay. He advised them to avoid debt, because "with their annuities, and their extensive *privileges* of Hunting in winter, fishing, Sugar Making, Crops, etc., there is not the least necessity of contracting debts.[emphasis supplied]" Eight years after the treaty, it was possible for an American in the Indian service to imagine, and to advise his Indian clients, that Article 13 helped to establish the basis for a good life.²¹⁰

The Senate's alterations raised two serious points of contention: first, the revision to Article 8: dropping the Minnesota region as a possible site for voluntary removal in favor of the southern plains, and, second, the revisions to Articles 2, 3 and 4: limiting the previously permanent reservations to a five year tenure. How Indians perceived these changes is critical to an understanding of why they agreed to them.

Because the proposed removal clearly required Indian consent and because the vast majority of Indians opposed it, the change in location of western lands was almost irrelevant. Still, Schoolcraft eagerly forwarded to the Secretary of War a memorial to the President objecting to the change. The signers desired that any western location be selected near the origins of the Mississippi River among the western Chippewas.²¹¹ Schoolcraft, who favored removal, believed that voluntary Chippewa removal, a dubious project to begin with, would be vastly more difficult

²¹⁰ Justin Rice to Robert Stuart, Mackinac, Nov. 12, 1844, NAM1R57 168-170.

²¹¹ HRS to Cass, Michilimackinac, July 18, 1836, National Archives Microfilms, T494, reel 3: 369, also in NAM1R37: 3-5, and NAM234R402 frs. 236-241; C.A. Harris, Report from the Office of Indian Affairs, Dec. 1, 1836, in NASPIA 1: 439.

with a proposed destination in the Central Great Plains.

Of more immediate concern to the Indians, however, was the Senate's shocking decision to limit the tenure of the Ottawas' and Chippewas' Michigan reservations to a mere five years.

Schoolcraft described both the Indians' reaction to the change and the reason they acceded to it:

The cession of the reservations at the expiration of five years has been strenuously opposed by a party of the chiefs, but was finally yielded, on a consideration of the practical operation of the provision contained in the 13th article of the treaty, which secures to them, indefinitely, the right of hunting on the lands ceded, with the other usual privileges of occupancy, until the land is required for settlement.²¹²

His emphasis on the centrality of Article 13 to the Indians' acceptance of the treaty is reinforced by the signed articles of assent themselves:

The Chippewas and Ottawa (sic) Tribes, considering the disposition of the government of the United States to permit them to reside upon their reservations, after the period hereinafter mentioned, until the lands shall be required for actual survey and settlement, as the white population advances from the South towards the North; and considering that no part or provisions of the said treaty of the twenty eighth of March, which is not specified in the Senate's resolution, is, in any manner, affected or altered thereby, hereby cede to the United States, from and after the expiration of Five Years, from the date of the said resolution, the several reservations made in the Second and Third article of the said treaty, and agree to receive the sum of Two Hundred Thousand Dollars offered by the Senate of the United States in consideration of the Same, provided, that the interest on said sum be annually paid to them, agreeably to the tenor of the said resolution of the twentieth of May eighteen hundred and thirty six.²¹³

Two terms, apart from the word "settlement" itself, stand out here. The first is "indefinitely," which appears in the first of the two passages. The second, is "actual," which appears in articles of assent. The word "indefinitely" attaches no specific term of years to the Indians' retention of their right to use the lands ceded; it places no known outer limit, not by itself. "Indefinitely" is

²¹² HRS to Cass, Michilimackinac, July 18, 1836, NAT494R3 369, also in NAM1R37 3-5. See also Bremer, Indian Agent, Wilderness Scholar, 172.

²¹³ Articles of Assent, July, 1836, NAM668R8 frs. 106-112; Schoolcraft's copy is in HRSP/DLC/SHSW, container 42, Pt. 1: frs. 15165-68.

not a synonym for "temporarily" or "briefly," nor, for that matter, does it mean "prolongedly" or "infinitely." It is without definition; that is its meaning.

The word "actual" will be analyzed in Chapter Seven. But it is important to note here that the term "actual," when used in the context of settlement and land policy, had a well-understood meaning in the nineteenth century. The meaning is exactly what one would expect today: an actual settler was a person living upon the land; actual settlement was the process of actually inhabiting the land. Proof of residence was required by those seeking proof of actual settlement. The phrase, "until the land is required for settlement," was modified in the articles of agreement to read "until the lands shall be required for actual survey and settlement." Both conditions, actual survey and actual settlement, have to be met. The term "actual" emphasizes that prospective settlement, or even previous settlement, are not enough. The settlement must be real; it must involve real settlers, occupying the land in their residences.

In modifying the word "settlement," it is my opinion that the term "actual" also modifies the term "required." Who requires? The most obvious answer, judging from Article 13 itself, is the American settler, and we can presume that this means the American settler operating within the confines of the law (excluding, then, illegal squatters--particularly given the requirement for actual survey). Could it mean someone else? The President? The Indian agent? The Michigan governor? The Commissioner of Indian Affairs? The Congress of the United States? The Secretary of War?

It is my opinion that the article cannot mean these individuals or entities, at least not at their own will. The articles of assent add the word "actual," which implies that actual settlement is what would terminate the usufructuary rights. The officials or governing bodies could not

"require" the lands until actual settlers legally began to occupy them, and to occupy them residentially. This resonates strongly with the Chippewas stipulation, cited in the Clitz and Johnston reports of November 17, 1835, that the Indians would be able to use the ceded lands as long as they are "unoccupied." It is also a reasonable interpretation of the language of the treaty.

The July 1836 articles of assent to the Senate modifications appear in both the National Archives and in Schoolcraft's personal papers. They make it abundantly clear that the Indians accepted the changes under the assumption that the alterations would not materially alter, for an indefinite period, the Indians' lifeways. It is important to note that many Indian leaders from the Western Shore of the Lower Peninsula were not present at the Mackinac discussions until the others had already signed and until the deal was a fait accompli; yet this region's people, especially those in the Grand River, were alone among Ottawas in experiencing the pressure of actual settlement by U.S. citizens. A smallpox epidemic had wreaked havoc in the Grand Valley throughout the previous autumn and into the spring--it must have placed enormous stress on the people at the most critical moment of their history.²¹⁴ The relevant portion of the first article of assent follows, again, stating the understanding on which the Indians accepted the Senate's alteration: "The Chippewa and Ottawa(sic) tribes, considering the disposition of the United States to permit them to reside upon their reservations, after the period hereinafter mentioned until the lands shall be required for actual survey and settlement, as the white population advances from the South towards the North. . . ." It is noteworthy that the term "survey" is distinguished from the term "settlement," and that both had to be completed before the Indians would lose their right in usufruct. It is also noteworthy that the article expressly links the idea of

²¹⁴ Report of the Board of Commissioners assembled at Michilimackinac, 20, 22.

settlement with the advancing "population" of American citizens.²¹⁵ The Indians clearly expected that they would use the land until American farmers came to reside in homesteads upon it.

As it turned out, even in the Grand River area, a great national economic depression inhibited the movement of American citizens to the ceded lands. As Schoolcraft's biographer, Richard Bremer writes:

In persuading them to agree to the five year reservation he had stressed their right to the use of the ceded lands until their actual occupation by white settlers. Consequently they continued to roam their traditional hunting grounds while the cessation of white emigration to Michigan following the onset of the economic depression in 1837 largely eliminated the pressures that he had expected to force them onto their reserves.²¹⁶

Schoolcraft recalled the Ottawa and Chippewa decision to accept the Senate modifications in his annual report of September, 30, 1839. Writing to the Commissioner of Indian Affairs, he stated that

When the Senate came to consider this treaty, they changed the tenure of these reserves from perpetual to a limited number of years, awarding the Tribes, an equivalent in coin, to be paid, when the reserves were surrendered. This measure, when it came under discussion in their councils, induced the Indians to throw themselves upon the usufructuary right, to the ceded territory, secured to them by the 13th Art. of the Treaty, and they subsequently gave up the idea of concentrating on the reserves, as it was foreseen, that the time would expire before they could derive permanent benefit from them. Five years, appeared to them, too short a time to justify, such of their numbers, as were not already located upon these reserves, to change their location, and open new planting grounds. This policy, which was not so fully known, at the public councils held with them in the summer of 1836, soon became manifest, and there is now no idea entertained among them of a concentration on the reserves, which will expire in 1841.²¹⁷

This is not how Schoolcraft originally described the Indians' acceptance of the Senate

²¹⁵ Articles of Assent, July, 1836, NAM668R8 frs. 106-112; Schoolcraft's copy is in HRSP/DLC/SHSW, container 42, Pt. 1: frs. 15165-68.

²¹⁶ Bremer, *Indian Agent, Wilderness Scholar*, 185.

²¹⁷ HRS to T. Hartley Crawford, Michilimackinac, Sept. 30, 1839, NAM1R38 120-135; also in NAM234R423 frs. 442ff.

revisions. In July, 1836, he had written that “the cession of the reservations at the expiration of five years, has been strenuously opposed by a part of the Chiefs, but has finally yielded, on a consideration of the practical operation of the provision, contained in the 13th article of the Treaty. . . .” Although his syntax is bad, his clear meaning is that the Indian opposition to the Senate revisions yielded after Schoolcraft brought the Indians’ attention to Article 13, which would allow them a place in Michigan, on ceded but unsettled land, even after the reserves lost their guarantee. By 1839, however, Schoolcraft presents the Indians, not in the light of careful consideration of the practicality of a treaty stipulation, but in a far more reckless light: they “throw themselves upon the usufructuary right,” which, he no longer sees as having a “practical operation” that works in their favor.

At issue in 1839 was the relationship between the five-year reserves and the other ceded lands. Since guarantees on the reserves would soon expire, after which their status would presumably match that of the other ceded lands, and since much of the ceded region was for the moment under no settlement pressure, Indians were understandably reluctant to move to reserves and make improvements that soon might be taken by others.

As the five years drew to a close in 1841, Schoolcraft stated that the reserves fell under Article 13, that Indians could remain on the lands as long as Article 13 protected them. This makes a good deal of sense, and it is to his credit that he was less ready than some to consider forcing Indians from Michigan. But Schoolcraft again added more. The Ottawas and Chippewas

are understood to be prepared to give up their reserves (upon which they are but partially located) the same as other portions of the cession, whenever they are required for settlement, agreeably to the usufructuary right contained in the 13th article. It has always been my understanding of this feature of the treaty, that the will of the President would terminate or prolong the privilege of residence so far as relates to the reserves, on the

expiration of the five years, granted by the Senate.²¹⁸

It has to be remarked here, as an aside, that the treaty says nothing of the will of the President, though Schoolcraft's understanding is here not too far from the Senate's amendments, which established reservations "for the term of five years from the date of the ratification of this treaty, and no longer; unless the United States shall grant them permission to remain on said lands for a longer period. . . ." ²¹⁹ Speaking only of the reserves (not, emphatically, of Article 13), by invoking "the will of the President" Schoolcraft injects a modest, retrospective innovation into the treaty. He had, in any case, thought so little of the reserves that he refused to comply with the Little Traverse Bay Ottawas' request to have their 50,000 acre tract surveyed. Nor had he complied with a similar Cheboygan band request. He reasoned that the surveys could not be completed until June, 1841, and since the reserves' five-year tenure ended, he believed, in May, 1841, the action would be pointless.²²⁰ But it was not pointless to Indians who were considering the purchase of the reserves or undertaking other strategies to get them extended.

When Rev. Alvin Coe of Ohio attempted to organize a petition movement to extend the duration of the reserves in Michigan, against Schoolcraft's hopes for voluntary removal, Schoolcraft asserted that such a petition was unnecessary. The ending of the reserves meant little, he thought, because of Article 13. He thought that the petition was "uncalled for; because that privilege is already granted to them by the 13th Article of the treaty. . . ." ²²¹

²¹⁸ HRS to T. Hartley Crawford, Detroit, March 30, 1841 NAM1R38 488, also in NAM234R424 frs. 788-790.

²¹⁹ Kappler, ed., Treaties, 2: 451-452; "In the Senate of the United States, May 20, 1836," NAM1R72: 478.

²²⁰ HRS to T. Hartley Crawford, Michilimackinac, Oct. 16, 1840, NAM1R38 400.

²²¹ HRS to T. Hartley Crawford, May 13, 1841 NAM234R424 804-805

Crawford, as it turned out, did not agree with Schoolcraft that Article 13 applied to the reserves. He did not offer reasons for his position, but he merely stated it as "the opinion of the Department."²²²

The Treaty and Indian Goals

The Indians understood well that Article 13 could not alone guarantee their tenure in Michigan, but other portions of the treaty might also help them remain in the state. Annuities, paid in specie, were critical to the Indians' plans. With these, bands could, with the assistance of a good U.S. neighbor, purchase land within the ceded region or nearby portions of the state. These properties, while held in fee simple, could be used either as agricultural villages or as protected, outlying stations for hunting, fishing, sugaring, or other resource gathering, secured and available to future generations even as the communities might be surrounded by U. S. citizens attracted to arable lands. Meanwhile, the usufructuary rights in the vast, agriculturally unattractive ceded areas under Article 13 would provide important supplemental resources for the people's survival and development.

We have already seen that Slater's mission became linked to one such private reserve. It became known as the Ottawa Colony, and it was located in Barry County, south of the ceded area. In November Slater purchased 850 acres of good land, just three miles from a place then called Gull Prairie (now Prairieville), a region filled with interior lakes and ponds. Slater reported that the people were "utterly averse to emigrating West of the Mississippi." Another settlement, the Griswold Colony, was set up in 1839 in Allegan County, and became associated

²²² T. Hartley Crawford to Major James L. Schoolcraft, Washington, June 15, 1841, NAM1R50 531.

with Rev. James Selkrig.²²³ The Selkrig mission was supported by the Western Michigan Society to Benefit Indians, an organization headed by cereal entrepreneur John R. Kellogg.²²⁴

At the annuity payments at Mackinac in 1837, the United States distributed not hard coin as required, but the equivalent sum in goods, raising a storm of Indian protest. Major Jonathan Garland reported that

All the chiefs who spoke demanded hard money and nothing else. The Larbre Crosh [sic] chief gave a sensible reason why he and his band wanted specie; it appears that they save all their money to purchase land, and have a petition ready to present to Congress, to permit them to purchase land and become citizens of the U. States. Some of these people more than intimated that they considered the Treaty as no longer binding upon them, and said they would not leave their lands unless forced from them.²²⁵

As Peter Dougherty embarked in 1838 on his career as a missionary to Michigan Indians, preparing to locate his mission at Grand Traverse Bay, he was encouraged by William Johnston, who told him that "several of the Indians are laying by from their yearly receipts money to purchase lands there when they come in market."²²⁶

A Grand River Ottawa said the idea originated with Schoolcraft himself. Noahqua ge shick, speaking for himself and twenty-three other family heads on New Year's Day, 1838, related Schoolcraft's advice, supposedly given as the Grand River Ottawas agreed to the Senate modifications in 1836.

²²³ McClurken, "Ottawa Adaptive Strategies," MHR 12 (1986), 38. Leonard Slater to HRS, Richland, Dec. 28, 1836, NAM1R41 562-564; See also the brief notice, [Anon.], "Rev. James Selkrig," in Collections of the Michigan Pioneer and Historical Society 5 (1902), 381.

²²⁴ HRS, Annual Report, Sept. 30, 1839, NAM234R423: 442 ff.

²²⁵ Major Jonathan Garland to C. A. Harris, Detroit, Sept. 24, 1837, NAM234R402 frs. 316-317.

²²⁶ Peter Dougherty to Walter Lowrie, August, 1838, Peter Dougherty Papers, 1838-1870, Reel 1: 18, microfilm at Bentley.

You advised me at Makanaw to purchase land. I have done as you recommended and as I said I would do. I have left my former residence and am now near Gull Prairie East of Grand River. We have left many of our countrymen behind. We now look for the fulfillment of your promise. We were not to take goods in place of money.... We ask for specie to pay for our land.²²⁷

This passage suggests that when Schoolcraft reported to his superiors in 1839 that the Indians insisted on payments in specie, he understood that purchasing land was one of their goals.²²⁸

In 1840 Apakosigan of L'Arbre Croche, along with Muck conde cwan jana, and forty-six other Ottawas and Chippewas from Northern Lower Michigan, petitioned Washington to remove Schoolcraft from office, alleging that he was misdirecting money and assistance that had been intended for them. They requested that the money provided by the treaty for education and religious missions be distributed directly to them, that the balance of the agricultural subsidies be paid to them, and that the interest on the debt balance be paid directly to them. They needed the interest, in particular, for their "public expenses," and they thought failure to pay it was a violation of the treaty. The "public expenses" were almost certainly land purchases. They also wanted to make sure that their village lands were not surveyed for public sale. All of this points to their strategy of gathering funds for the purchase of land. William Johnston and Augustin Hamelin, Jr., acted as their agents.²²⁹

Johnston's turning against his brother-in-law raised eyebrows in Washington, but Johnston soon explained why he had supported the Ottawas and Chippewas in their complaints

²²⁷ Ottawas of Gull Prairie to HRS, Barry Co. Ottawa Colony, Jan. 1, 1838, NAM1R44 1-4. The letter is in the hand of the Baptist missionary, Leonard Slater.

²²⁸ HRS and Henry Connor (translator), to T. Hartley Crawford, Sept. 12, 1839, NAM234R423 fr. 431.

²²⁹ Speech of the Chiefs of the Ottawa (sic) and Chippewa Tribes of Indians of Northern Michigan, To the President of the United States, 12 August, 1840, NAM234R424 frs. 49ff.

against Henry Schoolcraft. He believed it was a violation of the treaty to exclude from the annuity rolls those Indian leaders who had moved to lands claimed by Great Britain in Upper Canada. Nothing in the treaty justified this unilateral exclusion, and it meant less cash for the tribes.²³⁰ The cash was needed to purchase lands.

Johnston further explained that Schoolcraft had repeatedly diverted resources from the Indians to his own personal use. Johnston felt a stronger familial connection to his Indian relatives, he asserted, than he did to his brother-in-law, and he also felt responsible for the situation the Indians were now in. He claimed, in fact, that it was he, and not Schoolcraft, who had persuaded the Indians to accept the Senate amendments.

When Congress altered the treaty made with the Ottawas and Chippewas at Washington in 1836, the papers were immediately forwarded to this place for the Indians to sanction those alterations, they refused to do so on the request of Mr. Schoolcraft, and it was only after my attending a council of the Chippewas that I procured their Consent to sign it, with an understanding that I should whenever called on by them, use my efforts to see that justice was rendered them.²³¹

The various ways in which the funds due the Indians were being withheld from them amounted to, in Johnston's words in this same letter, "shameful violation of its treaty."

In 1841, fourteen leaders representing some 1,400 Grand River, Muskegon, White River, Pere Marquette River, and Manistee River Indians implored the federal government to pay (in specie) the promised annuities, to pay for the improvements Indians had made on the ceded lands, and to establish blacksmith shops, farmers, and mechanics among them, all as required by the treaty. They noted that "A number of us have bought land with our money as we were

²³⁰ Augustine Hamelin, Jr., and William Johnston to J.R. Poinsett, Aug. 19, 1840, NAM234R424 57-58.

²³¹ Wm Johnston to J.R. Poinsett, August 27, 1840, NAM234R424, fr. 66.

advised to do by our great Father and are beginning to cultivate it but we need assistance."²³²

Purchasing land had become their major strategy for investment in the future. In the early 1850's, Indians in the Grand Traverse Bay region began to feel the pressure of settlement from American citizens; they, too, began to purchase lands to protect their presence in the state.²³³

Shortly after the making of the treaty, the United States suffered the financial "Panic of 1837." Land sales plummeted, specie became rare, and since the government was obligated to pay Indians in cash (it did not meet that obligation in 1837 but it did thereafter), Indians were able to purchase lands through their citizen friends at reasonable prices from the federal government, admittedly in small quantities.²³⁴ In this manner, they gained a measure of legal protection in the event the land would be "required for settlement," something certain to happen soon in the region immediately north of the Grand River, and something likely to happen eventually in some of the good agricultural areas scattered throughout the Northwestern Lower Peninsula and the Eastern Upper Peninsula.

Ottawas and Chippewas hoping to secure a land base for their fields and villages counted in no small measure upon their annuities and other treaty funds. They reckoned without alcohol, cultural stress, and inequality before the law. Peter Dougherty, for example, referring to "Mr. [George Nelson] Smith's mission" near Grand Traverse Bay, wrote, "Some men have come in

²³² Chiefs of the Ottawa Tribe of Indians living on and near Grand River to Robert Stuart, Grand Rapids, Oct. 30, 1841, in NAM1R51: 504 ff.: signing were Cape mous sait; Caichioui; Asqui Bagachehy; Chagoi banot; Pai pa miscut; Maccatet a coite; oui Bitingois; oui Tayan; quis chi candoc; Mexci ane net; Maccoi dnet Maccatet guine; Tachetoaunekis; and Wabanet quegique.

²³³ See Peter Dougherty to a dear brother and Walter Lowrie, nd, Sept. 4, 1850, Oct. 14, 1850, Nov. 22, 1851, and Dec. 31, 1851, in AIC, PHS, Box 7, reel 1, volume 1, letters no: 4, 7, 8, 22, and 26.

²³⁴ McClurken, "Ottawa Adaptive Strategies," 46-47.

and by furnishing liquor got the chief of that band drinking and he has sold the lands of the Indians." Others were "dispirited and are selling their lots to white men. . . ." ²³⁵ But what is most relevant is that they also reckoned without the erratic and confused career of preemption as a citizen's method for obtaining public lands. Preemption presented serious impediments to Indian plans. The difficulties posed by preemption law began to surface right away, as we shall see later at the Grand River, where preemptionists as early as 1837 were taking over Indian improvements in order to claim the first right to purchase the ceded lands. It is not therefore surprising that some Indians were speaking not only of purchasing lands, but of becoming U.S. citizens, at annuity payments that followed the treaty. The Old Wing colony of Ottawas at the Black or Macatawa River petitioned the President and Congress for the protection of U.S. laws the very year the treaty was signed. ²³⁶ The Indians at L'Arbre Croche were reportedly ready to present a petition to Congress to that effect in the fall of 1837. ²³⁷ More difficulties became evident as Indians themselves moved to purchase ceded lands in competition with U.S. citizens. These problems forced Ottawas and Chippewas seeking secure land tenure to call upon the government to grant them U.S. citizenship.

The Flat River flows from the northeast into the Grand River at present-day Lowell. It is well within the ceded region, about halfway between Lake Michigan and Lansing. On August 1, 1839, one Wah ba sha gun of the Ottawas attempted to gain a preemption claim to a portion of the land. His people had "made it their residence, had improved, and fenced it." It formed "their

²³⁵ Dougherty to Lowrie, Grove Hill, January 1, 1855, AIC, PHS, Box 7: Reel 1/ vol. 1, no. 145.

²³⁶ Petition from Joseph Wakaso, [1836], NAM1R72 486-487.

²³⁷ Major Jonathan Garland to C. A. Harris, Detroit, Sept. 24, 1837, NAM234R402 frs. 315-319.

only planting ground," and they occupied it with the evident consent of their neighboring public. Preemption, recall, meant that the Ottawas would still have to purchase the land once it came up for sale (four days later). The General Land Office in Ionia, however, "decided that an Indian could not receive the benefit of the preemption law," that "the law did not design to confer the preemption right upon Indians." At the same time, however, the particular plot of land "was reserved from public sale" for the time being. Meanwhile, the land "remained in the use and possession" of Ottawas who were "patiently waiting until it came into market at public auction, or some other action, . . . by which they could with their own money become the purchasers."

Upsetting this Ottawa plan was Mr. Philander Tracy, a U.S. citizen who, at the Ionia land office on January 17, 1846, entered a claim on the land under the preemption law of 1841. It is not clear that Tracy had any actual residence on the land, as required by the law. Indians had such residence, and Tracy's actions meant they might see "their improvements, houses, and planting grounds thus snatched from them under circumstances which surprise and grieve them."²³⁸

That U.S. citizens might gain the right of preemption on Indian lands (using Indian improvements as evidence of residency), when Indians had no access to that right, gave the former a distinct advantage on the land market. In the 1850's, Grand Traverse Bay Indians felt the pressure. In 1850, the missionary Peter Dougherty noted of the Indians that settlers were "locating around them, and claiming by preemption, which they insist they can, (but the Indian cannot). . . ." In 1854, settlers had combined to petition Congress for a special preemption claim

²³⁸ J. A. Shield (Commissioner of the General Land Office) to William Richmond, May 9, 1846, NAM1R60 169-172.

to lands they had laid out near the old mission.²³⁹

Even when Indians managed to gain title to lands, they ran into trouble. The fate of many Indian lands, purchased from the government with government annuities to provide a legal land base for permanent occupancy, is explained in an 1880 letter from George W. Lee, Michigan Indian agent, to the Commissioner of Indian Affairs. In his letter, Lee uses the term "settlements" in the conventional sense of places in a state of actual residence by citizens.

My attention has been called again, to the Matter of Lands which were purchased for the Ottawas and Chippewas, and the Chippewas of Sault Ste. Marie, from the Government with a portion of their annuity moneys, many years ago. These lands were deeded to the Governor of the State, in trust for these Indians, the persons I think were not named in the patent, who contributed the money. This was long before the Settlements had reached the vicinity of the lands in question, and such matters as taxes were unknown, but the "march of civilization", brought the tax gatherer, this tract of course like its neighbors was not exempt, and no person being individually interested in the matter, the taxes were not paid, and as a matter of course, were sold for nonpayment.²⁴⁰

Back taxes, of which the Indians were apparently unaware, accumulating over the years before settlements intruded into the region, forced Indians into legal disputes and losses.

Federal Support for Indian Hunting, Gathering, Fishing, and Sugaring

According to its interpretation of various treaty stipulations, the Office of Indian Affairs provided Ottawas and Chippewas with goods and services. It is a striking fact that among these are goods and services required by hunters, trappers, fishermen, and maple-sugar workers. The message sent to the Ottawas and Chippewas cannot be ignored: American administrators expected hunting, trapping, fishing, and sugaring to continue as vital components of the Indians'

²³⁹ Dougherty to Charles Babcock, Grand Traverse, Oct. 14, 1850, NAM234R426 643-646; Dougherty to Lowrie, Grove Hill, January 1, 1855, AIC, PHS, Box 7: Reel 1/ vol. 1, no. 145.

²⁴⁰ George W. Lee to Commissioner of Indian Affairs, Ypsilanti, Michigan, Feb. 1, 1880, NAM234R415: ff. 124-130.

economies. The rhetoric of an imperilled fur trade notwithstanding, the federal government endorsed and sponsored the Indians' continued hunting, trapping, fishing, and sugaring. It did so out of obligations it shouldered in the Treaty of Washington.

Washington, for example, was to supply the Ottawas and Chippewas with "five hundred fish barrels, annually, for twenty years." The fish barrels speak for themselves; clearly they encouraged fishing. Washington was also to provide the services of blacksmiths and assistant blacksmiths (also called strikers) at Mackinac Island, Grand River, and the Sault. Blacksmiths, as we shall see, worked often on sugaring, hunting, fishing, and trapping implements. The treaty required the U.S.A. to add a gunsmith to the Mackinac shop. Like fish barrels, the gunsmith's work supported usufructuary rights retained in Article 13. Providing these services, the government effectively pledged itself to support continued hunting.²⁴¹ Washington was also to provide, annually for twenty years, 100 barrels of salt. The salt needs only slight amplification: salt was the great nineteenth-century preservative; it was especially good for fish and meat. It, too, suggests hunting and fishing. To be sure, salt was used to preserve pork and other agricultural products, but the placement of the salt-annuity stipulation immediately before the fish-barrel stipulation suggests that its purpose was to provide for the preservation of fish. Schoolcraft was concerned enough about the salt annuity to write letters to Washington when, in the very first year of the treaty, the government failed to include salt in the payments to the Ottawas and Chippewas.²⁴²

²⁴¹ Kappler, ed., *Treaties*, 2: 452, 453.

²⁴² Entries from Schoolcraft for Nov. 3, Nov. 4, 1836 in Registers of Letters Received, Office of Indian Affairs, NAM18R7 113-114.

Schoolcraft drew up an estimate of the cost of carrying the treaty into effect. The list, viewed in the light of other documents, reveals that the Indian Office expected hunting and fishing to remain important activities, although it also says much about agriculture. The two new blacksmiths and their strikers, for example, would cost the government \$1,540 per year. We will see shortly that these craftsmen supported hunting and fishing as much, if not more, as they supported agricultural work. The treaty provides for a \$10,000 expenditure on "agricultural implements, cattle, mechanics' tools, and other such objects as the President may direct," which, given those "other such objects," is ambiguous, but the stipulation may well lean toward farming. The \$1,600 for farmers and their assistants obviously leans toward farming, while the \$580 for the additional gunsmith and his tools weighs in on the hunting side of the ledger. The real story of the economic activity envisioned by the treaty makers only emerges when one probes the use to which the largest single payment was put. That payment is the \$150,000 for the "goods and provisions on the ratification of the treaty . . . at Mackinac."²⁴³ A discussion of that payment will be followed by an examination of the various smiths' actual work.

What were those goods and provisions supplied by the United States in its largest single monetary obligation? The answer is found in federal contracts with the New York firm of Suydam Jackson and Company. The items contracted for dealt more with hunting, fishing, and sugaring than with farming. They included fishing tackle such as 2,400 lbs. Holland Twine, 600 lbs. net thread, 1,000 lbs. sturgeon twine, 100 lbs Maitre de Kitz thread, and 10,000 large cod hooks. They included hunting gear, such as 1,340 guns (340 of them rifles), 6,000 lbs.

²⁴³ HRS, Estimates to carry into effect the treaty of 28th of March, 1836 with the Ottowas(sic) and Chippewas of Michigan, in NAM234R422, frs. 187-190.

gunpowder, 10,000 lbs. shot, 10,000 lbs. ball, 450 powder horns, 10,000 gun flints, 500 beaver traps, and 1,000 muskrat traps. To be sure, there were also 6,000 cut nails, 50 boxes of window glass, and 1,200 hoes, which indicate agricultural pursuits and settled living in Euro-American style homes. But the balance tilts toward hunting and fishing. Another invoice shows 1,000 quarter-inch gouges for tapping trees, and 150 circular adzes for making sap troughs.²⁴⁴ It is my opinion that the federal government, with these goods, sent a message about the future importance of sugaring, hunting, trapping, and fishing. Claiming to act in the interest of the Ottawas and Chippewas, the Great Father endorsed activities protected by Article 13.

The treaty ink had not been dry for a year when the pattern became apparent. In 1837, the United States' economy fell into a gloomy depression, and the U.S. reneged on its obligation to pay the annuities in specie, instead issuing goods. The Commissioner of Indian Affairs, describing the goods, neglected agriculture entirely and focused on hunting: "it will be far better for them to receive clothing, household implements, and supplies for their hunting excursions, which will be equal to their wants in these respects for the entire year, than to receive their annuities in either of the usual modes."²⁴⁵ Clearly he believed hunting goods to be of continued value to the Indians.

The goods actually purchased for the Indians in lieu of their cash annuities included: cloth goods, decorative goods, knives, scissors, thread, yarn, cut glass, mirrors, and cook ware. As for

²⁴⁴ Agreement, US and Suydam, Jackson & Co., Chippewa and Ottawa Goods, New York, 18 July, 1836; Invoice for Suydam, Jackson, and Co., August 15, 1836; HRS Estimate of Goods and Provisions to be delivered at Mackinac... NAM234R422 frs. 80-83, 84-86, 191-196. Payment to Suydam, Jackson and Co., October 13, 1836, NAM234R422 frs. 209-211.

²⁴⁵ Extract of a letter to H. R. Schoolcraft from the Commissioner of Indian Affairs, dated 23rd June, 1837, in NASPIA 3: 40. Also in NAM234R422 821.

agricultural implements, they included not a single plow, not a hoe, not a thing agricultural, except, possibly, the 204 axes, which could be used as easily by hunters, fishermen, and especially women preparing maple sugar (with its enormous heating requirements) as by farmers. The list of goods did include 252 guns, 800 lbs. gunpowder, 3,000 flints, 10,000 Cod hooks, and 3 gross Indian gun worms.²⁴⁶ Again, no Indian or citizen present at the distribution could have missed the message the federal government was sending: hunt, fish, and make sugar.

In 1838, Henry Rowe Schoolcraft accordingly sent treaty goods from Mackinac to the Grand River Indians. These included many textiles and much clothing, as well as personal goods, cooking utensils, grains, pork, saddles, and bridles. For our purposes, what is most interesting is that the list contains very little in the way of agricultural implements (14 hoes), but much in the way of hunting and fishing goods: 100 gun flints, 50 fish hooks, 21 shot guns, 5 rifles, 3 powder horns, 192 lbs rifle bullets, 75 lbs shot, 50 lbs Dupont's gunpowder, 147 bars of lead, 59 muskrat traps, 22 bunches of twine, and 10 barrels of salt.²⁴⁷ In his annual report of that year, Schoolcraft, who was charged with attending to the Indians' progress in American civilization, dutifully stated that "Hunting has become a minor employment, and raising corn and gardening have been more fully attended to." But he also reported on the work of "Four blacksmiths and four assistants, one gunsmith, two carpenters and joiners, three principal and five assistant farmers."²⁴⁸

²⁴⁶ Duplicate, New York, June 20, 1837, the United States for Mackinac, bought of Suydam, Jackson, and Co, NAM234R402 frs. 427-429; see also NAM234R422, .812

²⁴⁷ NAM234R423 frs. 238-239.

²⁴⁸ HRS excerpted in T. Hartley Crawford, Report of the Commissioner of Indian Affairs, Nov. 25, 1838, in NAM234R423 fr. 166.

The work of the blacksmiths and their assistants, it turns out, was overwhelmingly related to hunting, fishing, and traveling, and only in a more limited manner to farming. Turning now toward the anvil, let us examine federal spending on behalf of activities protected by Article 13.

The winter of 1836-1837 was a difficult one, with many of the Indians searching for food. Some came to the Mackinac agency seeking also the means to procure food by spear-fishing through the ice. They brought work to the blacksmith: "their demand for spears and ice cutters has been large." James Stevens, the blacksmith, did his best to keep up with them.²⁴⁹ The Michilimackinac Agency shop on Mackinac Island manufactured more horseshoe nails than anything else, but fish spears appear to be the next most numerous article. Hoes and ploughs were not high on the list. Of goods repaired by the shop, guns and gunlocks top the list, followed by kettles, Indian axes, traps, shovels, and frying pans. A shovel may or may not be an agricultural tool. One must descend down the list, through spectacles and skates, before one gets to such clearly agricultural goods as scythes--though even those might be used to harvest wild hay, to be stored for winter horse feed, or to line cache pits in which to store maple sugar or processed berries.²⁵⁰ When, later that year, a controversy arose about an agency blacksmith who allegedly charged Indians at Manistee for his services, those services mainly involved the making of traps.²⁵¹ Schoolcraft's annual report of 1838, finally, contains this remarkable contradiction. If, as he alleged, hunting was becoming a minor employment, and if the game had failed in the ceded parts of Michigan, it is hard to understand why the Ottawas and Chippewas stated as one

²⁴⁹ William Johnston to HRS, Mackinac, Feb. 14, 1837, HRS Papers, container 42, Part 1: frs.15352-15354.

²⁵⁰ NAM234R423, fr. 473.

²⁵¹ Lucius Garey to HRS Manistee Indian Reserve, June 25, 1838, NAM1R44 p.432; John Brink to HRS Grand Haven, June 30, 1838, NAM1R44 p. 450-451.

of their objections to removal that the West was deficient in both game and fish.²⁵²

In 1840, Schoolcraft noted that he sent to two subagents 57 traps, most of them for muskrats.²⁵³ The Mackinac agency blacksmith and gunsmith that year also reported work with guns and traps.²⁵⁴ The agency submitted a report on spending that listed, among other things, 500 fish barrels, in addition to iron and steel for the local gunsmith.²⁵⁵ As the federal government sought to cut back its staff at Mackinac Island in 1841, Indians asked particularly that the blacksmiths and gunsmiths remain.²⁵⁶

The blacksmith at the Sault Ste. Marie agency reported making 105 spears in the year that ended in September, 1840.²⁵⁷ In September, 1841, subagent James Ord at the Sault worried that the late arrival of the fall annuities had delayed the winter hunt. Some Indians from the Upper Peninsula's Grand Island and Chocolay River areas, having taken the trouble to come to the Sault, found that they had to return without their annuities if they were going to get their winter hunts under way. For these Indians, at least, hunting was clearly a pressing economic matter.²⁵⁸

Particularly detailed agency smithing records from December, 1843 to September, 1844, reveal that hunting, fishing, and sugaring remained very much a part of Ottawa and Ojibwa lives. Among repairs invoiced by the federal blacksmith at Grand Traverse Bay were those to traps,

²⁵² HRS, Annual Report, Sept. 30, 1838, NAM234R423, 152-159.

²⁵³ HRS to John Williams and Samuel Abbott, May 22, 1840 NAMR424 fr. 552.

²⁵⁴ Abstract... year ending 30 Sept. 1840," NAM234R424 fr. 275.

²⁵⁵ Statement of funds rendered to HRS...1840, NAMR424 fr. 646.

²⁵⁶ William Johnston to John Bell, 17 Sept. 1841, NAM234R424 frs. 709-711.

²⁵⁷ Return of Articles,... Sept. 1, 1840," NAM234R424 fr. 290.

²⁵⁸ James Ord to Robert Stuart, Sault, Sept. 8, 1841, NAM1R51, 271-274.

trap springs, guns and gun locks. Taps and gouges for sugaring, spears for fishing -- or perhaps for muskrat hunting -- also appear in three of the quarters. In September, the smithy had on hand "irons for canoes."²⁵⁹ The Mackinac blacksmith that year mentioned all those goods, except the canoe irons, which are perhaps the same thing as the canoe awls that he did list. In September, 1843, he added fish hooks, boat nails, skin scrapers, pistols, fish jacks, and fish barrels.²⁶⁰

The inland Thornapple agency (near present Ada, Michigan) served the Indians of the Grand River area. These Ottawas were the most exposed of all Indians to American citizens' "settlement," and they therefore may be supposed to have been most exposed to the reported decline of game. Yet the Thornapple blacksmith wielded his hammer among hanging and shelved fish spears, muskrat spears, raccoon needles, otter traps, steel traps, rifle locks, rifles, gun locks, and guns. In the first quarter of 1844 he added sap gouges for sugaring. After the sugaring was finished in the late spring, demand declined for the repair of those goods. But demand for the other goods remained in the second quarter's report, and some pistols appeared. Third quarter articles are similar; they include shotguns and gun worms.²⁶¹ Even up the Grand River, years after the treaty had been signed, hunting, fishing, and sugaring remained highly important to the Indian way of life, something that registered with, and was partially sponsored by, the U. S. government.

The Indian people at Grand River, on the other hand, had never been as well-situated as

²⁵⁹ Abstract..., December 31, 1843, Abstract...March 31, 1844, Abstract..., June 30, 1844, Abstract..., Sept. 30, 1844, in NAM234R425 frs. 579, 605, 623, 642.

²⁶⁰ Abstract, ... Sept. 30, 1843; Abstract..., quarter ending Dec. 31, 1843; Abstract..., during the First qr. of 1844; Abstract..., June 31, 1844, in NAM234R425 frs. 433, 581, 612, 634.

²⁶¹ Report of the Iron and Smith works made and Issued,... Thorn Apple, Dec. 31, 1843; Report ... March 31, 1844; Report, June 31, 1844; and Report, Sept. 30, 1844, NAM234R425 frs. 589, 608, 646.

their northern neighbors to fish commercially. In April, 1842, perhaps also in response to the previous year's glut in fish, which drove down the prices, the Grand River Indians requested that their portion of the fish barrel payment be paid in money, not in kind.²⁶²

The Grand Traverse Bay blacksmith's abstract from June, 1844, provides another example of the continued importance of hunting, fishing, and sugaring to the Ottawas and Chippewas. He worked on goods for some 231 persons. Ottawa women had always been farmers and Chippewa women had stepped up their gardening with varying degrees of intensity since colonial times, so it is not at all surprising that thirty-seven hoes appear on the list of goods repaired. Metal hoes were merely an extension of aboriginal technology. But it is somewhat surprising not to find any goods related to plowing -- the hallmark of male agriculture among United States citizens. No implement was more identified with European-American agriculture, yet it was not in high Indian demand. Carpentry was obviously increasing in importance, and there was some demand for nails (480), hinges (ten), stove pipes (three), adzes (two), hammers (two), a saw, and the like. Cooking utensils, some of which may have been used in sugaring, were abundant. But spears (133) for fishing and for muskrat hunting were clearly very important among the tools made. The smith often had a gun in his care; he repaired ten guns and eighteen gun locks. He handled, too, five traps and two trap springs. He repaired three "chains," which may be trap chains, for such are listed in the Mackinac "abstract" from Sept., 1843. He had on hand ten sugar taps, which would be useful to women in the coming spring. Overall, the record reveals that the work of the federal government, eight years after the signing of the treaty, supported Ottawas and

²⁶² Robert Stuart to T. Hartley Crawford, Washington, D.C., April 26, 1842, NAM1R38 662-664.

Chippewas on the Lower Peninsula in their continued hunting, trapping, fishing, and sugaring.²⁶³

In March, 1862, at the height of the Civil War, the Mackinac agent requested that no more guns or traps be sent: "we did not want them, and the Indians were very unwilling to receive them. I trust no guns or traps of any kind will be sent us this year. They are not needed." But the same report requested 200 pounds of gilling twine for fishnets.²⁶⁴ The next year, moreover, the agent placed advertisements for goods that suggest the reason guns and traps had become undesirable. It had less to do with a lack of gun use, than it did with a surfeit of firearms, because the agent did request many goods needed for gun repair: dozens of gun locks, main springs, gun cylinders, gun tubes, gun tumblers, gun tumbler screws, gun dogs, gun hammers, gun cones, feather springs, gun worms, and bullet molds.²⁶⁵ As late as 1866, thirty years after the Treaty of 1836, the United States spent as much of its treasury supplying the Grand River Ottawas with the demands of hunting and fishing -- fish barrels, salt, and a gunsmith's salary -- as it did paying farmers and mechanics.²⁶⁶ Indians attending to what the Indian Office did, rather than what it said in a language many did not know, would understand that it saw the importance of their continued fishing and hunting.

Summary

Looking back over the summer of 1836 in an exuberant entry in his memoirs, Schoolcraft boasted of his strict justice toward the Indians. The setting was Mackinac Island, September 28,

²⁶³ Abstract..., June 30, 1844, NAM234R425 frs. 623-624; Abstract, ... Sept. 30, 1843, NAM234R425 fr. 433.

²⁶⁴ D. C. Leach to William P. Dole, Washington, March 24, 1862, NAM234R407 fr. 42.

²⁶⁵ Advertisement and proposals by B. B. and W. Riggs, June 9, 1863, in NAM234R407 frs. 258-261. See also item from June 10, 1864, NAM234R407 frs. 496-497.

²⁶⁶ NAM234R407, fr. 926.

1836, and Schoolcraft had finished adjudicating creditors' claims and paying Indian annuities under the Treaty of Washington.

A busy summer, replete with incident and excitement on the island, closes this day by the termination of the several classes of payments made under the treaty of March 28th, 1836. Upwards of four thousand Indians have been encamped along the pebbly beaches and coves of this island, and subsisted by the Indian Department for about a month. . . . These several duties required care and involved responsibilities of no ordinary character. . . . So large an assemblage of red and white men probably never before assembled here before, and a greater degree of joy and satisfaction was never evinced by the same number. The Indians went away with canoes literally loaded with all and Indian wants, from silver to a steel trap, and practical demonstration was given which will shut their mouths forever with regard to the oft-repeated scandal of the stinginess and injustice of the American government. . . .

Fourteen years before, I had taken the management of these tribes in hand, to conduct their intercourse and to mould and guide their feelings, on the part of the government. They were then poor, in a region denuded of game, and without one dollar in annuities. They were smarting under the war of 1812, and all but one man, the noble Wing, or Ningwegon, hostile to the American name. They were now at the acme of Indian hunter prosperity, with every want supplied, and a futurity of pleasing anticipation. They were friends of the American government. I had allied myself to the race. I was earnest and sincere in desiring and advancing their welfare. I was gratified with a result so auspicious to every humane and exalted wish.²⁶⁷

He does not mention the questionable methods he deployed to secure Indian representation, whether at the treaty or at the signing of the articles of assent. He passes over the panic that greeted the Senate revisions and the part Article 13 played in relieving that panic. He fails to reflect upon the vast Indian losses of land and security; promoting his role as the just patron and ally of the Indians, he neglects the enormous cost his stewardship exacted on those whose futures he would "mould" and manage. He contradicts his claims that the lands were denuded of game by placing the Indians at the "acme of hunter prosperity."

Questions surround the moral legitimacy of the Treaty of Washington, but putting such

²⁶⁷ HRS, Personal Memoirs, 543-544.

questions aside, Indians and American officials came to terms. Article 13 persuaded Ottawas and Chippewas who marked the articles of assent that their people could cede to the U.S.A. the sovereign possession of vast lands and resources while still retaining the resources necessary for security and a modicum of prosperity. The federal government reinforced such an understanding by providing Indians with material support, in the form of goods and services, for continued hunting and fishing after 1836. It did not take long, however, for some American officials – including the man who had “allied” himself “to the race” – to interpret Article 13 in a manner that diverged profoundly from both American common sense and the Ottawa and Chippewa understanding.

CHAPTER SEVEN: ARTICLE 13 IN THE CONTEXT OF FEDERAL LAND PREEMPTION POLICY

The U.S. Attorney General and Article 13

It took less than a year for Article 13 to register as an issue in Washington, D.C. In 1837, the U. S. Attorney General, Benjamin Butler, issued an opinion equating settlement with the disposition of the public land to individuals. This section will examine Butler's opinion and the disputes that brought it on. It is my opinion that the Attorney General's equation of "settlement" with the sale or grant of land to individuals had some humanitarian intent under the circumstances, which involved the seizing, by squatters, of Indian improvements in the ceded lands. That intent harmonized with the Attorney General's and agent Schoolcraft's duty to maintain peace and order. It is also my opinion that the opinion was opportunistic, even prejudiced; it reduced both Indian rights and squatters' prospects in favor of the interests of propertied, well-connected American citizens. Intent aside, Butler's opinion not only misreads Article 13; it fails to reflect the Indians' understanding of that article when they assented to the Senate's modifications of the treaty in 1836. The Attorney General's opinion, moreover, is invalidated by the use of the word, "settlement," in nineteenth-century federal land policy, which, too, centrally involved squatters.

In the winter of early 1837, after a meeting held by townsmen in Grand Rapids, three prominent citizens formally queried Schoolcraft about Article 13.

Have the Indians an exclusive right to the occupancy of those lands until they are surveyed and offered for sale? In case squatters settle upon those lands, have the Indians a right to demolish their buildings and drive them off? In fine what is your opinion of the

said article touching the entire claims of the Indians--and the meaning of said article?¹

The three signers of this letter were “D. A. Lyman,” “A. D. Rathbone,” and “N. H. Finney.” They specify several concerns: is the right of occupancy exclusive, in other words, do Americans have the right to occupy the lands with Indians? Might Indians legally drive off squatters? And finally, what does the whole article mean? The first question, importantly, uses loaded language not in the actual article: “until they are surveyed and offered for sale.” The second question, moreover, did not reflect any reality in the Grand Valley in 1836: there is no evidence of Indians actually threatening Americans with violence. These townsmen were careful writers (at least one was an attorney). They also had strong interests. Obscure to us today, they were not obscure in Michigan in the 1830's. They desired to see the public lands opened for public sale, closed to Indian uses, and closed to potentially disruptive squatters.

The three signers were men of property; two of them would become men of substance. Dwight Lyman had come from Connecticut in 1835, opened a store in Grand Rapids, built an elegant, two-story Greek-revival structure in town, and soon turned his attention to milling.² Alfred Rathbone, member of the school committee, later school inspector, and still later a drafter of the 1850 city charter, “dealt largely in real estate.” One local historian describes him as “alert, far seeing and methodical; as a result he became wealthy and left an estate which was so invested that his family has ever since been and is now numbered among the capitalists of Grand Rapids.” Another local historian reports that, “Prominent among early lawyers,” Rathbone gained the

¹ D.A. Lyman, A.D. Rathbone, N.H. Finney to HRS Grand Rapids, Feb. 20, 1837 (copy) NAM234R422 fr. 634.

² Albert Baxter, History of the City of Grand Rapids, Michigan (New York and Grand Rapids, 1891), 60, 72, 77, 101, 424, 426, 762, Bentley.

position of postmaster in 1838, and he routinely contributed to the Grand River Enquirer.³ Noble H. Finney was an editor of the Grand Rapids Times, a paper that promoted the region. Like Rathbone, he became a postmaster, this time for nearby Vergennes. He was honored by the state legislature with the title, “Colonel,” in 1838, and, again like Rathbone, he served on the Grand Rapids School Committee. By 1839 he was serving the area in the state legislature.⁴ That Rathbone and Finney both served on the school committee with William Richmond, a prominent Democrat, is noteworthy.

Richmond, whose name does not appear on the letter to Schoolcraft, would serve as Michigan Indian agent during the Polk administration. He himself had come to Grand Rapids in 1836. He had strong interests in real estate, banking, road and bridge-building, and, later, railroads. His father, a Democratic Congressman from New York, put him in contact with both Lewis Cass and the Michigan Governor, Stevens T. Mason.⁵ Rathbone and Richmond both signed a promotional tract in 1843, extolling the virtues of the region and its inhabitants to prospective immigrants. The tract encouraged the purchasing of lands (it did not mention the possibility of squatting).⁶ Finney and Rathbone shared with Richmond prominence at Grand Rapids, and their mutual interest in its economic development put them at odds with both squatting (or preemption) and with any continued Indian usufructuary rights that might cloud title

³ Dwight Goss, History of Grand Rapids and its Industries (Chicago, 1906), 729 (quotation), Bentley; Baxter, History, 72, 87, 97, 227, 261, 302, 739, 747, 753 (quotation).

⁴ Baxter, History, 60, 73, 74, 220, Chapter XXX; Tuttle, History, 42; Michigan Historical Commission, Michigan Biographies, 2 vols. (Lansing, 1924) vol. 1: 292, Bentley.

⁵ Baxter, History, 545-546.

⁶ Goss, History, 257-260.

to lands. Squatters, crossing the Grand River and establishing themselves on public lands, hoping for the first right to purchase the lands after the passage of a future preemption act, were threatening to deny these citizens access to nearby investment property.

Technically, it was illegal for American citizens to establish farms on public lands without first purchasing them or receiving them in grant. But the eviction of squatters on public land was rare. From 1799 to 1820, Congress had passed several acts that retroactively granted "preemptionists" the right to the first purchase of lands that they had already actually settled. The laws were always retroactive. They were not "homesteading" laws promising future settlers the right to claim public lands. They were instead laws providing squatters with legal protection, within tight limits, to lands squatters had already, effectively if not legally, taken out of the public domain. They were also generally restricted to a certain region.⁷

In 1830, "An Act to grant pre-emption rights to settlers on the Public Lands" won congressional approval and Jackson's signature. The act resembled earlier acts, but it was more general. "This law entitled a settler who had occupied and cultivated any part of a tract up to 160 acres in 1829 to purchase that land at the minimum government price."⁸ This was still only retroactive protection for the squatter. Squatting still "constituted criminal trespass."⁹ But squatters had good reason to hope for more such bills forgiving their trespass and permitting them to purchase the lands at a bargain price. More than amnesties, these bills provided squatters with the critical advantage of the right of first purchase, if they could demonstrate that they

⁷ Laura Jensen, Patriots, Settlers, and the Origins of American Social Policy (New York, 2003), 143-144, 146; Kenneth E. Lewis, West to Far Michigan: Settling the Lower Peninsula, 1815-1860 (East Lansing, 2002) 122.

⁸ Lewis, West to Far Michigan, 122; Jensen, Patriots, Settlers, 172.

⁹ Jensen, Patriots, Settlers, 176.

actually settled the land.

Leading citizens at Grand Rapids, hoping for the orderly settlement of lands north of the river, and hoping, too, for the opportunity to purchase those lands, had good reason to oppose squatting. If squatters poured across the river and established claims before the Land Office opened the claimed lands for sale, a new preemption law (such as the radically general one that would pass in 1841) would deny the Grand Rapids citizens the right to purchase any lands already staked out by preemptionists. The recent experience in Michigan suggests the extent of lost opportunities facing the Grand Rapids investors. Kenneth Lewis finds that "In Michigan, squatter settlement ranged well ahead of official land openings, spreading rapidly across the interior." In 1834-1835, the territory saw an "onslaught of preemption claims," especially in western Michigan, served by the Kalamazoo land office. In 1833, 694 acres sold under preemption laws; that figure jumps to 4,363 acres in 1834 and 37,045 acres in 1835.¹⁰ No one interested in land could ignore the implications. Laws against squatting had proven ineffective in the past. But if Indians possessed rights to the ceded lands until the moment of public sale, their continued legal presence (within tight limits) might provide a disincentive to squatting. Hoping for such a ruling, the Grand Rapids' citizens had turned to the federal government.

Like the city fathers of Grand Rapids, the Grand River Ottawas also opposed the squatters. But they did not resort to Article 13. Instead, the Indians decried the squatter's seizing of their improvements as a violation of Article 8. Months before the citizens of Grand Rapids sent Schoolcraft their queries, Rev. Slater had already submitted the Indians' protests to the agent. In December, 1836, Slater alerted Schoolcraft that preemptionists were not only taking

¹⁰ Lewis, West to Far Michigan, 123.

lands north of Grand River, they were also attempting to take over some of the Indians' improvements (houses, barns, and so on). This was a pressing issue for two reasons. First, with squatters claiming Indian structures as their own, Ottawas might lose the compensation promised by the treaty. Second, the squatters were deviously planning to use those very improvements to establish their claims to the land under the doctrine of preemption. Slater observed that, "Previous to our leaving the Rapids the Indians leased their houses and fields together with their saw mill to different individuals that no injury may be sustained until the appraisal should be made by Govt." Slater continued:

Last evening I received information that preemptionists were determined to take possession of the houses and fields and also the mill, on account of our leaving and declare that they will not desist from their purpose without the Agent of Indian Affairs sanction the authority of the Indians to hold their improvements till appraised and paid.¹¹

If Slater is accurate, it is the squatters themselves who first sought to know who was to benefit from the Indians' improvements. The squatters wondered whether Indians could lease improvements to "individuals" who might seek to hold those improvements, to the exclusion of others, until the land was offered for sale. It is, of course, highly likely that the "individuals" in question, those possessing the wealth to rent the Indians' improvements in an effort to hold the land until the public offerings, were men of substance in the region.

This was not the only word Schoolcraft had received regarding the abuses of the preemptionists, for on January 24, 1837, he sent information "respecting the forcible seizure of Indian dwellings and property north of Grand River" to the Commissioner of Indian Affairs. Three men had crossed into the public lands, and they were carrying away the valuable milled

¹¹ Leonard Slater to HRS, Richland, Dec.. 28, 1836, NAM1R41 562-564.

flooring in a house belonging to one of the leading Grand River Ottawa. The Ottawas wondered if the government would permit them to suffer these "aggressions."¹²

The contest was not a simple one between Indians and squatters, but a complicated triangular conflict among Indians, squatters, and speculators. Ottawas sought payment for their improvements. Squatters sought to establish preemption claims and did not wish to be blocked from doing so by either Indians or investors who had leased Indian improvements. The leading citizens of Grand Rapids sought both opportunity in lands north of the river and orderly relations with Indians, the latter an essential ingredient to regional prosperity.

Schoolcraft immediately understood the importance of the questions that were coming to him from the region, and he must have seen that his treaty had failed to account for preemption, an enormous lapse given the doctrine's importance to land policy in Jacksonian America. He had once hoped for a different Article 13. The "power of sale" that he had drawn up in late December, 1835, would have terminated the Indians' usufructuary rights when the lands are "surveyed and sold," but the actual treaty protected them until the lands are "required for settlement," and the articles of assent protected the rights until the lands are "required for actual survey and settlement." Now preemptionists, as actual settlers on unsold public lands, were claiming Indian improvements and disrupting the investment plans of leading citizens. If the squatters (actual settlers) terminated Indian rights, and if the federal government was manifestly unwilling to arrest squatters, what power could stop the squatting? The questions coming to him from the Grand Valley induced Schoolcraft to reinterpret the article in conformity with his pre-

¹² HRS to C.A. Harris, Detroit, Jan 24, 1837, NAM1R37 143; Slater to HRS, Barry, Jan. 18, 1837, annexed in same; Schoolcraft's letter (but not Slater's) is also in HRSP/DLC/SHSW, container 42, Part 1: fr. 15272.

treaty hopes, not with the post-treaty reality. He offered Lyman, Rathbone, and Finney his "private opinion, that the right secured to the Indians by the 13th Article of the treaty, applies to the lands, while they remain the property of the United States, and ceases the moment any part of it becomes private property."¹³ Squatters would thus face Indian antagonists backed by the law until survey and sale, and, once the land office disposed of the land to individuals, remaining Indians would face legal purchasers backed by the law thereafter.

Opposing preemption, his reinterpretation favored the citizens of Grand Rapids; it also favored private ownership over retained Indian rights. The leading citizens and Schoolcraft alike could have sought to oust the squatters on the basis of their criminal trespass, but that was neither practical (given the absence of a willing militia, a police force, or a nearby federal army unit), nor would it have resolved the larger question posed by Article 13. The day he offered his views to Lyman, Rathbone, and Finney, Schoolcraft reported the dispute to Carey Allen Harris, Commissioner of Indian Affairs. He stated, as he had in 1836, that it was upon the article that the Indians had agreed to the treaty and to the Senate modifications. He again creatively asserted that Article 13 would cease to provide Indians with use of the ceded lands once the lands had been sold by the Federal government. He claimed for the first time, and without citing any evidence, that he had patiently explained this to the Indians making the treaty both in Washington and at Mackinac. And, at the same time, he contradicted himself: stating that the term "settlement" in Article 13 is meant in its common usage:

The main question in the cession made by the Indians at Washington may be said in a great measure to have turned on the right stipulated to be secured to them, to hunt upon,

¹³ HRS to D. A. Lyman, A.D. Rathbone, N. H. Finney, Detroit, Feb. 27, 1837, in NAM1R37 171 and NAM234R422, frs. 636-637.

and occupy the lands, ceded, until they were required for settlement. I caused the operation of this provision to be carefully explained to them, stating that as fast as the lands were surveyed and sold, and thus converted into private property, this right would cease. But that it would continue to be enjoyed by them, on all portions of the territory ceded, not surveyed and sold. It was believed, from the best information then extant, that portions of the large and imperfectly explored territory ceded, were uninviting to agriculturalists, and would be chiefly valuable for lumber and mill privileges, and to these tracts the Indians adverted, as places of temporary residence. The same view of the gradual extinction of this right, was urged upon their consideration, at the council held at Michilimackinac for obtaining their assent to the Senates (sic) proposition to modify the tenure of their reservations from reservations in perpetuity, to reservations for five years. And with the same effect. Their assent, was given. In the course of these negotiations, the bearing of this stipulation, was fully discussed, and the Indians, appeared to set a high value, upon it, and resisted the idea of a general cession of their lands without it. I employed 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.¹⁴

Schoolcraft asserts that Article 13 preserves the rights of the Indians to use the ceded lands until the Federal government sold them to private citizens; he also asserts that the Indians held the article to mean that they had the right to use the ceded lands until they were in the "act or state of being settled" by American citizens. This is a contradiction. The ownership of lands by, say, nonresident speculators is quite a different thing from their actual settlement by resident farmers or villagers. Schoolcraft understood this as well as anyone.

The particular language of the Article 13, already proving troublesome in 1837, was never again deployed in a federal Indian treaty. Schoolcraft explained the article by reminding Harris that it had been absolutely essential to obtaining the Indians' assent to the vast cession at a good price and against Indian resistance:

They manifested a disposition to sell but a small portion of the country actually purchased, setting a value on it, rateably disproportionate to that which was finally paid for the entire cession. It was felt to be bad policy on the part of the government to

¹⁴ HRS to C. A. Harris, Detroit, Feb. 27, 1837 in NAM1R37 168-9, and NAM234R422 fr. 631.

purchase small tracts, which would be absorbed by the extension of settlements in a few years, and lead to the necessity of renewed negotiations, at each of which, the price of the lands would not only be enhanced, but their creditor and half breed claimants, renew their claims, with the power, of influencing the Indians to refuse or accede to the terms, as the private interests of these individuals might dictate. And the right named, combined with the principal of consolidated reservations, was found to to [sic] be among the more efficacious reasons brought forward, to induce them to enlarge the tract ceded and finally to make it general, comprehending the whole peninsula, and a part of the country northwest of it. Nor is the operation of this right, upon United States lands, found to be objectionable. The Indians will gradually remove before the increasing circle of settlement, and keep out of the way of it, and did not congress hold out inducements to preemptionists to cross over into the Indian Country, before it is surveyed and offered for sale, few difficulties of the kind . . . would probably occur.¹⁵

It is striking that Schoolcraft calls the ceded lands, "Indian Country." It is worth noting this off-hand acknowledgment of retained Indian rights to the ceded lands. But Schoolcraft had expected settlement to occur after survey and sale; instead, squatters were bringing about settlement before survey and sale, disrupting his vision of orderly settlement.

Schoolcraft endeavored to define "settlement" as the sale of land, but "settlement" was then (and generally still is) commonly understood to mean the actual occupation and inhabiting of a plot of land. The Indians understood Article 13 to mean the latter, actual settlement. But Schoolcraft felt that the government had the right and the power to apply another meaning, against common usage and to reduce the attractions of preemption. "Actual settlement," as we shall see, was a phrase with implications in both federal policy and common usage.

The intrusion of preemptionists onto unsold public land had alarmed Lyman, Finney, and Rathbone. Squatters disrupted not only the orderly sale of land, not only investment opportunities, but also, it was feared somewhat extravagantly, the peace between the Ottawas and the region's American citizens. Schoolcraft agreed with the Grand Rapids citizens that the

¹⁵ HRS to CA Harris, Detroit, Feb. 27, 1837 NAM1R37 169-170, also in NAM234R422 fr. 631.

Indians' rights under Article 13 would not cease because of the intrusions of preemptionists. He hoped this interpretation would pose a deterrent to such squatting, protect Indians from outright theft, and protect those citizens who had an interest in a more orderly acquisition of the public lands.

Commissioner of Indian Affairs Carey Allen Harris also recognized the importance of a careful interpretation of Article 13, and he forwarded the query to the Secretary of War, with the request that the Attorney General of the United States offer an opinion.¹⁶ That opinion, issued on April 20, 1837, upheld Schoolcraft's developing interpretation of Article 13. Benjamin F. Butler agreed that the Indians' rights in usufruct would expire when the public lands were sold “to individuals.” This is highly innovative, since Article 13 says nothing about private ownership. Schoolcraft had the opinion published in the Detroit Daily Advertiser, Thursday, May 4, 1837:

In answer to the questions proposed in the letter of the Commissioner of Indian Affairs and referred to me by your communication of the 23d ultimo, I have the honor to inform you, that, in my opinion, the thirteenth article of the treaty of March 1836, with the Ottawa and Chippewa Indians, by which “the Indians stipulate for the right of hunting on the lands ceded, with the other usual privileges of occupancy, until the land is required for settlement,” must be regarded as reserving the use of the ceded lands, for all the purposes of Indian occupancy as it existed prior to the treaty, until such lands shall have been actually disposed of, to individuals, by the United States. Such disposition may be made by sale, under the general laws, or by special grants, or in any other way that Congress may direct, and whenever an actual disposition of any particular tract shall be made, the usufructuary right of the Indians will cease as to such tract.

In the mean time, however, that right cannot lawfully be interrupted by the Government, still less by any citizens, of the United States.¹⁷

Butler's emphatic statement that citizens could not interfere with the Indians' rights under

¹⁶ C.A. Harris to J.R. Poinsett, March 23, 1837, Washington, D.C., NAM1R37 638.

¹⁷ Detroit Daily Advertiser, May 4, 1837, in NAM234R422 678.

the article suggests at first blush that the government's concern was with the preemptionists' intrusions into the recently ceded lands. These intrusions could not prevent, according to Butler, Indians from using the lands. Butler's interpretation of the article, however, is creative. Instead of protecting Indian rights until the land is actually settled, as required by the treaty, he protects those rights only until it would be actually "disposed of, to individuals." In his view, preemptionists, as "actual settlers," did not disrupt Indian rights, but purchasers of public lands, who might not be settlers at all, did bring an end to such rights. Butler, like Schoolcraft, favored private property over both squatters and retained Indian rights. He neglected the property Indians (noncitizens) had in those rights.

It is my opinion that Butler and Schoolcraft, like the established citizens of the Grand River area, had intentions in this matter that can be honored. They were concerned to preserve the peace and to maintain an orderly northward expansion of the American settlements. They also were interested in protecting Indians from the squatters' unjust taking of the Indians' improvements. It is also true, however, that Schoolcraft had by this time embraced the view that Indians would be better off if kept at a great distance from ordinary settlers, who would only corrupt them or otherwise damage them. It must be added that he had much Jacksonian company in holding to this view. He grew worried that soon, as settlements pressed northward in the lower parts of the Lower Peninsula, lawlessness might prevail. His fears stemmed in part from the general national debate over Indian removal, a policy he had come to advocate and one that saw great controversy in the 1830's. The episodes of 1836-1837 that surrounded the Attorney General's opinion were occurring, it should be recalled, at the very time that the United States was deploying troops to ensure the brutal and deadly removal of the Cherokees from their

Georgia and Tennessee homelands. It was also at this time that the United States' efforts to remove the Seminoles were meeting a resistance that would cost the United States Army almost as many lives as the later Mexican War, not to mention an unknowable number of Seminole deaths. Keeping the frontier in order and peace was a major concern for any dutiful agent of the Office of Indian Affairs or other federal office. Bending the meaning of a treaty article was certainly worth doing if it maintained peace and order at the expense of squatters, and dishonest squatters taking Indian property, at that.

But then, there were laws against squatting, and even if they were poorly enforced, they could have been turned against the preemptionists. The turn to Article 13, originating with the citizens of Grand Rapids, suggests a powerful urge to establish clear rights to private property, in the face of both squatters and an Indian treaty that might muddy those rights. It is my opinion that Schoolcraft and Butler reinterpreted the article in the context of unfolding events and in the presence of propertied citizens.

The truly injured party in all of this, the Ottawas at Grand River whose improvements were being taken over or destroyed, strikingly expressed no concern about possible violations of Article 13. The Ottawas do not mention the article in the documents that convey their concerns. Instead, they fix on the events as a violation of Article 8, which promised them compensation for their improvements. Slater reported that the Ottawas of the Grand River area were wondering "What they are to do in regard to their property? Is it possible to have their property appraised soon?"¹⁸ From the Indians' perspective, what was most alarming was the destruction or appropriation of improvements at a time when the government had promised them compensation.

¹⁸ Leonard Slater to HRS, Barry, Jan 18, 1837, in HRS to C.A. Harris, Detroit, 24 Jan, 1837, NAM1R37 143.

They were less alarmed than we might imagine by the threat of settlement on the ceded lands. Alone of all Indian participants in the Treaty of Washington, they anticipated rapid American settlement; some were moving to Gull Prairie, where they knew they would soon be surrounded by Americans. What concerned them, and highly, was not so much the settlement, which they had anticipated, but the pillaging of resources they had worked hard to acquire and for which the government had promised them compensation.

This is evident in the report made by two men whom Schoolcraft had sent to appraise the improvements in the Lower Peninsula. John McDonell and John Clark left Detroit in the spring of 1837 and traveled overland to the Grand River country, where they confirmed that “a number of the principal chiefs and a considerable body of Indians, had been obliged to leave their houses and former residence, in consequence of the intrusion of the whites, who had illegally possessed themselves of the Indian houses and plantations by squatting. . . .”¹⁹

The displaced Indians were, when McDonell and Clark gathered this information, at Gull Prairie. The appraisers went to the mission, and what they learned alarmed them. Note well that the appraisers were concerned about two problems, disorder in the disposition of public lands and the need to compensate Indians for their improvements, while the Indians were concerned largely about the latter alone. The Ottawas were, to be sure, aggrieved by

the ill treatment which they had received from the whites, in taking forcible possession of their houses and premises, and fraudulently and falsely impressing them with the belief, “that in as much as they had sold their lands by Treaty to the Government all their right and tittle(sic) had ceased and that they must surrender possession whenever a white man approached.”

¹⁹ John McDonell and John Clark to C. A. Harris, Detroit, June 8, 1837 NAM234R402 frs. 358-360; see also HRSP/DLC/SHSW Container 42, Part 1: 15505-15508.

McDonnell's and Clark's concern for the orderly disposition of the lands comes through in their next sentences, but here they are speaking for themselves, not for the Indians:

It is proper here to mention, that a number of white persons, have not only possessed themselves of the Indian houses and property, but have by squatting obtained the possession of many valuable points on the Indian purchases-- a number of land speculators, living elsewhere (sic) have made locations, and placed persons thereon with the view of eventually securing the same by a preemption right, and likewise many emigrants are daily settling on this purchase, under the impression, that the lands will be eventually confirmed to them as preemptionists--and as far as the undersigned have learned, all these squatters (sic) have formed and entered into a combination to obtain from the Government, by fair means or otherwise a title to their valuable locations at one dollar and twenty five cents per acre--as preemptionists, to the exclusion of other citizens of the United States, who have waited the action of the Government--to offer those lands for sale. The population of this region will soon become so dense, that the removal of those squatters will occasion much embarrassment to Government, unless some decisive measures are soon adopted, this view-- and the fact, that great injury is daily committed, by the destruction of the timber, has induced the undersigned thus to digress from the principal narration of the expedition.

McDonnell and Clark clearly understand that Indian rights were not the only issue; the issue also concerned the actions of squatters at the expense of those “other citizens of the United States, who have waited the action of the Government--to offer those lands for sale.” That alarming digression concluded, McDonnell and Clark returned to the subject of their negotiation with the Indians whose houses and improvements were being illegally appropriated. Article 8, not Article 13, was the subject:

The Indian chiefs observed to the undersigned that it was desirable to them and their People to be present when the value of their improvements was appraised agreeably to Treaty that at this time their tribes were scattered in different sections planting corn and that it would be both inconvenient and injurious to their interest to quit their present occupation, and desired the postponement of the appraisal until the latter part of the present month, when they would notify their different tribes to attend at their respective stations.

This request the undersigned considered reasonable and just, and agreed to meet them then and there accordingly, consequently the undersigned returned to this place to make

further arrangements, and shall meet them according to promise.²⁰

The Ottawa leaders, then, had zeroed-in on obtaining compensation for their improvements and had expressed satisfaction that the United States would accommodate their reasonable request to be present when the appraisal was made. They knew that recently ceded lands in portions of the Grand Valley were being settled by U.S. citizens, and they understood that such settlement would prevent their own "usual privileges of occupancy." But they intended that Article 8 apply to the buildings and works they left behind.

McDonell and Clark worked on their appraisements of Indian improvements later in 1837, and they reported their findings in December. Of the Grand River controversy and the method they took to settle it, they wrote:

In some cases the whites burned the Indians' Houses in other cases destroyed the Houses and carried away the timbers, which naturally produced considerable excitement and discontent amongst the latter. In this state of things the undersigned [McDonell and Clark] deemed it their duty to interpose their good offices which had the desired effect, the whites who thus possessed themselves of the Indian Houses and plantations, agreed to pay the latter a stipulated consideration, which appeared to restore harmony and good feeling between the parties.²¹

During this affair, then, the Grand River Ottawas, unlike Schoolcraft and Butler, were not as concerned about preemption on public lands as they were about the theft of the fixed property they had added to the ceded lands. The Ottawas did not complain that preemptionists were violating Article 13; that was the interpretation of Lyman, Rathbone, Finney, Schoolcraft, and Butler. Instead, they saw the preemptionists as serious violators of Article 8.

²⁰ John McDonell and John Clark to C. A. Harris, Detroit, June 8, 1837 NAM234R402 frs. 358-360; see also HRSP/DLC/SHSW Container 42, Part 1: 15505-15508.

²¹ John McDonell and John Clark to C. A. Harris, Detroit, Nov. 17, 1837, NAM234R 402, frs. 362-365.

Schoolcraft, McDonell, Clark, and the Grand Rapids citizens had concerns that differed from those of the Grand River Ottawas. The American authorities and Grand Rapids' founders had strong incentive to seek an interpretation of Article 13 that would pose a deterrent to squatting while clarifying title to property. The issue of preemption posed an opportunity to form such an interpretation while appearing to defend some of the very Indians whose interests and rights the interpretation would actually deny.

Order, "Settlement," and Article 13

For federal agents in the late 1830's, the Treaty of Washington created immediate jurisdictional problems. The vast cession of lands to the United States suddenly cast into doubt the Indian Department's authority to regulate relations between citizens and the thousands of Indians who still resorted to the ceded lands. A Trade and Intercourse Act of June 30, 1834, had given authority to Indian Department Officials only in areas "within the country to which the Indian title has not been extinguished, and which is not within the limits of a State."²² The treaty meant that these thousands, after the expiration of the five-year reservations, might even be inhabiting lands without Indian title and within the state. If the ceded lands were no longer Indian Country, the Indian Department might lose authority to regulate Indian-settler relations. A perplexed Schoolcraft asked his superiors in Washington:

What is now the meaning of the term "Indian Country" in the act to regulate trade and etc. 30 June 1834 so far as relates to the peninsula of Michigan, or the Indian reserves therein; and can convictions be had, under this act, for violations of the law, committed on territories ceded by treaty of March 28, 1836, but which is still in the occupation of the Indian tribes, and not within any organized county? Or can the Indian laws be maintained over this country, as existing instructions require, to be executed by the orders of the

²² Circular: Regulations of the War Department, NAM1R51 651-652.

President?²³

Schoolcraft's brother James was equally uncertain, wondering if he, as an employee of the Indian department, could prevent American fisherman from either exploiting fishing grounds ceded in the Treaty of 1836 or selling alcohol to Indians.

1st. Are Licenses to trade, or for fishing, necessary to be obtained by persons going into the country embraced within the limits of the treaty of the 28th March, 1836? 2nd. Does the operation of the existing laws regulating trade and intercourse with the Indian tribes, extend over that portion of country embraced within the above mentioned limits? 3rd. Do such laws extend to Reservations under said treaty?²⁴

By September, 1840, Henry Schoolcraft concluded that "it is no longer deemed practicable to attempt exercising the authority in question, over the ceded portions of the Upper Lake Country. And the tribes must therefore abide such legal enactments, or such want of them, touching their internal affairs, as may result from local legislation." At the same time, he understood that Indians maintained, under Article 13, their right to occupy and use portions of the ceded lands. Here was a major problem. How could the state assert authority over Indians who retained rights that antedated the state itself, indeed, the United States itself? Schoolcraft could only hope that the government might renegotiate these rights and induce the Indians to remove to the West, where they might be better protected.

Could they be induced to give up, by compact, the right of occupancy upon the unsold public lands, at least to all the territory situated south of the straits of Michilimackinac, it is believed their own best interest would be secured thereby. It is satisfactorily shown from the surveys that the Michigan peninsula will settle compactly up to that point. . . .

This is a fascinating, even startling, admission: the government might have to renegotiate,

²³ HRS to T Hartley Crawford, Washington, July 15, 1840 NAM234R424 fr. 168-169, and NAM1R38 296-299.

²⁴ James Schoolcraft to T. Hartley Crawford, Michilimackinac, July 11, 1840, NAM1R38 295.

to induce by compact, the Indians to surrender their rights under Article 13. He soon continues,

Settlements have already extended about midway of the valley of the Maskigo [Muskegon]. The entire peninsula is now surveyed into townships up to the straits of Michilimackinac, and subdivided to near the south point of Little Traverse Bay, Lake Michigan, and the remainder is in the process of subdivision, and with the close of the present year, will all be reported to the General Land Office, for its action.

Schoolcraft, in the passage just quoted, again suggests that Article 13 protected Indians until the land was sold ("the right of occupancy upon the unsold public lands..."), but at the same time, he uses the word "settlement" conventionally, in a manner distinguishing it from both general survey and subdivision to mean instead a place actually inhabited and occupied. He says that "settlements" have reached a midway point toward the Muskegon River, while the whole Lower Peninsula has been surveyed into township squares, which have in turn been mostly subdivided in survey south of Little Traverse Bay. In this very passage, Schoolcraft distinguishes settlement from survey. This is conventional usage, and it is what Indians would have understood when speaking with federal agents. In fact, earlier in the same document, Schoolcraft had mentioned that the tribes had not, for several years after the cession, seen any changes in either their "location or pursuits" because of the cession's great extent and the "remote location of parts of it, with relation to actual settlements. . . ."25

Schoolcraft's immediate successor, Robert Stuart, clearly distinguished the sale of lands from their settlement when he forecast Indian migration away from the Grand and Manistee Rivers. Perhaps, he thought, the Native Americans would move toward the top of Michigan's mitten; he was not as keen as Schoolcraft to see them removed to the west. "The region between the Grand Traverse and Thunder Bay . . . with the country north of the straits of Mackinac will

²⁵ HRS to T. Hartley Crawford, Sept. 24, 1840, NAM1R38 366-390, esp. pp. 366, 366-367, 368, 369.

neither be purchased or settled by the whites for ten or perhaps twenty years to come--so there is no urgent necessity for removal on that account." For our purposes, Stuart's uses of both words "purchased" and "settled" is interesting. If purchase is all it would take to have the Indians vacate the lands, why did he bother to add "settled"?²⁶ It is my opinion that he did so because Article 13 allowed the Indians to remain as long as the land went unsettled by American citizens.

Article 13 says nothing about the sale of lands. Many other treaties, including several made before 1836, do mention the sale of public lands as terminating any retained Indian usufructuary rights. Had the article explicitly mentioned the sale of lands, it would readily have been understood. "Settlement" was generally held by citizens, their legislators, their jurists, and by Schoolcraft himself to be quite a different thing from "sale" or "purchase."

This distinction between settlement and sale is most clear in the history of the preemption policy. Schoolcraft had hoped when he made the treaty that he could effect the removal of Indians from Michigan. Removal would have rendered Article 13 irrelevant. But the Indians did not remove, and Article 13 remains to protect Indian rights on unsettled land.

"Actual Settlement" in Public Land Policy: Preemption

Actual settlement, public land, and privately owned but unsettled land all featured in nineteenth-century discussions of the policy of preemption. This segment investigates the term "settlement" as it was employed in public, nineteenth-century documents, and in twentieth-century histories of the frontier and public land. This segment establishes that when American officials noted that the Ottawas and Chippewas would retain the full use of the land until it was actually required for settlement, they were not using words casually, but were calling upon an

²⁶ R. Stuart to T.H. Crawford, Detroit, October 18, 1841, NAM1R38 576-587.

understanding of the terms "actual" and "settlement" that were grounded in federal policy.

We have seen how Schoolcraft, upon securing at least some of the Indian's consent to the Senate modifications, reported the Indians' understanding of Article 13. Ottawas and Chippewas had agreed to the amendments, he wrote, when they concluded that Article 13 "secures to them, indefinitely, the right of hunting on the lands ceded, with the other usual privileges of occupancy, until the land is required for settlement."²⁷

We have seen, too, that the first article of assent to the Senate modifications states that

The Chippewa and Ottawa tribes, confiding in the disposition of the Government of the United States to permit them to reside upon their reservations, after the period hereafter mentioned until the lands shall be required for actual survey and settlement, as the white population advances from the south towards the north. . . .²⁸

Let us keep in mind the terms "indefinitely," and "actual survey and settlement," as we return to a final, third point. As we have seen, Schoolcraft reported in his letter to T. Hartley Crawford of Sept. 30, 1839, that the Indians reserved

the usufructuary right of living and hunting upon, and cultivating the ceded portions of the soil until it was actually required for settlement.²⁹

The key phrase here, of course, is "actually required for settlement." To these two examples of the word "actual" being attached to words that relate to settlement and occupancy we can add Schoolcraft's annual report to the Commissioner of Indian affairs the very next year, in which he writes of the treaty that

The extent of the cession and the remote position of parts of it, with relation to the actual settlements, led to but slight changes in either the location or pursuits of the Indians, for a

²⁷ HRS to Cass, Michilimackinac, July 18, 1836, NAT494R3 369; also in NAM1R37 3-5.

²⁸ HRSP/DLC/SHSW, container 42, Pt. 1: frs. 15165-68.

²⁹ NAM1R38 120-135; also in NAM234R423 frs. 442ff.

time. . . .³⁰

"Actual survey and settlement," "actually required for settlement," and "actual settlements" are examples of uses of the adjective actual and/or its adverbial form in the context of Article 13.

Glossing Schoolcraft's securing of the Indians' assent to the Senate's modifications, biographer Richard Bremer also refers to Article 13's protection of Indian rights "on ceded lands until they were required for actual settlement."³¹ "Actual" is a small word, but this is not a small matter.

The frequent use of the term "actual" importantly illuminates the meaning of Article 13, and powerfully suggests the Indians' understanding of the term "settlement" as Schoolcraft and others discussed it with them in the context of the Senate's elimination of their permanent reservations. Schoolcraft and others were well-aware that the phrases "actual settlement" and "actual settler" had precise meanings, especially in the 1830's. Throughout that decade, Congress passed several laws granting, under a variety of restrictions, squatters on public lands the first right to purchase those lands once they came up for sale by the government. Schoolcraft understood that these laws protected the settlers' improvements and allowed them to buy lands on which they had squatted. An indication of this is recorded in a letter that he wrote to a federal employee faced with the loss of a house when the employee's mission moved from Manistee to Grand Traverse. Schoolcraft assured the man that his "house and improvements, at that place, will be your own, as much as any other settler's is, on public lands."³² The squatters were known in the law as "actual settlers."

³⁰ HRS to T. Hartley Crawford, Annual Report, Sept. 24, 1840, NAM1R38 366.

³¹ Richard Bremer, Indian Agent and Wilderness Scholar, 172.

³² HRS to Lucius Gary, Michilimackinac, July 4, 1839, NAM1R38 8.

During the twentieth century, partly under the influence of the "frontier synthesis" of American historical study formed in the 1890's by Frederick Jackson Turner, American historians devoted considerable attention to the history of public lands. For these scholars, the terms "actual settler" and "actual settlement" were clearly to be distinguished from those denoting the landowner or the speculator in real estate. These scholars were not historians of American Indians, though (because they dealt in frontier issues) Indians do appear in their writings. They were instead interested in the degree to which the Federal Government supported its pioneering citizens' struggles to obtain legal title to land.

A 1915 scholarly article on the settlement of Michigan, for example, generally distinguishes "settlement" from the extinction of Indian title to, the survey of, and the sale of lands: "A very important task of the national government in the interests of settlement for which the extinction of Indian titles and the military protection of the frontier were preliminary was the survey and sale of lands."³³ A later passage distinguishes settlement from the surveying of county lines:

Of first rate importance to settlement were the provisions for county, township, and village government. The establishment of counties ran far ahead of settlement, it being the intention apparently to invite settlement and to avoid the difficulties that would attend the running of county lines after settlers should have located farms.³⁴

R. S. Cotterill, one of the most important historians of the Old South's frontier in the middle decades of the twentieth century, wrote that in the understanding of early nineteenth-century legislators, "actual settlers were mostly 'squatters,' having no legal rights except that

³³ George N. Fuller, "Settlement of Michigan Territory," The Mississippi Valley Historical Review 2 (1915) 33-34.

³⁴ Fuller, "Settlement of Michigan Territory," 52.

nine points of the law that consists of possession."³⁵ Cotterill, then also, sees "actual settlers" as distinct from purchasers.

Paul W. Gates, a leading historian of public lands, was interested in the development of American laws that conceded the right of occupancy and the right of preemption to actual settlers. In an essay on the development of preemption laws, Gates writes of early steps toward preemption in the young state of Kentucky. Like the Michigan historian and the Southern historian, he clearly distinguishes landowning from settlement: "The legislature of Kentucky, though dominated by resident landlords, was not unmindful of the interests of actual settlers."³⁶ In an article on homesteading, Gates debunks the myth that homestead legislation opened vast free lands to the intrepid pioneer. Instead, he argues that after the passage of the Homestead Law in 1862, "As before, it was still possible for the foresighted speculators to precede settlers into the frontier, purchase the best lands, and hold them for the anticipated increase in value which the succeeding wave of settlers would give to them."³⁷ "Settlers," in the passage just quoted, are something other than "speculators."

Several times elsewhere Gates distinguishes the actual settler from other claimants to the land. Referring to the Indian Allotment Act of 1887 (commonly known as the Dawes Act), he notes that the act distinguished the sale of lands from their actual settlement: "The Dawes Act continued the policy whereby the government purchased the surplus lands from the Indians and

³⁵ R. S. Cotterill, "The National Land System in the South, 1803-1812," The Mississippi Valley Historical Review 16 (1930), 499.

³⁶ Paul W. Gates, "Tenants of the Log Cabin," The Mississippi Valley Historical Review 49 (1962), 10.

³⁷ Paul W. Gates, "The Homestead Law in an Incongruous Land System," American Historical Review 41 (1936), 662.

subsequently resold them, but it provided that lands so acquired in the future should be reserved for actual settlers in tracts of 160 acres."³⁸ The owners of the land, in this case, were neither squatters nor homesteaders, who could not be permitted to invade unceded Indian land. Still they, the actual settlers, would have to be those who were living on the lands they had purchased.

Gates quotes Indiana Representative George W. Julian, who deployed the phrase "actual settlement" during a congressional debate in 1867-1868:

In order to carry into full and complete effect the spirit and policy of the preëmption and homestead laws of the United States, the further sale of the agricultural public lands ought to be prohibited by law and that all proposed grants of land to aid in construction of railroads, or for other special objects, should be . . . rigidly subordinated to the paramount purpose of securing homes for the landless poor, the actual settlement and tillage of the public domain, and the consequent increase of the national wealth.³⁹

Roy M. Robbins, writing in 1931, distinguishes the actual settler from the purchaser of lands. In the aftermath of the War of 1812, he writes, "The question arose as to whether it would not be better to allow the settlers a general preëmption and thus provide for actual settlement rather than to sell to speculators who merely held lands until they reached higher values."⁴⁰

The phrase "actual settler," appears in a title. Henry Tatter never reworked his Northwestern University dissertation, "The Preferential Treatment of the Actual Settler in the Primary Disposition of Vacant Land in the United States to 1841 -- Preemption: Prelude to Homesteadism," into a book, but Arno Press deemed it worthy of reproduction and distribution in book form in 1979. Tatter states his concerns succinctly on the first page, in a manner that makes it very clear that actual settlement and land ownership are two different things.

³⁸ Gates, "The Homestead Law in an Incongruous Land System," 661.

³⁹ Gates, "The Homestead Law in an Incongruous Land System," 678.

⁴⁰ Roy M. Robbins, "Preemption--A Frontier Triumph," The Mississippi Valley Historical Review 18 (1931), 339.

Specifically, the preferential treatment won by the squatter in the first stage of his struggle with the landed institutions was the recognition in law of the right of Preemption, that is the grant of the right to settle upon the unappropriated waste or public land and later buy that land at a fixed price in preference to all others. Preemption thus became a method of selling public land to actual settlers at private sale without competition.⁴¹

Susan Gray, a leading living scholar on the settlement of Michigan, also distinguishes settlement from the sale of federal land, even if she finds that both took place largely simultaneously in the region of Southwestern Michigan that she studies. Writing about land sales in Kalamazoo County in the 1830's, she notes that "preemption was not a factor in the alienation of Richland, Climax, and Alamo. . . . Settlers first came to Climax Township in 1831, and not in any numbers until 1834. Alamo's first settlers arrived in 1835. For the most part, then, settlement and alienation of federal land coincided."⁴²

Kenneth Lewis, the author of a recent study of settlement in Michigan, also routinely distinguishes settlement from grant and sale. "Although a number of large tracts along the eastern shore were acquired by British inhabitants, only a few were actually settled, most notably at Gross Isle and along the St. Clair River." The "conveyance of large tracts into the hands of corporations rather than individuals did not encourage immediate settlement." Fears "arose in Congress that price reductions would invite speculation in frontier property by large outside investors who would manipulate prices and discourage settlement." And, in a short examination of the effect of speculation on settlement, he writes, "It was the failure of speculative ventures

⁴¹ Henry Tatter, "The Preferential Treatment of the Actual Settler in the Primary Disposition of Vacant Land in the United States to 1841 -- Preemption: Prelude to Homesteadism" (Ph.D. Dissertation, Northwestern University, 1933), 1.

⁴² Gray, "Local Speculator as Confidence Man," 388.

rather than their success that retarded frontier settlement.”[110]⁴³

If historians of the frontier from across the past century have both distinguished owners from settlers and have understood the terms "actual settlement" and "actual settler" to denote only those habitations that and inhabitants who planted themselves upon and inhabited the land, what of voices from the 1830's, from the years during which Schoolcraft and others employed the terms in their discussions of Article 13? These voices exist in the sources that have given the frontier historians their evidence. Examples from the period are abundant.

Historian Roy M. Robbins describes a preemption act of 1830 that allowed current squatters on public lands the right of first purchase at a low price: “By this act, any settler who had migrated to the public domain and had cultivated a tract of land in 1829, was authorized to enter any number of acres of this tract, not exceeding 160, by paying the minimum price of \$1.25 per acre. Although the act was only temporary in character it nevertheless provided a general pardon to all those inhabitants who had settled illegally.” He later describes such acts generally as "the form of a pardon for irregularities or for illegalities already committed."⁴⁴

Senator Elias Kent Kane of Illinois, during debates in 1830, admitted that preemption favored one class of persons, the actual settlers, over others. He thought it a matter of justice to favor the actual settler over the speculator, that is, the squatter on the land over the would-be absentee owner or speculator:

The principle of a preemption bill is a principle of discrimination in favor of the actual settler. It is no new thing. The truth, sir, is that the trespassers, as they are called, have

⁴³ Lewis, West to Far Michigan; the quotations come, in order, from pages 23, 101, 103, 110.

⁴⁴ Roy M. Robbins, "Preemption--A Frontier Triumph," The Mississippi Valley Historical Review 18 (1931), 342, 345.

always been the favorites of the Government, and will continue to be so, so long as sagacity, good sense, and patriotism shall prevail in its councils.

[There is] something noble in the law which suspends the rapacity of a speculator, by assigning privilege to honest industry.-- The mandate of the Government, which compels the jobber to pay at a rate of discrimination, before he possessed himself of the labor and comforts of another, conveys a just rebuke.⁴⁵

A District Attorney in the western district of Louisiana, Benjamin E. Linton, wrote to President Andrew Jackson from Washington, D.C. in the late summer of 1835 that these preemption laws, first passed in 1830, had changed public land law: "By an act of Congress, dated 29th of May, 1830, giving to actual settlers and occupants on the public domain the right of pre-emption. . . a new era was introduced on this subject of land claims. . . ."⁴⁶

At this time, which coincided exactly with the movement toward the Treaty of 1836, there was a great deal of concern in government circles about the benefits and defects of the various preemption measures and the fraud committed in their guise. Roy Robbins finds that the preemption laws of 1830 through 1834 had led to many abuses, especially in the "rich cotton lands of Alabama and Mississippi." He writes that speculators had obtained the services of others "to set up claims under the law and thus obtain these productive areas at the minimum price of \$1.25 per acre. Such speculative enterprise endangered the preëmption principle--a principle which had been established to protect the actual and real settler."⁴⁷ Public debate, in historian Henry Tatter's words, "completely aired this question of the irregularities and prepared

⁴⁵ Quoted in Tatter, "Preferential Treatment of the Actual Settler," 178-179.

⁴⁶ Benjamin E. Linton to A. Jackson, Washington, D.C., Aug. 25, 1835, American State Papers: Documents of the Congress of the United States in Relation to the Public Lands Class 8, vol. 8 (Washington, D.C., 1861): 538.

⁴⁷ Robbins, "Preemption--A Frontier Triumph," 343.

the minds of Congress for constructive legislation for the actual settler upon public lands."⁴⁸

Throughout 1836, congressional debates touched upon the character of those who occupied public lands seeking the color of title. In one speech toward the end of these debates, Senator William Lee Davidson Ewing of Illinois repeatedly employed the term "actual settler" as he pushed for thorough rights of preemption. He defended the settlers against charges that they had formed extra-legal combinations to commit fraud:

give the actual settler but the poor privilege of preemption to a quarter section of your boundless domain, embracing his domicile, and, as far as it will go, his improvements; then you will no longer hear of these "unlawful associations," as gentlemen are pleased to call them.-- In the absence of some law securing to the actual settler his improvements, which he acquired under circumstances of great privation and hardship, these associations will continue to exist until every acre of the two hundred million that you now flauntingly boast the possession of will have been sold, and until the last acre of another two hundred million is bought and sold; nay, sir, until the last fraction of the Pacific is disposed of. They have existed ever since the national domain has been national property, and such is their moral power, that no force dare attempt to suppress them by violence. But enact now and continue in force a liberal and just system of law in relation to the public domain and rights of the actual settler, and these conventions of the settlers will cease to exist, and in a few years be among the forgotten things.⁴⁹

In this passage, not only is the phrase "actual settler" used three times, but it is used to identify those who inhabited lands without legal title.

The 24th Congress was debating the construction "of the Law Granting Pre-emption Rights to Actual Settlers" in 1836.⁵⁰ Also at this time, Congress considered a petition from the Michigan Territorial legislature, requesting that settlers in what is now Iowa (taken in treaty from

⁴⁸ Tatter, "Preferential Treatment of the Actual Settler," 199.

⁴⁹ Quoted in Tatter, "Preferential Treatment of the Actual Settler," 218-219.

⁵⁰ Levi Woodbury, Sec. of Treasury, to the Senate, Washington, D.C., Feb. 25, 1836, American State Papers: Documents of the Congress of the United States in Relation to the Public Lands Class 8, vol. 8 (Washington, D.C., 1861), 510.

the Sacs and Foxes following the Black Hawk War) be allowed the rights of preemption. The distinctions among settlement, ownership, and speculation are clear in this Michigan document:

These citizens have, in the settlement and improvement of the country, had to encounter all the hardships and difficulties incident to frontier lives. By the spirit of industry and enterprise, they have, in an almost incredibly short time, settled nearly the whole west of the Mississippi to the extent of three hundred miles, and in some parts to the distance of forty miles back from the river. Throughout the whole of this delightful region, where three years since the white man's habitation was not to be found, there have sprung up, as if by enchantment, flourishing villages and cultivated farms, where all the business of commerce, agriculture, and domestic industry, are prospering in a degree unexampled in the history of our country. The settlers of this important and interesting district have relied upon the liberal policy of the general government, heretofore pursued toward the settlers upon the public lands, for protection in the possession of their homes. Many of them have invested all their means in the improvement of the country, and to be put in competition with the speculator for the purchase of their farms and habitations, would bring distress and ruin upon many worthy and industrious families.⁵¹

Michigan legislators requested that the inhabitants of these settlements, established without legal title and without legal ownership, be granted the first option of purchase, preventing nonresident speculators from obtaining the settlers' improved, if not yet legally held, lands.

Preemption legislation would not give the settlers the land outright; it would provide them the right to purchase the lands that they had already actually settled. "Actual settlers" establish themselves on lands not yet sold by the government. The sale of the land, therefore, is quite a different thing from its actual settlement. In the case of squatters, or actual settlers, settlement precedes sale. In preemption, the actual settler gets there first, and prevents others from purchasing the land to which he has staked a claim. He has settled it, but to own it, he must still purchase it from the government.

⁵¹ "Application of Michigan for the Survey and Sale of the Public Lands in Michigan, Establishment of Land Offices, and the Extension of the Pre-emption Law," March 1, 1836, in American State Papers: Documents of the Congress of the United States in Relation to the Public Lands Class 8, vol. 8 (Washington, D.C., 1861): 514.

Schoolcraft knew well of the preemption laws. He had to know about them: as the Michigan Indian agent it was critical for him to be aware of such legislation. In 1834 he alluded to a preemption law when he issued a circular explaining that the recent trade and intercourse act prohibited "the formation of settlements on Indian lands, or any occupancy which is designed to originate a claim to title." In 1836, while awaiting the Senate ratification of the treaty under discussion, he mentioned land policy. In 1839, he advised an Indian department employee who had built a house on a soon-to-be-terminated Indian reserve that the employee could own the house on the same principle of preemption: "your house and improvements, at that place [Manistee], will be your own, as much as any other settler's is, on public lands." Note too that settlement is here possible on public land, that is, unsold land. Schoolcraft, despite his interpretation of events at Grand River in 1837 and in spite of the Attorney General's opinion, distinguished settled lands from sold ones.⁵²

Fifteen years later, Norman Barnes and John Campbell, a government carpenter and blacksmith working among the Indians at Grand Traverse Bay, described how "white settlers" were purchasing Indian improvements directly from the Indians and were making their own

valuable and permanent improvement not only on the lots purchased of the Indians but over the entire Peninsula. . . with the expectation that the government will grant them the right of pre-emption to the locations they have selected and upon which they have established their homes, for the reason that this land was, prior to the settlement by the whites, unoccupied, with the exception of the little tilled by the Indians and for which they have received a satisfactory remuneration.⁵³

⁵² HRS, Notice, Michilimackinac, Sept. 30, 1834, NAM1R69 67; HRS to Ramsay Crooks, Washington, May 2, 1836, AFCP23: 1551; HRS to Lucius Gary, Michilimackinac, July 4, 1839, NAM1R38 8.

⁵³ Norman Barnes and John Campbell, "Statement of the Circumstances under which the Peninsula in Grand Traverse Bay, was settled by the whites, and of the condition of said peninsula prior to such settlement," Dec. 26, 1854, NAM234R404 fr. 960-63.

Barnes and Campbell were very careful to place these settlers in homes upon the land, because bona fide residence was critical to any legal preemption claim.

The Treaty with the Ottawa and Chippewa, Detroit, July 21, 1855 provided for reservations for these peoples. It was amended by the Senate to provide an opportunity for preemptionists to secure their land title. A section of its first amended article states, in all conformity with contemporary usage, that

It is also agreed that any lands within the aforesaid tracts now occupied by actual settlers, or by persons entitled to pre-emption thereon, shall be exempt from the provisions of this article; provided, that such pre-emption claims shall be proved, as prescribed by law, before the 1st day of October next.

Any Indian who may have heretofore purchased land for actual settlement, under the act of Congress known as the Graduation Act, may sell and dispose of the same; and in such case, no actual occupancy or residence by such Indians on lands so purchased shall be necessary to enable him to secure a title thereto.⁵⁴

This provided U.S. citizens who had invested their time and energies in the land with the opportunity to protect their investment from the impending reservations, while Indians who had purchased lands for their peoples were being promised an opportunity to sell such lands before fulfilling the original terms of the purchase regarding actual residence. In both instances, the term “actual” is use to emphasize settlement, and settlement means residence or occupancy.

The phrases "actual settler" and "actual settlement" had such precise meanings in the nineteenth century that they were regularly employed in political speech and official writing. Toward the close of the period when the disposition of public land was frequently made to individuals seeking to establish small farmsteads, the United States General Land Office issued a manual or handbook for those seeking public land. In this circular, an application for a

⁵⁴ Treaty with the Ottawa and Chippewa, 1855, in Kappler, ed., Treaties, 728; compare with the original treaty in NA668R11, fr. 429, Executive Sec., April. 15, 1856.

homestead under legislation that had been passed since 1862 had to be “honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation. . . .” The applicant had to declare that “he does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home” The circular insisted that the settler

must, within six months after making his entry, establish his actual residence in a house upon the land, and must reside upon and cultivate the land continuously in accordance with the law or the term of five years. Occasional visits to the land once in six months or oftener do not constitute residence. The homestead party must actually inhabit the land and make it the home of himself and family, as well as improve and cultivate it. . . . The period of continuous residence and cultivation begins to run at the date of actual settlement. . . .

It defines "Settlers:"

Settlers are persons who have attached themselves permanently to the soil. Nomadic persons and persons employed by others to make applications for surveys or to make alleged settlements for the purpose of acquiring a title to lands to be transferred to others are not settlers within the meaning of the law and are not lawful applicants under the provisions allowing settlers to make deposits for public-land surveys.[emphasis original]

In a discussion of limitations on preemption, it forbids preemption on Indian reservations, on lands within incorporated towns, and on "Lands actually settled and occupied for purposes of trade and business, but not for agriculture."⁵⁵

This particular understanding, an official United States understanding from the last year of the nineteenth century, may or may not have a bearing on what the agreeing Ottawa and Chippewa Indians understood "settlement" to mean in 1836. But it does draw our attention to another question: how did the Indians expect settled lands to be used? It is an important question.

⁵⁵ United States, Circular from the General Land Office Showing the Manner of Proceeding to Obtain Title to Public Lands under the Homestead, Desert Land, and Other Laws (Washington, D.C.: Government Printing Office, 1899; reprinted, New York, Arno Press, 1972), 13, 14, 98, 146.

If American citizens merely hunted or fished upon the lands, were they settling them? If they harvested timber, minerals, or other natural resources from the lands, were they settling them?

Mining Lands and Article 13

Schoolcraft the scholar, better known today for his vast writings on North American Indians, began his career as a geologist. The interest never left him. In November, 1835, he noted that the recent “discovery of valuable and extensive coal beds, and a saline spring of good strength,” gave the United States an additional “interest,” in obtaining a cession of the Indians’ lands in the lower peninsula.⁵⁶ In his annual report of 1837 he noted the potential for “extensive and useful deposits of bituminous coal, and of salt and gypsum,” in the northwestern portions of the Lower Peninsula. He also saw brine springs in the Upper Peninsula, and more: “a new class of minerals. . . , which may, in a great measure, compensate that portion of the Union, for its general deficiency of fertile soil. Ores of iron, copper and lead, in various combinations, are found at several points, and in good quantities”⁵⁷

As it turned out, mining has been of less importance in the cession under discussion than it has been immediately to the west. But its prospects within the region were not generally captured by the term, “settlement.” Certainly laws aimed at assisting the “actual settler” did not mean to assist miners and mine operators. Dallas Jones, in a 1952 Cornell University thesis, “The Survey and Sale of the Public Land in Michigan, 1815-1862,” notes that the 1841 Preemption Act gave the settler, “the right to select any land, except mineral land and other reserved land such as school land, upon the surveyed but unoffered area of the public domain and

⁵⁶ HRS to Herring, Michilimackinac, Nov. 3, 1835, HRSP/DLC/SHSW 13: 2286.

⁵⁷ HRS to Harris, Michilimackinac, Sept. 30, 1837, NAM1R37 324-327.

enter it at the minimum price between the time of proclamation and the time of sale.” Mining land was excluded, because it was too valuable to be lost by the government on the cheap. Still, those "connected with the mining" industry, according to Jones, "were not settlers in the usual meaning of the term." The provision excluding mineral lands from preemption frustrated some ambitions, and Congress received frequent petitions to remove the exclusion. "Invariably," writes Jones, "Congress rejected those pleas." Jones notes that “practically the whole of that [the Upper] peninsula had been offered for sale by 1854. In addition, most of the settlers in that region were connected with the mining and the timber industries and they were not settlers in the usual meaning of the term.”⁵⁸

When the Wisconsin region was still a part of Michigan Territory in the late 1820s, the federal government leased land to lead miners, expressly prohibiting their settling of the land in permanent, agricultural homesteads.⁵⁹ The distinction between miners and settlers in Michigan surfaced in 1836, even while Schoolcraft was in Washington preparing to treat with the Ottawas and Chippewas. Congress considered a request from the Michigan Legislative Council to grant miners the right to preempt lands in the western part of the territory (now a portion of Iowa). This request did not gain traction, for it would only work against actual settlers. It is noteworthy that the request never refers to the potential preemptionist miner as an actual settler, but instead as an "actual possessor."⁶⁰

⁵⁸ Dallas Lee Jones, "The Survey and Sale of the Public Land in Michigan, 1815-1862," Masters Thesis, Cornell University, 1952, 121-123, Bentley.

⁵⁹ Tatter, "Preferential Treatment of the Actual Settler," 149-150.

⁶⁰ "Application of Michigan for the Survey and Sale of the Public Lands in Michigan, Establishment of Land Offices, and the Extension of the Pre-emption Law," March 1, 1836, in American State Papers: Documents of the Congress of the United States in Relation to the Public Lands Class 8, vol. 8 (Washington, D.C., 1861): 514-515.

That actual settlers were not miners was the assumption of a federal agent who, in 1884, from Minnesota's iron district reported abuses of federal land laws to the General Land Office. "I think I am fully warranted in saying," he wrote, "that less than one-thirtieth of the claims taken in the Duluth United States land district are taken for actual settlement."⁶¹

Although the ceded lands have not seen much mining activity, there is a river known as Miner's River on the Upper Peninsula within the ceded lands, named for a party of miners who camped there in the winter of 1771-1772 and scarred the land in a fruitless search for valuable minerals. These men did not consider themselves, and have not been considered since, settlers. In fact, in the article that reports this mining adventure, the Michigan shore of Lake Superior receives its first actual settler in 1840.⁶²

Settlement differed from the temporary extraction of resources from the land; it implied inhabiting the land, farming it, or otherwise rendering it productive. Mining, profitable though it was, exhausted rather than produced a resource. Preemptionists certainly had to be prevented from depleting such a resource before the government could avail itself of the good price mineral lands might fetch. It is that very sense of depletion that operates against settlement.

For Indians, mining camps bore a resemblance to military garrisons and naval vessels, neither of which would have been considered a settlement. They were instead companies of mostly young men. Indian settlements, Indian villages, were places, if anything, dominated by

This proposal also requests that the preemption law be extended to settlers in the district, and it does so separately. See also Tatter, "Preferential Treatment of the Actual Settler," 150, 200.

⁶¹ Fremont P. Wirth, "The Operation of the Land Laws in the Minnesota Iron District," Mississippi Valley Historical Review 13 (1927), 492.

⁶² Bernard C. Peters, "The Origin and Meaning of Place Names along Pictured Rocks National Lakeshore," Michigan Academician 26 (1994), 41, 53-54.

women, by elders, and by children. Young men, more frequently than these others, would depart for hunting, fishing, and warfare. Mining camps and military garrisons were not places of social, cultural, and familial reproduction.

Timber Lands and Article 13

Although timber, unlike ore, is a renewable resource when carefully managed, timber lands were in the nineteenth century similarly conceived as distinct from settlements. When Henry Rowe Schoolcraft toured the lakes in 1821, he noted that the Muskegon River area, which he generally thought to be "dreary," was covered with "pine and poplar."⁶³ Northern Michigan, much of it unfit for agriculture, nonetheless promised to be good lumber country. On the eve of the treaty council, in fact, Indians were demanding that almost twenty woodcutters operating illegally on their lands in the region of Thunder Bay at least do them the courtesy of paying "for the wood and timber thus taken." They were willing, it seems, to see Americans harvest their timber, but they wanted compensation. This was one of the many demands that led to the cession in 1836.⁶⁴ If lumbering has a bearing on the Treaty, how does it relate to settlement?

Settlement meant farms and villages; it encompassed lumbering towns; it did not mean lumber camps. That much is evident from the record, and it has been the common sense of both Indians and the other residents of Michigan. Schoolcraft alerted his superiors in 1837 that something had to be done to stop citizens from building saw mills and plundering the timber in the ceded lands. In particular, he was concerned about a mill erected on the Manistee River,

⁶³ HRS, Travels through the Northwestern Regions, 397.

⁶⁴ HRS "To the Person in Charge of the Wood Party at thunder Bay. . . " Michilimackinac, Nov. 6, 1835, HRSP\DLC\SHSW container 13: 2288.

within the bounds of a reservation (soon to expire). His main concern was that the lands would lose a valuable resource before they could be sold.⁶⁵

In 1837, the Solicitor of the Treasury contended that actual settlers were farmers who lived on their farms; they were not lumber workers temporarily camping in the vicinity of timber stands. At issue was whether the intruders on the public lands at the Manistee River were to be permitted to continue cutting timber. These lands were about to be surveyed as part of a reservation for the Ottawas. Considering whether such intruders could claim protection under preemption laws passed since 1830, H. D. Gilpin asserted that they could not, because they were not settlers:

Settlers on the public lands, actually inhabiting and cultivating them have been regarded more favorably. This however does not extend to the cases chiefly embraced in your report where there is neither habitation, actual and permanent possession, nor cultivation; but a direct violation of the public property by coming on the land merely to cut and carry away valuable timber.⁶⁶

Schoolcraft made a similar observation when he suggested that the Indians accepted the Senate's modifications largely because of Article 13. This passage has already been quoted, but it bears repeating in this context. The Indians understood, "from the best information then extant, that portions of the large and imperfectly explored territory ceded, were uninviting to agriculturalists, and would be chiefly valuable for lumber and mill privileges, and to these tracts the Indians adverted, as places of temporary residence."⁶⁷ The Indians, in other words, understood that much of the ceded territory had no agricultural potential, but was mainly

⁶⁵ HRS to Harris, Detroit, May 10, 1837, NAM1R37 214.

⁶⁶ H.D. Gilpin to HRS, Washington, July 14, 1837, NAM234R422 713-14.

⁶⁷ HRS to C. A. Harris, Detroit, Feb. 27, 1837 in NAM1R37 168-9, and NAM234R422 fr. 631.

valuable for timber. They did not expect lumbering to interfere with their usufructuary rights.

The establishment of logging camps was not equated with genuine settlement in the minds of the Indians or Americans who signed the treaty; the distinction between them is also clear to scholars working on the topic of Michigan settlement even in the twentieth and twenty-first centuries. Logging could produce settlements, make no mistake. Nor did Indian hunters believe they could hunt in logging camps, endangering the citizens of the government that was now their protector. But the vast surrounding areas were fair game.

In his detailed, recent study of settlement in the Lower Peninsula, Kenneth Lewis examines, in a segment on the role of "processing" in the shaping of settlement, the parts played by grist mills and saw mills. Grist mills, which convert grain into flour, "followed the spread of early settlement across Lower Michigan. The state's first comprehensive statistical account of industries in 1837 revealed a distribution of mills similar to that of the pioneer population. . . ."

In contrast, saw milling had a very different relationship to settlement patterning in Michigan. Although the need for lumber made sawmills integral to antebellum industry in Michigan settlements, their distribution extended well beyond the state's agricultural areas and urban centers. . . . Lumbering was even illegally carried out on government lands not yet sold.

Sawmills nearly always preceded agricultural settlement, and often lay in remote areas or at the periphery of settlement.

By the 1850's, Lewis writes, lumbering had spread

well beyond the bounds of agricultural settlement. Distant lumbering settlements often remained transitory and specialized, and usually failed to attract substantial permanent populations or centralizing activities. Only occasionally did lumber ports, such as Allegan, become markets for surrounding agricultural areas, foci of transportation networks, or seats of regional economic and social institutions. Unlike grist milling, saw milling played a minimal role in shaping settlement patterning in Lower Michigan.⁶⁸

⁶⁸ Kenneth E. Lewis, West to Far Michigan, 265-267.

The lumbering “settlements,” when substantial enough to deserve the label, were often isolated and remote, surrounded by unsettled, even if lumbered, land.

Dallas Jones's thesis addresses the distinction between settlement and lumbering several times. We have seen the following two quotations, above, but they bear repeating here. First, “speculation was concerned mainly with timber and mineral lands which were not in great demand by settlers.”⁶⁹ Second, “practically the whole of that [the Upper] peninsula had been offered for sale by 1854. In addition, most of the settlers in that region were connected with the mining and the timber industries and they were not settlers in the usual meaning of the term.”⁷⁰

Jones's dissertation points to an abuse of the rights of preemption by loggers who staked temporary claims to land under the act, cleared it of timber, than relinquished their claims before they had to actually purchase the lands. Taking an act that was designed to allow settlers the chance to make a go of it, the loggers simply denuded the parcel of a valuable resource and moved on.

One use of the preemption act that appeared to be fairly common in Michigan was to preempt a tract of land with valuable timber, remove the timber during the year's grace period, and then at the end of the year relinquish the claim. At the cost of fifty cents for filing a declaratory statement, a person could acquire a great amount of valuable timber. Despite the legality of the action, it was contrary to the spirit of the act.⁷¹

Such plundering could hardly be considered settlement simply because of the filing of a claim as an actual settler.

A county official from Michilimackinac wrote of the phenomenon and its consequences

⁶⁹ Jones, "Survey and Sale of Public Land in Michigan," 87.

⁷⁰ Jones, "Survey and Sale of Public Land in Michigan", 122.

⁷¹ Jones, "Survey and Sale of Public Land in Michigan", 127.

for Indian affairs in 1844. He noted that, apart from lands held by a missionary in trust for the L'Arbre Croche people, they held their lands only "by the brittle tenure of usufructuary." Meanwhile, "hoards of squatters" were invading northern Lower Michigan and the Upper Peninsula and nearby islands. The letter's writer, Norman MacLeod, does not appear to be referring to resident farmer-preemptionists alone, but also to lumberers:

On the Great Beaver Island a person by the name of Cable has "located" with some score or two of choppers. On the Menominee River of Green Bay in this state, and on the Skewanaba [Escanaba] and White Fish Rivers of Bay du Nocquet [Noc] several mills have been built and others are in process of erection. On the public lands west of Michilimackinac, including the island of St. Helena and the main as far west as the Mille Coquin River, a Township has been set off and is rapidly peopling. On the north Manistique River there is also in contemplation the erection of a saw mill with its usual appliance of a dam, to the inevitable destruction of the now prolific fisheries.

The leprosy of covetousness has so possessed some of these marauders as to have impelled them to acts of unjustifiable violence against the yielding and inoffensive natives. A party of wood-choppers, for instance, enter unhesitatingly the "sugar bush" of a tribe --which as you are aware, not unfrequently constitute one of their chiefest means of subsistence, and in the course of a few days convert it into steam boat wood for their own benefit; leaving the shiftless and remediless Indian to his astonishment and starvation.

MacLeod urged the government to find a way to better protect the Indians' access to legal protection for the lands they used.⁷² It was the general sense, an accurate one given the methods employed at the time, that lumbering was not, like agricultural settlement, productive. It wasted the land; if done on public land illegally, it was the act of marauders, stealing a resource from the public.

Despite these early references, lumbering did not have a heavy impact in Northern Michigan until railroads helped bring the timber to market, which was not until during and after

⁷² W. Norman MacLeod to Robert Stuart, Michilimackinac, Nov. 12, 1844 NAM1R57 172-174.

the Civil War.⁷³ Since railroads were truly in their infancy in 1836 and far removed from Michigan, it is farfetched to believe that Indians in 1836 could have anticipated the great, mechanized, leveling of the Northern Michigan forests that only railroads made possible. But even if their expectations are unimportant, they would not have equated temporary timber operations with settlement. Mill towns, with families and visions of the future, were one thing. Lumber camps were another, more akin to prospectors' camps or military garrisons, largely composed of young men, shifting and impermanent. In this, their views were generally shared by their American counterparts at the treaty table.

A great deal of the ceded territory was pineland, and no one expected it to attract settlement. Kenneth Lewis puts it this way:

To the north of the deciduous forest region of Michigan lay the pine lands that marked the transition to the coniferous forests of the northern Lower Peninsula. Although this area was opened to settlement shortly after its cession to the United States in 1836, it was not rapidly occupied. Immigrants generally avoided the pinelands because of their reputation for having mediocre agricultural soil. Soil quality and an association with swamps and lowlands, coupled with the notion that pinelands were mostly valuable for their timber, caused this land type to rank below prairies, oak openings, and timbered lands.

Perceptions that pinelands were less than satisfactory for agriculture impeded settlement in the north.⁷⁴

Lewis, whose work covers only the Lower Peninsula, points out that the Northwestern Coastal area eventually became known as a region of agricultural potential. "The discovery of a narrow northern microclimate zone distinguished this region further and affected the direction of settlement in the western Lower Peninsula."⁷⁵

⁷³ Jones, "Survey and Sale of Public Land in Michigan," 100.

⁷⁴ Kenneth E. Lewis, West to Far Michigan: Settling the Lower Peninsula, 1815-1860 (East Lansing, 2002) 60-61.

⁷⁵ Lewis, ed., West to Far Michigan, 79.

The occurrence of pinelands also marked the perceived northern boundary of agriculture in Lower Michigan. A line stretching roughly westward from Saginaw Bay to the mouth of the Muskegon River became a barrier that slowed the northward spread of settlement. The discovery of the distinctively warm climate of the Western Shore, however, drew agriculturalists much further northward along a narrow strip of pineland paralleling Lake Michigan.⁷⁶

Settlement, equated here with agriculture, would have been anticipated by Indians in pockets throughout the Northwestern Coastal areas of the Lower Peninsula and also throughout similar "microclimate zones" on the Southern and Eastern Upper Peninsula, for they knew the qualities of those lands, and they cultivated crops upon them. But like the Americans who pondered immigration to the ceded lands, the Indians would also have believed much of the land in Northern Michigan and the Eastern Upper Peninsula to be too poor and harsh for settlement.

⁷⁶ Lewis, West to Far Michigan, 80.

CHAPTER EIGHT:"SETTLEMENT" IN THE ERA OF REMOVAL AND SINCE

Treaties, Legislation, and Public Documents

Thomas Jefferson was an early architect of the policy of voluntary Indian removal to lands west of the Mississippi. His Louisiana Purchase had made trans-Mississippi removal imaginable, and his famous imagination brought removal into the realm of American policy. In 1803 he used the term "settlements" to describe one of the forces that might urge removal: "our settlements will gradually circumscribe and approach the Indians, and they will in time either incorporate with us as citizens of the United States, or remove beyond the Mississippi."⁷⁷ The purchase of lands by speculators would not have the effect Jefferson was envisioning. For Jefferson as for his contemporaries, settlement implied people living on the land.

During the 1830's, when public discussion of Indian removal was at its height and when the Jackson administration deployed soldiers to carry it into effect, the primary humanitarian justification for removal was that the white westerners were dangerous to Indians, to peace, and to order. Policy makers declared white settlement a peril to Indians, and they justified removal on the grounds that white settlement was unstoppable. They ignored the presence of African-American slaves on the Southern Frontier, where removal was most pronounced, where "white settlement" often also meant expanding black slavery. T. Hartley Crawford's "Report of the Commissioner of Indian Affairs" for 1838, the year of the Cherokee Trail of Tears, opined that

⁷⁷ Quoted in Satz, Chippewa Treaty Rights, 6.

The most striking feature of the peculiar relations that the Indians bear to the United States is their removal to the west side of the Mississippi--a change of residence effected under treaties, and with the utmost regard to their comfort that the circumstances of each admitted. The advance of white settlements, and the consuming effect of their approach to the red man's home, had long been observed by the humane with pain, as leading to the speedy extinction of the weaker party.

Removal, Crawford asserted, was the best course. He was pessimistic about the fate of Indians who might attempt to live among the citizens of the states, asking: "What can even the moral and educated Indian promise himself in a white settlement? Equality he does not, and cannot possess, and the influence that is the just possession of his qualities, in the ordinary social relations of life, is denied him." Only removal, Crawford repeated, would allow him to flourish.

This is not the place to engage in a critique of removal's rationalizations, motivations, and consequences. What is important to note here is that, for Crawford, a white settlement meant an inhabited place; he does not use the term to mean lands merely owned by United States citizens, but inhabited by them in a social setting. Schoolcraft concurred with Crawford's views on removal and settlement, and his views were extracted in Crawford's report of that year:

To the Ottawas [sic] of Grand River, this question [of removal] has assumed more of a definite shape, than it has to the other bands. Settlements press upon them at that point. . . . The Chippewas, at least those north of the straits of Mackinac, do not at present feel the inconvenience of intrusion from settlers. The country is not yet surveyed, and it will require some time before it can be brought into market.

It is my opinion that Schoolcraft here distinguished settlement from the sale of federal lands.⁷⁸

The northward movement of two groups of Ottawas to Grand Traverse Bay was precipitated, in part, by their decision to be more remote from "settlements." Schoolcraft wrote of the first group's proposed move in 1839. "As this point is more remote from the approaching

⁷⁸ NASPIA 1: 498, 532; "Annual Report of the condition and prospects of the Tribes within the Michigan Superintendency,... for 1838," NAM234R423 fr. 177, and NAM1R37 547-64.

settlements, and the Indians will probably be undisturbed during the short period of the reserve scheduled by the treaty, I perceive no objections to an acquiescence in their wishes. . . ."⁷⁹ In 1849, Michigan Indian agent William Richmond, contemplating the move of the second group -- the Black River [Macatawa River] or Old Wing band of Ottawas -- northward to Grand Traverse Bay, decided in favor of it, because "it will at all events remove them from the midst of a white settlement, where they are constantly exposed to temptation and vice."⁸⁰

The above examples serve to indicate that the officers of the United States understood the word "settlement" to mean actual habitations, places of residence. Turning to Indian treaties, one finds that the word appears rarely. The preamble to the "Treaty with the New York Indians" (January 15, 1838) uses the term "settlements" to denote the presence of citizens on the land, not land ownership. The treaty reports the consideration of removal because, "the six nations of New York Indians not long after the close of the war of the Revolution, became convinced from the rapid increase of white settlements around" them. "White settlements" describes actual people on the land.⁸¹

In the context of removal, settlement meant the actual presence of American citizens, usually farmers, as residents on the land. The most important moral rationalization for removal was its purported reduction of Indian friction with white settlers. Such friction could not occur with absentee owners of woodlands, meadows and streams.

Two treaties from 1854, designating and protecting Indian reservations from the claims of

⁷⁹ HRS to T. H. Crawford, Michilimackinac, Aug. 13, 1839, NAM1R38 64 also in NAM234R423 frs., 419-420.

⁸⁰ William Richmond to William Medill, Detroit, Nov. 6, 1849, NAM1R40, 233-237.

⁸¹ Kappler, ed., Treaties, 2: 502.

American citizens and nontribal members, mention settlements: “Citizens of the United States or other persons not members of said tribe, shall not be permitted to make locations or settlements in the ceded country, until after the selections hereinbefore provided for have been made. . . .”⁸²

And: “Citizens of the United States, or other persons not members of said united tribe, shall not be permitted to make locations or settlements in the country herein ceded, until after the selections provided for, have been made by said Indians. . . .”⁸³ Distinguishing the making of locations -- the marking and bounding of the lands -- from settlement -- the actual occupancy of the lands (both of which would be required in preemption), these clauses reinforce the general distinction of settlement from marking and bounding alone , and they make it again clear that settlement implies residence.

Common American Usage

On Saturday, October 8, 1836, the speculator John Gordon, en route from Detroit to Grand River, used the term "settlement" in his diary in an ordinary manner. For him, the process of settlement was the process of the actual immigration of people to live and work on good land. Writing of the National Territorial Road from Detroit to the mouth of Grand River, then under construction, he imagined that it,

will be a fine highway when finished, and the canal which is projected from the falls of that River to D[etroit] will bring all that fine country under rapid settlement.... Land here is worth cultivated \$20 & woods \$10. Settlements had penetrated but a few miles from D[etroit] and the belt of wet land described had given a character to the whole interior, which with the ignorant and unfavorable account of the Indian traders prevented emigration from extending westward. No sooner how[ever] was this barrier passed and the excellent quality of the soil beyond it ascertained than a torrent of population poured

⁸² Treaty with the Miami, Washington, 1854, Kappler, ed., Treaties, 645.

⁸³ Treaty with the Kaskaskia, Peoria, etc, Washington, 1854, Kappler, ed., Treaties, 638.

in, which is rapidly covering the whole face of the state.⁸⁴

Gordon exaggerated, and the proposed canal never stretched from Grand Rapids to Detroit, but he did know the difference between speculation and settlement.

Bela Hubbard, a geologist and surveyor for the state, visited Grand Island, Lake Superior, in 1840. In one of his dimly penciled field notebooks, he reports on the man who, in his view, was the

first actual white settler of this lake, in the usual acceptation [sic: expectation] of the word, settler. He is a man of about 40 years old, a resident of State of Illinois, who, with a large family (8 children) has forsaken a thriving farm for this almost desolate and distant corner of our land. He formerly spent a season on the lake, employed in fishing, so that he probably comes with full knowledge of the country. He intends to make permanent stand on Grand I. and it is highly probably partly with the character of a trader. It was on this Isld. that Mr. Levake had a trading post for a no. of years, some 12 yrs. since. Thus the present year, 1840, may justly be considered as giving the first permanent impulse to the settlement and commerce of this vast, northern, inland sea.⁸⁵

For Hubbard, the traders who went before this unnamed farmer and family man were not settlers; permanence, family, and farming made the man a settler. Bernard C. Peters, a geographer at Northern Michigan University, agrees that the "first permanent American settler" did not arrive on Michigan's Lake Superior shoreline until 1840.⁸⁶

In 1843, the Rev. Peter Dougherty, missionary to the Grand Traverse Bay Ottawas and Chippewas and an opponent of removal at this time, argued that the best thing for the Indians in his neighborhood would be a permanent reservation. This would not be much of a loss to the United States citizens, he argued, because the land was poor and unsuited to white settlements,

⁸⁴ Gordon, "A Speculator's Diary," 123-124.

⁸⁵ Bela Hubbard Papers, Box 1, Field notebooks, Notebook 8, entry for July 28, 1840, Bentley.

⁸⁶ Peters, "Origin and Meaning of Place Names," 41.

which he equated with a farming population. At the same time, he pointed to the Ottawas' and Chippewas' continued use of the ceded lands. Indeed, this passage recalls Article 13:

from statements made to me by the gentlemen who surveyed it, as well as the reports of the Indians, there is much waste land; and but little continuous good land to invite a farming population. I do not consider the land as very valuable, and do not think it will be demanded for rapid settlement by the white people. This land, however, while it does not invite our own people, has its advantages for these people. The sugar tree is abundant, from the products of which they can procure many articles of comfort for their families. The swamps are places where they can trap some game, in the winter, and with the peltries, they can procure clothing. The waters produce fish in quantities sufficient for their use if they are industrious, but in quantities too small to become an article of commerce.[emphasis supplied]⁸⁷

The land, already surveyed, was not in a state of settlement, and the Indians' usufructuary rights on the land remained critical to their subsistence.

In 1851, Henry Rowe Schoolcraft, the leading American negotiator at the Treaty of Washington, published his personal memoirs. He uses the term "settlers" conventionally, equating them with farmers: "New settlers are bent on denuding their lands of every tree, and a newly opened farm looks as if a tornado had passed over it."⁸⁸

Later in the nineteenth century and into the early twentieth century, the region's local historians treated settlement as implying farming. Charles Tuttle, a local historian of Grand Rapids, describes settlement as a matter of clearing woods and planting farms:

During the first year the settlement of Bryon progressed very slowly. It required a brave heart and a strong arm to encounter the dangers and hardships consequent upon opening a new and heavily timbered country. But gradually the forests yielded to the pioneer's axe, and beautiful fields and thrifty orchards, comfortable dwellings and well-filled barns have taken its place.⁸⁹

⁸⁷ Peter Dougherty to Robert Stuart, Grand Traverse Bay, Oct 2, 1843, NAM234R425 frs. 518-519.

⁸⁸ Personal Memoirs, 697.

⁸⁹ Tuttle, History of Grand Rapids, 75.

Leo C. Lillie, in Historic Grand Haven and Ottawa County, discounts two leading fur traders as the first white settlers of Grand Haven:

Rix Robinson had been and was in no sense a “white settler.” He was a “fur trader” and had never intended to be a “settler.” The transient employees of Rix Robinson and Louis Campau were not “settlers.” The sole purpose of their fur posts at the mouth of Grand River was to exploit the fur trade.⁹⁰

For Lillie, settlers were farmers and villagers, not traders with Indians, even if those traders lived permanently with families upon the land. This corresponds oddly with the Indians’ view, for these traders were viewed as guests of Indian settlements. For Lillie, too, transience (the condition of fur traders) was contrary to settlement, characterized instead by permanence.

Like Lillie, Hubbard, and Peters, Indians would have excluded the many soldiers, missionaries, traders, and other American citizens, leaving the term “settler” to define only those U.S. citizens who dwell permanently in farms and communities on the land.

Indian Treaties Stipulating for Retained Usufructuary Rights

It has earlier been stated that the wording of the thirteenth article of the Treaty of Washington with the Ottawas and Chippewas, 1836, is sui generis in United States treaties with Indians. No treaty before, and no treaty since, provided precisely the same limit upon the Indians’ retained rights to the land. Most treaties more narrowly stated what those rights would be. An examination of the treaties that had been made with other peoples before 1836 throws into relief the meaning of Article 13. Once again, the article reads: “The Indians stipulate for the right of hunting on the lands ceded, with the other usual privileges of occupancy, until the land is

⁹⁰ Lillie, Historic Grand Haven (Grand Haven, Michigan, 1931), 133.

required for settlement.”⁹¹

Ottawas and Chippewas had been party to the first ratified federal treaty to stipulate rights in usufruct, the Treaty with the Wyandots, etc., 1795, most commonly known as the Treaty of Greenville. In this treaty, which ended the great Indian wars of the confederation and early constitutional periods of American history, twelve Indian nations surrendered vast lands (portions of what are now Michigan, Indiana, and Ohio) to the United States. Yet the Indians retained the “liberty to hunt within the territory and lands which they have now ceded to the United States, without hindrance or molestation, so long as they demean themselves peaceably, and offer no injury to the people of the United States.”⁹²

The usufructuary right was temporally unlimited; behavior, not time, might end it. A treaty with the Cherokees in 1798 also imposed no temporal limitation at all upon that right.⁹³ The looseness and absence of temporal limitations in these two treaties is striking.

Beginning in 1803, a series of treaties more tightly constricted the usufructuary rights. This tighter language corresponds exactly with the limitation sought by Schoolcraft in late 1835 and is similar to the limitation erroneously found (as discussed in Chapter Seven) by Attorney General Benjamin Butler in 1837. It has to be wondered, if Butler’s view has any merit, why the wording of Article 13 does not match the usufructuary stipulations of this series of treaties. It is my opinion, however, that his view has no merit.

The treaty with the Kaskaskia, 1803, is the first of these treaties. It provides in its sixth

⁹¹ Kappler, ed., Treaties, 2: 454.

⁹² Kappler, ed., Treaties, 2:42.

⁹³ Kappler, ed., Treaties, 2: 53.

article that, "As long as the lands which have been ceded by this treaty shall continue to be the property of the United States, the said tribe shall have the privilege of living and hunting upon them in the same manner that they have hitherto done."⁹⁴ The treaty provided that the Indians could use the public lands until they were conveyed out of federal hands. Very similar is the wording in the seventh article of the treaty with the Sauk and Foxes (1804), the fifth article of the treaty with the Piankashaws (1805), the fifth article of the treaty with the Ottawas, Chippewas, and Potawatomis (1821, which erroneously states that the same limitation is embodied in the Treaty of Greenville), the seventh article of the treaty with the Potawatomis (1826), and the seventh article of the treaty with the Chippewas, Ottawas, and Potawatomis of the Illinois, Wisconsin, and Minnesota regions (1829).⁹⁵ Also similar is the wording in six treaties with various Great-Lakes-area Indians. The limitation in these six treaties is the same as that in the five treaties just discussed: the Indians retain the usufructuary rights as long as the land is the "property of the United States," that is, as long as the land remained federal and public.⁹⁶

An 1831 treaty with the Menominees, of the Green Bay agency then associated with the Michigan Territory, has particularly interesting language, for our purposes. The sixth and final article contains this provision: "The Menominee tribe of Indians shall be at liberty to hunt and fish on the lands they have now ceded to the United States, on the east side of the Fox river and Green Bay, with the same privileges they at present enjoy, until it be surveyed and offered for

⁹⁴ Kappler, ed., Treaties, 2: 68.

⁹⁵ Kappler, ed., Treaties, 2: 76, 89, 200, 275, 297-99.

⁹⁶ Kappler, ed., Treaties, 2: 93-94, 100, 132, 149, 186, 354.

sale by the President; they conducting themselves peaceably and orderly.”⁹⁷ Here, hunting and fishing rights, along with the “privileges they at present enjoy,” last until the federal government surveys and offers the land for sale.

Over a dozen treaties, all preceding the Treaty of Washington of 1836, several of which Ottawas and Chippewas had been party to and others of which concerned neighboring and related peoples, limited the Indians' usufructuary rights to as long as the lands remained in the public domain or until it is offered for sale. It has to be wondered why the wording of Article 13 is so different, both in its preservation of the rights in usufruct until the land is required for settlement and (from twelve of them at least) in its broadening of the rights well beyond hunting, fishing, and sugaring to include the "usual privileges of occupancy." It has to be wondered why the wording of Article 13 in the Treaty of 1836 is, in some ways, so similar to that of the Menominee Treaty of 1831 in focusing on common privileges, and so different in the manner in which it specifies the point at which usufructuary rights might end. It is my opinion that Schoolcraft realized in 1836 that he could only secure the enormous cession if the Indians understood that they would retain, indefinitely, broad usufructuary rights. Such rights made sense, since it then seemed that the lands in much of the Lower and most of the Upper Peninsulas of Michigan would not come under pressure from white settlers for a long period of time, if ever.

A treaty with the Chippewas of 1820 -- a branch of the Chippewas who would also be party to the Treaty of 1836 -- reveals the concern for durable usufructuary rights. Article 3 of the

⁹⁷ Kappler, ed., *Treaties*, 2: 319-323, esp. 322. See also 377-382. The Menominee Treaty of 1831, made at Washington, involved Sec. of War John Eaton and Green Bay agent Samuel Sambaugh. This treaty was renegotiated after Senate revisions, and the result was a treaty accepting and amending the Senate revisions, made at Green Bay, 1832. Governor of Michigan Territory, George Porter, was present. Schoolcraft had to be familiar with these treaties.

Treaty with the Chippewas (1820) states, in part, that "The United States will secure to the Indians a perpetual right of fishing at the falls of the St. Mary's. . . ."98 This article, unlike the others, identifies a particular spot, an especially rich fishery, and protects it in perpetuity.

There is another class of treaties made prior to the Treaty of Washington of 1836 that contains stipulations for rights in usufruct. These treaties concern mutual hunting rights of Indian nations in a designated common hunting land. The issue of intertribal peace was a critical one as the United States advanced its policy of Indian removal. If Eastern peoples were to be moved West of the Mississippi, they would have to be persuaded that peaceful hunting grounds awaited them. Hence the American effort to bring peace to the West.

The 1833 Treaty with the Pawnees, for example, permitted Pawnees to hunt in a designated zone along with other friendly peoples, but added the stipulation that they could do so only "during the pleasure of the President."

The land ceded and relinquished hereby, so far as the same is not and shall not be assigned to any tribe or tribes, shall remain a common hunting ground, during the pleasure of the President, for the Pawnees and other friendly Indians, who shall be permitted by the President to hunt upon the same.⁹⁹

Limiting the tenure of the rights in usufruct to the "pleasure of the President," or "until required to remove by the President," or "until otherwise ordered by the President" appears in three treaties made *after* 1836 with various bands of Chippewas (not those involved in the Treaty of Washington). These are the treaties with the Chippewas West of Lake Michigan, and they were made in 1837, 1842, and 1847.¹⁰⁰

⁹⁸ Kappler, ed., Treaties, 2: 187-188.

⁹⁹ Kappler, ed., Treaties, 2: 416; see also the Quapaw Treaty (1818), idem 2:160.

¹⁰⁰ Kappler, ed., Treaties, 2: 493, 543, 569.

Returning to the subject of treaties providing for mutual rights among nations to hunt the same lands, two more deserve mention. First, the treaty that is the subject of this report. The eighth article of the finally ratified Treaty of Washington, 1836, raises the possibility of removal to a western region. Those Chippewas and Ottawas who envisioned removal, and there were not many, hoped it would be to a northern, wooded, and watered region, not to a southern, semi-arid, prairie region. They hoped to join their Minnesota Chippewa relatives. But endemic warfare with the Dakota Sioux discouraged migration to the western edge of the woodlands. The United States, in Article 13 of a Chippewa Treaty with the Sioux (1825), unsuccessfully tried to lay the groundwork for a Chippewa-Sioux peace. Hunting rights were critical:

It is understood by all the tribes, parties hereto, that no tribe shall hunt within the acknowledged limits of any other without their assent, but it being the sole object of this arrangement to perpetuate a peace among them, and amicable relations being now restored, the Chiefs of all the tribes have expressed a determination, cheerfully to allow a reciprocal right of hunting on the lands of one another, permission being first asked and obtained, as before provided for.¹⁰¹

Henry Schoolcraft had been involved in these deliberations; he understood the plausibility of shared hunting grounds to Indians, a concept articulated clearly in this 1825 treaty. Ottawas and Chippewas, after all, shared hunting and fishing privileges with one another; they could well share them with a more powerful protector and ally.

Genuine removal treaties, that is, treaties in which Indian nations agreed to remove to lands prepared for them in the west, do not usually contain any language providing for continued usufructuary rights. Such rights in regions of imminent settlement contradict the supposed humanitarian rationalization for removal, which was to separate Indians from potential trouble

¹⁰¹ Kappler, ed., Treaties, 2: 253-54.

with citizens and states until the Indians were prepared for civilization. The classic removal treaty is the Treaty with the Cherokee, 1835. No provisions for rights in usufruct appear in that document.¹⁰² The Treaty of Washington is unlike forced removal treaties, in part, because it contains a strong provision for retained rights to the ceded lands. It does not separate whites and Indians, but it allows Indians to continue to use the ceded lands even after ceding them to the United States.

Given the alternatives provided in these treaties, and given common usage, political usage, and scholarly usage, it is difficult to see how the phrase "until the land is required for settlement" could have been understood to mean anything other than what it appears to mean on its face when Indians and American officers agreed upon it in 1836. Indians retained the right to live upon and use the land until it was needed by American settlers who would reside upon it in farmsteads or towns.

¹⁰² Kappler, ed., Treaties, 2: 439ff.

CHAPTER NINE: A REMOVAL TREATY?

Removal: An Aspect of the Treaty of Washington, 1836

Article 8 of the Treaty of Washington concerns "removal," the federal policy of moving Eastern Woodland Indians to the region west of the Mississippi and guaranteeing their safety in a new homeland while educating them for citizenship, the central Indian policy of Andrew Jackson's presidency. Although every president since Jefferson had to some degree pushed removal, Jackson's administration pushed with the greatest determination. As policy, removal was meant to be voluntary; under Jackson and his successor, Martin Van Buren, a great many Indians were forcibly removed, even if under a thin veneer of Indian agreement.

Historian Ronald N. Satz has aptly summarized the benefits that the removal policy was supposed to confer upon its Indian targets:

1. fixed and permanent boundaries outside of the jurisdiction of American states or territories;
2. isolation from corrupt white elements such as gamblers, prostitutes, whiskey vendors, and the like;
3. self government unfettered by state or territorial laws; and
4. opportunities for acquiring the essentials of "civilized" society--Christianity, private property, and knowledge of agriculture and the mechanical arts.¹⁰³

Schoolcraft, a loyal Jacksonian Democrat, advocated removal in 1836. Passionate about the good it would bring Indians, he included a proposal for removal in the treaty's Article 8. The Senate greatly modified that article, but without altering its conditional nature; indeed, the Senate only diminished the likelihood of removal. Both in the original and the amended versions, the

¹⁰³ Ronald Satz, "Indian Policy in the Jacksonian Era: The Old Northwest as a Test Case," Michigan History 60 (1976), 73.

treaty was not a compulsory removal treaty; it was a treaty that, among many other articles and agreements (some of which discouraged removal), only proposed removal and set certain conditions for it. There is no doubt that Indians understood this to be the case, even if, living in the Jacksonian era, they continued reasonably to apprehend American intentions and to fear their forcible removal from their homeland.

The original treaty's eighth article raises the possibility of removal to the West. Other portions deal with compensating Indians and mission establishments for the improvements they would lose in the ceded lands (losses that could, it should be noted, be expected with or without westward removal). The rest of the article reads:

It is agreed, that as soon as the said Indians desire it, a deputation shall be sent to the west of the Mississippi, and to the country between Lake Superior and the Mississippi, and a suitable location shall be provided for them, among the Chippewas, if they desire it, and it can be purchased upon reasonable terms, and if not, then in some portion of the country west of the Mississippi, which is at the disposal of the United States. . . . When the Indians wish it, the United States will remove them, at their expense, provide them a year's subsistence in the country to which they go, and furnish the same articles, and equipments to each person, as are stipulated to be given to the Pottawatomies in the final treaty of cession concluded at Chicago.¹⁰⁴

The Senate made removal even less attractive. Its changes appear in italics, below:

It is agreed, that as soon as the said Indians desire it, a deputation shall be sent *to the southwest of the Missouri River, there to select a suitable place for the final settlement of said Indians, which country, so selected and of reasonable extent, the United States will forever guaranty and secure to said Indians.* . . . When the Indians wish it, the United States will remove them, at their expense, provide them a year's subsistence in the country to which they go, and furnish the same articles and equipments to each person as are stipulated to be given to the Pottawatomies in the final treaty of cession concluded at Chicago."¹⁰⁵

¹⁰⁴ NASPIA 4: 418.

¹⁰⁵ Kappler, ed., *Treaties*, 2: 453.

Neither version mandates removal. To be sure, the words "as soon as the said Indians desire it," and "When the Indians wish it," which appear in both versions, suggest that the Indians may, at some undetermined point in the future, desire and wish removal. At the same time, the phrases make clear that the day has not yet arrived, and they do nothing to indicate how far off that day might be. They give the whole article an indefinite, hypothetical, quality. On March 30, 1836, treaty commissioner Henry Schoolcraft summed up the original treaty in a manner that underscores the contingent character of the article: "removal to the west of the Mississippi, or the region north of St. Anthony's falls, is contemplated, and under the present impulse of emigration, the incipient steps for this measure, may be anticipated within a few years...."¹⁰⁶ Removal remained contingent upon the Indians' future wish and desire. The Senate's changes to the original article (eliminating the region north of St. Anthony's Falls) only diminished the probability of any future Indian wish to remove, and they likely blunted any of Schoolcraft's expectations that removal could actually be achieved. He had hoped to convince Ottawas and, more likely, Chippewas, to join the Chippewas west of Lake Michigan in what is now the state of Minnesota. There they would maintain their lifeways, sugaring, hunting, and fishing in the numerous inland lakes and streams. The central plains, by contrast, was an unfamiliar world.

The articles of assent reveal the Chippewas' continuing hopes that, first (contrary to the Senate's alteration of Article 8), the proposed western location would be in Minnesota, and second (far more importantly), that they and Schoolcraft both considered removal to be a decision to be made in the future, not one already made. The articles of agreement state: "such of the said Ottawas (sic) of Grand River, or any other portion of the two tribes, as are now willing,

¹⁰⁶ HRS to Lewis Cass, Washington, March 30, 1836, NAT94R3 fr. 362.

or may hereafter express the desire to migrate to the territory prescribed, shall proceed to avail themselves of the provision of the said eighth article. . . ."107

Schoolcraft forwarded to Cass a memorial to the President from the "principal men of the two tribes" (Grand River people were not represented), urging again a northern location. The leaders said "it is not probable that white men will ever desire to live higher north on the waters of the Mississippi than good limestone lands extend. . . ," where the region was "unfavorable to dense and compact white settlements," but "would afford the requisite advantages for scattered Indian villages and settlements. . . ."108

This petition is puzzling. On the one hand, it seeks to restore a portion of the original Article 8. On the other hand, it suggests that northern locations, not unlike those in much of the region the Indians were ceding, were unlikely to attract "white settlements." Schoolcraft had just persuaded the Indian leaders that the Senate's drastic modification of the tenure of the new reservations from permanent to five years meant little because of the "practical operation of the provision contained in the 13th article of the treaty, which secures to them indefinitely, the right of hunting on the lands ceded, with the other usual privileges (sic) of occupancy, until the land is required for settlement." He had persuaded Indians that they could continue to inhabit and exploit the ceded lands, many similar in nature to those in Minnesota, for a very long time. Why, then, did they request the U. S. find them a northwestern place?

It is my opinion that Schoolcraft had a strong hand in this memorial. His hopes for removal rested upon its eventual success, and it constituted an oblique rebuke to the Senate. He

¹⁰⁷ HRSP/DLC/SHSW, Container 42, Pt. 1, frs. 15165-68.

¹⁰⁸ HRS to Cass, Michilimackinac, July 18, 1836, and Memorial, July 14, 1836, in NAT494R3 369, 372-373.

sent it to Cass in such a manner that it, as he had once put it in another context, "should come from them as soliciting a boon."¹⁰⁹ Assuming that the petitioning Indians knew what they were signing, we can surmise, too, that they were being cautious. A permanent home in Minnesota would be guaranteed and it would resemble, in many respects, their own country. Some of them had hunted there; others had probably seen the region while supporting other Chippewas in wars against the Sioux. Life there would be lived among related and allied bands. And, since there was little likelihood that the Michigan Indians would ever be forced to the West, given the dim prospects of white settlement in northern Michigan, the Indians's agreeing to consider removal was a way of maintaining favorable relations with the U.S. It is worth noting again, in this context, that Schoolcraft found the delegates "strenuously opposed" to the Senate's rider limiting the reservations to a five-year tenure. They had accepted that devastating amendment only with the understanding that Article 13 operated indefinitely.¹¹⁰

In Washington, Commissioner Harris favored the rapid acquisition of northwestern lands for the Michigan Indians. He thought it uncertain that a suitable tract of land could be secured for them southwest of the Missouri, as the revised treaty demanded: "They are accustomed to subsist upon fish and wild rice, taken and gathered from the numerous lakes and streams in their present country, and of this they would be deprived in the region South of the Missouri. The scarcity of timber and game there is also a serious objection."¹¹¹ But the movement made no headway in the bustle of the federal capital, and the idea was shelved. By 1838, the United States

¹⁰⁹ HRS to Major Cobbs at Fort Brady, Michilimackinac, Sept. 23, 1835, NAM1R69 121.

¹¹⁰ HRS to Cass, Michilimackinac, July 18, 1836, NAT494R3 369, NAM1R37 3-5.

¹¹¹ C.A. Harris to Benjamin Butler, Jan. 9, 1837, NAM21R20 409.

was gathering an exploratory party to visit the central plains.

Henry Schoolcraft Versus His Superiors on Article Eight

For two Commissioners of Indian Affairs, C. A. Harris and T. Hartley Crawford, both proponents of removal, the Treaty of 1836 was a full-blown compulsory removal treaty in which the tribes exchanged their eastern lands for federal lands west of the Missouri. As much as he also favored removal, Schoolcraft disagreed, understanding that it only set conditions for a future removal, should the Ottawas and Chippewas come to desire it. In his 1837 annual report, Harris promised that, once his department's arrangements with Indians were

carried into effect, there will remain on the east side of the Mississippi and south of the Chippewas of Lake Superior, only the Wyandots in Ohio, the Six Nations in New York, the Menominees, Munsees, and Stockbridges in Wisconsin, and the Miamies in Indiana. And the policy of exchanging lands west of that river for those held by tribes east of it, which was first authorized in 1804, though not vigorously commenced till 1830, will have been brought to a point of successful accomplishment, that could not have been anticipated at its inception.¹¹²

Harris saw the Ottawas and Chippewas as bound by the Treaty of 1836 to remove west. He aimed, in any case, to apply pressure. He urged the withholding of promised treaty money pending Indian removal:

it would seem to be sound policy to avoid, as far as possible, with due regard to the present advantage and comfort of the Indians, the expenditure of the funds provided for the agricultural and other purposes until they remove to their new homes. Thus, I should say, that the expenditures for houses, for clearing land, and other like objects should be very limited. . . . keeping in view the suggestion herein made as to the temporary nature of their present residences.¹¹³

¹¹² Report of the Commissioner of Indian Affairs, Dec. 1, 1837, SD 1, 25: 2 (314) in NASPIA 1: 465-466. The "Chippewas of Lake Superior" were those just west of the ceded territory.

¹¹³ C. A. Harris to HRS, Jan. 13, 1837, NAM21R20 440. Historian Ronald Satz points out that Harris "urged government funding to be kept to a minimum until they [the Indians] settled at a permanent location." Satz, "Indian Policy in the Jacksonian Era," 91.

Schoolcraft had become by this time as much an advocate of Indian removal as was his superior. His biographer states that he had "endorsed removal as early as 1829," and that by the late 1830's he had become "increasingly anxious to arrange for the removal of the northern Indians as well."¹¹⁴ Schoolcraft's Personal Memoirs, his published version of his journal, have an entry for the last day of 1838, the year of the disastrous Cherokee Trail of Tears, supporting removal as the only hope for Indians under the pressure of advancing American citizens.

The year 1838 has been a marked one in our Indian relations. The southern Indians have experienced an extensive breaking up, in their social institutions, and been thrown, by the process of emigration, west of the Mississippi, and the policy of the government on this head, which was first shadowed out in 1825, and finally sanctioned by the act of land exchanges, 1830, may be deemed as having been practically settled. The Cherokees, who required the movements of an army to induce them to carry out the principles of the treaty of New Echota, have made their first geographical movement since the discovery of the continent, a period of 331 years.¹¹⁵ How much longer they have dwelt in the country abandoned we know not. They clung to it with almost a death grasp. It is a lovely region, and replete with a thousand advantages and a thousand reminiscences. Nothing but the drum of the Anglo-Saxon race could have given them an effectual warning to go. Gen. Scott, in his well advised admonitory proclamation, well said, that the voice under which both he and they acted is imperative, and that by heeding it, it is hoped that "they will spare him the horror of witnessing the destruction of the Cherokees." The great Muskogee family have been broken up, by the act of Georgia, before. The Seminoles, who belong to that family, broke out themselves in a foolish hostility very late in 1835, and have been kept up in a perfectly senseless warfare, in the shelter of hummocks and quagmires since. The Choctaws and Chickasaws, with a wise forecast, had foreseen their position, and the utter impossibility of setting up independent governments in the boundaries of the States. It is now evident to all, that the salvation of these interesting relics of Oriental races lies in colonization west. Their teachers, the last to see the truth, have fully assented to it. Public sentiment has settled on that ground; sound policy dictates it; and the most enlarged philanthropy for the Indian race perceives its best hopes in the measure.¹¹⁶

As jarring as it is to our ears, Schoolcraft could easily reduce his wife's relatives to

¹¹⁴ Bremer, Indian Agent, Wilderness Scholar, 190.

¹¹⁵ Did he mean 341 years, Cabot's voyage of 1497, the "discovery" for England?

¹¹⁶ Schoolcraft, Personal Memoirs, 628-629.

“interesting relics of Oriental races,” to objects of the past best suited for study, because he lived in an intellectual world in which racial Anglo-Saxonism (“the drum of the Anglo-Saxon race”) was a powerful current. With intellectual aspirations of his own, Schoolcraft discouraged a movement to educate Indians in Michigan. He criticized efforts in Southwest Michigan and at Sault Ste. Marie to provide schools and missions to Indians. Referring to the Baptist Missionary Board at Boston, sponsoring some of these endeavors, he thought their intentions good, and, as a matter of faith, their accomplishments inestimable: "An Indian who is converted and dies in the faith, is, essentially, 'a brand plucked out of the fire,' and no man can undertake to estimate the moral value of the act." He approved of the teaching of reading and writing to Indian children. But he doubted the worldly good of schooling in the East. He thought the federal government could do a better job of "civilizing" the Indians out West, where it could act without constraint of local law and local corruption: “the want of general efficient efforts, unobstructed by local laws and deleterious influences, cannot but, in a few years, convince the Boards that the colonization of the tribes West is the best, if not the only hope of prosperity to the race as a race.”¹¹⁷

For all his advocacy of removal's theoretical benefits, he also knew that the treaty did not bind the Ottawas and Chippewas to remove to the West. He urged removal, but the Senate revisions left him pessimistic about its prospects. In a discussion with Harris over whether the government should merely rent (for the short-term savings) Indian office buildings on Mackinac or purchase them (for the long-term benefit), Schoolcraft argued that purchasing made the most sense. He acknowledged here that there was "little probability" that the Indians would leave Michigan at the end of the five-year reservation tenure.

¹¹⁷ HRS, Personal Memoirs, 582, emphasis in original.

Were it certain that Indians would leave the country, on the termination of the five years reservations, it would be advisable perhaps, to continue the renting of these or other buildings, to fulfill this provision of the treaty. But as there is at this time but little probability of such a result, it would appear better policy to expend the appropriation in putting up a building on public land, than to apply it for rents.¹¹⁸

In a silent acknowledgment of both the Indians' determination to remain and of his agency's role in that decision, Schoolcraft's report for 1838 noted that the government carpenters had been "erecting dwellings for the Indians and for those labouring among them. . . ."¹¹⁹

By 1840, Schoolcraft exhibited more hope than he had shown in years that Indians might remain in the East and assimilate into American society. What impressed him was the example of the Seneca Indians, members of the Six Nations of New York and Pennsylvania.

It was supposed that small Indian communities, living on limited reservations, surrounded entirely on all sides by white settlements, could not sustain themselves, but must be inevitably swept away. But the result, in the case of the Senecas and other remnants of the ancient Iroquois, does not sustain this theory. It is true that numbers have yielded to dissipation, idleness, and vice, and thus perished; but the very pressure upon the mass of the tribes, and the danger of their speedy destruction without resorting to agriculture, appear to have brought out latent powers in the race which were not believed to exist. They have taken manfully hold of the plough, cultivated crops of wheat and corn, and raised horses, cattle, sheep and hogs. They have adopted the style of houses, fences, implements, carriages, dress, and, to some extent, the language, manners, and modes of transacting business, of their neighbors. And, perceiving their ability to sustain themselves by cultivation and the arts, now turn round and solicit the protecting arms of the State and General Government, to permit them to develop their industrial capacities. Too late, almost, they have been convinced of the erroneous policy of their ancestors, &c. Every right-thinking man must approve this.¹²⁰

Such hopeful sentiments may have possessed Schoolcraft as he engaged in an argument in 1841 over the meaning of Article 8. That some of his Indian relations would stand to gain

¹¹⁸ HRS to Harris, Michilimackinac, July 25, 1837, NAM1R37 264.

¹¹⁹ HRS, "Annual Report. . .," Sept. 30, 1838, NAM234R423 fr. 152-157.

¹²⁰ HRS, Personal Memoirs, 680.

from a successful outcome may also have spirited his arguments. Whatever his motives, he insisted that the treaty provided only for voluntary, not compulsory, removal. In an 1841 letter to Commissioner Crawford, Schoolcraft remarked that the United States must soon fully reimburse the Ottawa and Chippewa Indians for their improvements, as the article stipulates:

Such improvements as add value to the land, hereby ceded, shall be appraised, and the amount paid to the proper Indian. But such payment shall, in no case, be assigned to, or paid to, a white man.¹²¹

Although this passage sits in the same article that discusses removal, the article does not link the payments directly to removal. Commissioner Harris had interpreted the article to allow the United States to pay the Ottawas and Chippewas for their public improvements only, while withholding payments for private improvements, pending removal, the payments to be issued to individuals after they had moved to the plains. Schoolcraft noted that the policy had been taken in the 1830's "by the consideration, that the delay in the payment of the latter [that is, the private improvements], to the period of their removal, would prove an additional reason for their coming into an actual engagement to remove." Inducing the Indians to remove may have been the commissioners' intent, but it had failed, as Schoolcraft now admitted: "I cannot see that any favourable effect has resulted with respect to the question of their removal." Schoolcraft was, moreover, unhappy that the Indians blamed him personally for the treaty violation, adding that the payments "ought to have been paid" within a year of the improvements' assessment.¹²²

On roughly the same principle, Schoolcraft urged Crawford to award the Indians, soon -- and without removal as a prerequisite -- the \$200,000, plus interest, provided for in the Senate's

¹²¹ Kappler, ed., Treaties, 2: 453.

¹²² HRS to T. Hartley Crawford, March 30, 1841, NAM234R424 frs. 788-790.

modification to Article 3. He wrote

The sum awarded by the Senate for the Ottawa and Chippewa reserves, under the treaty of March 28 1836, falls due on the 27th May proxims; and should, in my judgement, be provided for. The Indians expect it. They have not entered into any treaty obligations to remove west, but, at all times, when the subject has been brought up, strenuously opposed it. They are understood to be prepared to give up their reserves (upon which they are but partially located) the same as other portions of the cession, whenever they are required for settlement, agreeable to the usufructuary right contained in the 13th article.¹²³

Crawford, however, thought it better to wait until after removal before paying the large sum. Crawford's annual reports of 1838 and 1839 list Ottawas and Chippewas as Indians "with whom treaty stipulations have been made for their removal," and "to be removed in pursuance of treaty stipulations."¹²⁴ His next report more accurately quotes the treaty, including the phrase that removal would occur "when the Indians wish it," before going on to argue that removal is their only alternative.¹²⁵ Once the reserves expired, he believed that Indians remained in Michigan only on federal sufferance.

Writing to Schoolcraft's successor, Robert Stuart, Crawford quoted the Senate's amendment to the fourth article providing for \$200,000 "to be paid when the reservations are surrendered." In his own words, Crawford then stated that the Ottawas and Chippewas would not receive the principal (the \$200,000) "until after their removal." Even though the terms of the reservations had expired, Crawford would not pay the principal while the Indians remained in the

¹²³ Emphasis mine. HRS to T. Hartley Crawford, March 30, 1841, NAM234R424 frs. 788-790.

¹²⁴ T. Hartley Crawford, "Report of the Commissioner of Indian Affairs," Nov. 1, 1838, SD 1, 25: 3 (338), and T. Hartley Crawford, "Report of the Commissioner of Indian Affairs," Nov. 25, 1839, SD 1, 26: 1 (354) in NASPIA 1: 515, 599.

¹²⁵ T. Hartley Crawford, "Report of the Commissioner of Indian Affairs," Nov. 28, 1840, SD 1, 26: 2 (375) in NASPIA 1: 651-652.

state. He reiterated this position in a letter to the Secretary of War.¹²⁶

Crawford emphasized that the government intended, not a forced removal at gunpoint, but an induced removal through the use of treaty funds. That the money in question was owed to the Indians did not trouble him. Robert Stuart suggested to him in 1842 that another source of promised treaty money, the remaining portion of the debt fund, might be "made useful in obtaining influence when it may become necessary to have the Indians removed."¹²⁷ Crawford, meanwhile, explored the possibility of removal to Minnesota. In 1841 he reiterated that

The Ottowas and Chippewas have ceased to live, by right, in Michigan: the term of five years, during which they were entitled to occupy the reservations made by the treaty of 1836, "and no longer, unless the United States grant them permission to remain on said lands for a longer period," expired on the 27th of May last.

This is clearly not the Indian understanding, nor was it Schoolcraft's. Convincing the Indians to accept the Senate's amendments, Schoolcraft had argued that Article 13 allowed the Indians the indefinite use of the lands until they were required for settlement. Ottawas and Chippewas lived, by right, in Michigan. Crawford continued:

By the 8th article of the treaty, they were to remove to the west of the Mississippi, or the country between the Mississippi and Lake Superior, among the Chippewas; and, "when the Indians wish it, the United States will remove them at their expense, provide them a years' subsistence," &c.

This sentence contains another factual error. Crawford reported the content of the original treaty before it was revised by the Senate. The actual, final treaty mooted the possibility of removal southwest of the Missouri; it stripped away all reference to the northern lands.

¹²⁶ T. Hartley Crawford to Robert Stuart, Washington, July 19, 1841, NAM1R51 43-49; T. Hartley Crawford to John Bell, Washington, July 27, 1841, NAM234R425 fr. 230-231.

¹²⁷ Robert Stuart to T. Hartley Crawford, Nov. 26, 1842, NAM234R425 fr. 213

Crawford stumbled on:

It will be seen there is no period fixed for their emigration, and that arises out of the alteration made by the Senate's amendments to the frame of the original treaty; the time now rests in the discretion of the United States, to be exercised judiciously and in a spirit of kindness to these poor people, I trust, and with reasonable notice to them when a determination is made.

Wrong again: the Senate did not delete from the treaty a "period fixed for their emigration." No date was ever specified, because the Indians were not bound to remove.

Crawford's conclusion is speculative; his suggestion that Indians remained in Michigan only through federal indulgence is imaginative. "The project of a northern Indian territory, if it can be consummated, will afford them a suitable future home, in point of climate and other respects, and, in my judgement, the indulgence of remaining where they are should be extended to them until this new feature in our Indian policy shall be either fully adopted or rejected."¹²⁸

Removal Treaties

Article 13 itself contradicts any interpretation of the Treaty of 1836 as mandating Ottawa and Chippewa removal. Binding removal treaties do not provide for long-term, continued, usufructuary rights. If they allow Indians to remain on the ceded lands, they always stipulate a decisive end to that occupation. The classic, binding removal treaty is the Cherokee Treaty of 1835, the Treaty of New Echota. The controversial and indeed scandalous manner in which the United States (and the state of Georgia) secured this treaty is not the subject of discussion here. Rather, the noteworthy fact is that the treaty contained no stipulation for hunting, fishing, or other usufructuary rights on the ceded lands.¹²⁹ The reason for the omission is quite simple: since the

¹²⁸ T. Hartley Crawford, "Report of the Commissioner of Indian Affairs, Nov. 25, 1841, in NASPIA 1: 694.

¹²⁹ Kappler, ed., *Treaties*, 2: 439ff.

treaty required the Cherokee Nation to remove west within two years of ratification, there would be no Indians to exercise any such rights once they had gone west. Retained usufructuary rights would only have encouraged Indians to remain; President Jackson wanted them out.

Other treaties binding Indians to remove to distant lands similarly lack stipulations providing for continued rights in the ceded lands. The United States in 1831, for example, made a treaty with Ottawas residing in the State of Ohio. Some bands agreed to remove west, other bands did not, and the treaty acknowledges the difference. The Ottawas surrendered lands to which the treaty notes no retained usufructuary rights. For the bands remaining in Ohio, the treaty provided for temporary (three year) reservations. The treaty stacked the deck in favor of their future removal, by compensating these bands for their land cessions with lands in the distant west, and with annuities, the latter to be paid only after the bands had emigrated westward. Accordingly, in 1833, another treaty with the Ottawas of Ohio was made; it was a straightforward compulsory removal treaty, and it contains no stipulation for use of the lands.¹³⁰

The Treaty of Chicago, 1833, was a removal treaty in that it provided lands in the West in exchange for those ceded. In this case, the lands ceded comprised the majority of lands held by only one of the several signing nations, the Potawatomis. The treaty had no stipulation providing for usufructuary rights.¹³¹ This treaty was followed up in Indiana by two treaties in which Potawatomi bands agreed to remove west within two years. There is no usufructuary right stipulated in either of these treaties.¹³²

¹³⁰ Kappler, ed., Treaties, 2: 335ff, 392ff.

¹³¹ Kappler, ed., Treaties, 2: 402-403.

¹³² Kappler, ed., Treaties, 2: 458-459.

The treaty that is the subject of this report contains no stipulation withholding annuities until the Indian parties moved west. The annuities, the lump sum payments, the goods and services, were to be provided with or without removal. The only benefits that the Indians would gain by removing that they would not gain by remaining would be a year's support in the West and the cost of transportation. Because the treaty only moots removal, because it does *not* require that federal funds and services be provided only in the West, and because it contains a stipulation providing for very broad usufructuary rights for an indefinite period in the East, it cannot be considered to be a treaty that mandates removal.

Much in the treaty itself spoke against any imminent removal, and the treaty set in motion activities that ran counter to the policy. For example, the treaty's seventh article provided for the building of an Indian dormitory at Mackinac Island--a lodging for visiting Indian delegations--and for the appointment of a "keeper" for that building. It provided for additional blacksmith shops in Michigan locations, for the rebuilding of the dilapidated blacksmith shop at Mackinac, and for the requisite blacksmiths and strikers (assistants). The sixth clause of Article 4 provides for federal payments to the Indians of fish barrels, which, as James McClurken has argued, was contrary to "emigration from the Great Lakes to the western prairies. . . ." ¹³³

The Senate's amendments to the treaty changed the tenure of the reservations from permanent to five years. But the Senate did not change the tenure of the dormitory (ten years); the interpreters (permanent); the farmers, mechanics, and assistants (ten years); or the tenure of the blacksmiths, strikers, gunsmiths, and shops (twenty years). If all these services were maintained beyond the existence of the reservations, surely Indians were also expected to remain

¹³³ McClurken, "We wish to be Civilized," 187.

near the services. Article 13, of course, allowed them to occupy and use lands not "required for settlement," and Article 8 did nothing to prevent them from remaining in the state.¹³⁴

The treaty, in sum, did not mandate the removal of the Ottawas and Chippewas from Michigan. At most, it provided meager inducements for a proposed, voluntary removal.

The Rhetoric and Failure of Voluntary Removal

Rev. McCoy, while working among Potawatomis of the St. Joseph Valley, came to know the neighboring Grand River Ottawas who were closely allied and frequently intermarried with the Potawatomis. McCoy became the leading missionary-advocate of removal. Eastern Indians, he argued, were increasingly confined to tiny reservations, subject to the corrupting influences of the surrounding American citizens. What eastern Indians needed was a permanent home, "untouched by any morbid atmosphere emanating from us," so that they can "enlarge the field as the wild game decreased." In the West, Indians would gradually embrace agricultural, Christian civilization as their old way of life became impossible.¹³⁵ It might be added that, in Washington in 1836, McCoy entertained hopes for a federal appointment as Indian superintendent in a new, Western territorial government. Indeed, the day before treaty negotiations began, McCoy had applied for such a position.¹³⁶

Back in 1828, McCoy had led an exploratory party of three Ottawas and three Potawatomis westward. He called each group of three a "delegation," but those who joined him were more hired hands than delegates. Some were important men; indeed two of the three

¹³⁴ Kappler, ed., Treaties, 2: 451, 453.

¹³⁵ Isaac McCoy, Remarks on the Practicability of Indian Reform, Embracing their Colonization (New York: Gray and Bruce 1829), 13.

¹³⁶ Lewis Cass to McCoy, Washington, March 18, 1836, NAM21R18 204.

Ottawas would appear as Chiefs of the first class in the Treaty of 1836, and the third might be a chief of the third class. Still, McCoy had hoped for something more formal. But he understood the reality. These Michigan Indians

knew that the subject of an Indian settlement in the West was contemplated, and it was natural for them to feel averse to removal; and the sending of delegations to explore a country, with a view to their future settlement therein, would seem to imply that they had in some degree consented to remove. Under all these circumstances, it seemed improbable that they would be inclined to send delegations.¹³⁷

McCoy's expedition did not produce any support for removal among the Grand River Ottawas. It is even possible that it contributed to the deep suspicion harbored by Grand River Ottawas toward the entire treaty process in 1836.

Schoolcraft was occupied in the summer of 1836 with securing the Indians' assent to the Senate modifications of the treaty and with determining the validity of each traders' claims against Indian debtors, as provided by the treaty. In late September, with those tasks completed, he corresponded with Lieutenant J. B. Kingsbury as they planned an expedition of Michigan Indians to view the lands southwest of the Missouri in anticipation of Indian removal. His attention was particularly focused on the Grand River Ottawas.¹³⁸ Within two months, however, Kingsbury had been reassigned, and no expedition headed westward.¹³⁹

Two years later, Schoolcraft was determined to do better. He worked to send a party to the plains, south of the Missouri, that spring. It would be the "initial movement towards the

¹³⁷ Isaac McCoy, History of the Baptist Missions: Embracing Remarks on the Former and Present Condition of the Aboriginal Tribes; Their Settlement within the Indian Territory, and their Future Prospects (Washington: William M. Morrison, 1840), 333.

¹³⁸ HRS to Lieut. J. B. Kingsbury, Mackinac, Sept. 24, 1836, NAM1R37 33; also in HRSP/DLC/SHSW P. 79-1998, Container 41, Part 2, General Correspondence, Frames 14590-91

¹³⁹ C.A. Harris to HRS, Washington, Nov. 11, 1836, NAM1R41 436.

removal of the Ottowas(sic) and Chippewas of Michigan." He understood as well as anyone that the plains did not attract these woodland peoples. "As the country ceded by them is large, and they are strongly attached to customs peculiar to their mode of subsistence, in part, on the lake fish, and of traveling in canoes, it is not expected that they will feel a general wish to emigrate immediately, but on the contrary, will wait... till they are pressed to action by imperious necessity." Nonetheless, he thought that if the party reached the region when "the herbage first appears to cover the western prairies," they would deliver a "favorable report." The Ottawa and Chippewa removal, he speculated, would begin in 1839, or, "at the furthest 1840." With the approval of the Commissioner of Indian Affairs, Schoolcraft appointed his brother, James Schoolcraft, to gather and lead the exploring party.¹⁴⁰

Among the Chippewas, enlisting the party proved to be difficult, and, in the end, Chippewas were badly represented. James Ord, a sub-agent at Sault Ste. Marie, assembled leaders, but they refused to cooperate: "We give you our answer and we do not accept the invitation." They stated, erroneously, that the "Country between Lake Superior and the Mississippi, was by Treaty to be their future residence," and, accurately, that they "are not aware of any obligation to go West of the Mississippi." Closing discussion of the matter, they said that they "object to it entirely." The council consisted of "all the Indians included in the treaty of 28 March 1836, living on the River St. Mary's and the Southern Shore of Lake Superior, excepting a small band of Drummond's Island Indians."¹⁴¹

¹⁴⁰ HRS to Harris, Detroit, March 1, 1838, NAM1R37 422, also in NAM234R423 fr. 119-121; Harris to HRS, Washington, May 11, 1838, NAM1R44 225; HRS to James Ord, Michilimackinac, May 20, 1838, NAM1R37 490.

¹⁴¹ James Schoolcraft to C. A. Harris, June 9, 1838, in NAM234R415, 612; James Ord to HRS, Sault Ste. Marie, June 5, 1838, NAM1R44 363; Reply of the Sault Ste. Marie, Carp River, Tequimenon River and Grand Island Indians to the invitation of the Government to visit the country west of the Mississippi...through their speaker

Attending the council was Rev. Abel Bingham, missionary to the Chippewas at the Sault. Bingham observed that they objected to the climate south of the Missouri, and that they also had been angered by the government's failure to pay them adequately in the fall of 1837. The Chippewas did, Bingham said, leave the door open for some future removal to a northern area, if the government would arrange it.¹⁴²

In June, at Mackinac, Henry Schoolcraft held council with Indians from the Mackinac region and the Lake Michigan shores. Bela Hubbard, mapping the region for the state, happened upon the council, and noted Indian objections:

Mackinac is filled with indians belonging to the nations of the Chippewas Ottawas and Menominees. They are holding Council with Mr. Schoolcraft at the U. S. agency house, drawing their rations &c. Their lodges being pitched as usual along the shore. The two former tribes are to send a delegat'n of about 20 of their chiefs & head men to report to their people upon the lands offered them in the Missouri country. The chippewa chiefs declare their determination not to remove but will follow the wishes of their father, the Pres't. by going out to view the lands proffered them.¹⁴³

Chippewas from the Beaver Island joined Ottawas from Grand River, Manistee, and L'Arbre Croche to form the exploratory party. The Upper Peninsula was very poorly represented in the expedition. "Keway quo skum," who is mentioned as a third class chief from Chenos in the Treaty of 1836, appears on the party's roster as a principal chief of North Mainistee [Manistique]. Even among the better represented Ottawas and Chippewas of the Lower Peninsula in the party of twenty-four, there were, at best, only three "principal chiefs" (two from Grand River -- "Maxadawazha" and "Megis in innee"-- and one from L'Arbre Croche--"Kemene haw gan"). The

Szheghud, in NAM234R415 617.

¹⁴² A. Bingham to HRS, Sault Ste. Marie Mission, June 22, 1838, NAM1R44 420-422.

¹⁴³ Bela Hubbard Papers, Box 1, Field Notebook 2, June 22, 1838, Bentley.

rest of the delegates were, at most, advisers in their communities. They assembled at Mackinac amid rumors, spread among the Grand River Ottawas by Potawatomis, about poor life on the plains. James Schoolcraft put the best face on the exploratory party, saying that it "fully represents the two tribes of Ottawas [sic] and Chippewas, with the exception of the more northern bands of the latter. . . ." The truth is, that the prominent Chippewa bands were unrepresented, and the Ottawas were poorly represented.¹⁴⁴

The issue of "representation" was important to the brothers Schoolcraft, because their intention was to have the delegates themselves sign a document accepting the western lands. The signing would occur, if at all possible, in the West, far removed from their leaders and their people. As Henry Schoolcraft put it in a letter to McCoy, the delegates were to "come to some decision, before their return. Strong local opposition exists here, to their emigrating at all, and it would have a considerable effect, in quieting it, to be able to declare, that the arrangement is a high and liberal one."¹⁴⁵ The local opposition was strongest among the Upper Peninsular Chippewas, who for the most part refused any level of cooperation. Ottawas in the Little Traverse region supplied some explorers, but "their minds have been much prejudiced against the measure. . . ." Hubbard's account noted that Chippewa members came only to please the President; they would not remove.¹⁴⁶

In mid-1838, Schoolcraft strongly invoked inevitability: "It is impossible for them to live

¹⁴⁴ James Schoolcraft to C. A. Harris, Mackinac, June 26, 1838, NAM234R415 frs. 623-626; Mr. Patrick to HRS, Grand Rapids, June 9, 1838, NAM1R44 379; James Schoolcraft to C. A. Harris, Mackinac, July {sic, June} 18, 1838, NAM234R415 619-622.

¹⁴⁵ HRS to Isaac McCoy, June 23, 1838, NAM1R37 515.

¹⁴⁶ James Schoolcraft to C. A. Harris, Mackinac, July 18 (sic June), 1838, NAM234R415 619-622.

prosperously in Michigan for any great length of time. . . . The policy is fixed, and no political vituperation can alter it."¹⁴⁷ Determined to be firm, he must have known that removal was actually a long shot. He likely knew that the Second Seminole War, still raging, had been caused in large part by the federal government's decision to make removal arrangements with an unrepresentative Seminole exploratory party, far from Florida, west of the Mississippi. He was certainly aware of the political controversy surrounding Cherokee removal, and the unrepresentative character of signatories to a removal treaty was a part of that controversy. His hope, it seems, was that the exploratory party would return with enough praise for the region to promote removal among a plausible proportion of the influential Ottawas and Chippewas. This way, he might decently effect removal. When that proved impossible, he was disappointed, but it is to his credit that he did not force the issue. The Ottawas and Chippewas were spared extreme devastation, and the United States and Michigan were spared a grave dishonor.

The explorers left Mackinac by steamboat and chugged toward Chicago in late June, passing the dunes of the Michigan coast. From Chicago they made their way to Westport, Missouri, arriving on July 13 or 14. There, McCoy joined them to explore the "wilderness."

McCoy and James Schoolcraft left substantially discrepant reports of the mission. McCoy had the company out touring from July 17 to July 26, a full nine days. James Schoolcraft said they set out six days after July 13, and that the delegates were ready to accept the lands on July 24: only a five-day period to view the lands. "The celerity of our movements," he noted, "did not admit of much research, neither were we prepared to extend our observation upon the

¹⁴⁷ HRS to Lucius Gary, June 14, 1838, NAM1R37 499.

mineral or vegetable kingdoms of this location."¹⁴⁸ Whether nine days or five days, it was a short trip, on horseback, during which to decide the fate of two nations.

Both men stated that the party agreed to accept the lands. But where McCoy predicted that "these Indians will carry home with them favorable impressions which will result in a general migration, unless" misled by "white men," James Schoolcraft worried that Indians themselves might change their minds. "I am satisfied from my knowledge of the views of the Indians, that they will attempt to avoid emigrating, and will either seek the lands included in the sale of 28 March 1836, not immediately wanted by the Government, or will join their brethren the Chippewas, at the North."¹⁴⁹

A third discrepancy concerns the loss of one of the party, mentioned by McCoy (he "got lost. . .") but not by James Schoolcraft. This might account for another oddity, the fact that only 23 members signed the "agreement" of August 23, 1838, where 24 appear on the list of the exploring party; it might explain it, except for yet another problem. Three of the names on the August 23 agreement --Shagnonano, Peentonwan, Ishkewabick--do not appear on the first list. And four of the names on the first list -- Kesiswabay, Naw a ge Quabay, Saw saw ge to, and Chingo no quom-- are not on the agreement.¹⁵⁰

Armed with both the agreement and what he had hoped would be the favorable reports of the delegates, Henry Schoolcraft met in council with the Ottawa and Chippewa leaders (missing

¹⁴⁸ Isaac McCoy to C. A. Harris, Westport, Missouri, July 28, 1838, NAM234R415 603; James Schoolcraft to C.A. Harris, Sault Ste. Marie, 29 August, 1838, NAM234R415 638.

¹⁴⁹ James Schoolcraft to C.A. Harris, Sault Ste. Marie, 29 August, 1838, NAM234R415 641.

¹⁵⁰ Isaac McCoy to C. A. Harris, Westport, Missouri, July 28, 1838, NAM234R415 603, "Memorandum of an Agreement entered into this 23rd August 1838 US and Ottawa Chippewa tribes," NAM234R415 659, James Schoolcraft to C. A. Harris, Mackinac, June 26, 1838, NAM234R415 623-626.

were those Western Michigan Ottawas from the Grand River to the White River) at Mackinac on September 15. The Indians raised the subject of removal,

and evidenced a fixed opposition to it. They denied the power of the delegates to bind them to the location on the Osage, and expressed their determination not to remove to it. The principal objections were to the soil and climate of the country and its deficiency of forests. The[y] also expressed an aversion to living near the Saganaws and the Pottowattomies. They finally assented to receive the location . . . as a refuge for . . . not only the poor of their nation, but whoever besides of the two Tribes, that may personally agree to remove.¹⁵¹

Schoolcraft concluded that "The northern Indians are generally averse, to a removal south of the Missouri." He had, it will be recalled, earlier sought signatures to an agreement made out West, knowing that there would be opposition in the East. Now he understood that removal had little support. Still, he hoped both that the Grand River people might go west, and the others, too, if a place could be found in the North.¹⁵²

So opposed were many of the Great Lakes Indians to westward removal that, amid rumors of a U.S. plan to force them west, Ottawas, Chippewas, Potawatomis, and Menominees fled to the British territories north of the Lakes in the spring of 1839, and again in the spring of 1841.¹⁵³ Such migrations (and threatened migrations) to Canada greatly weakened the federal drive for removal. The United States could not be certain of continued peace with Great Britain, still then its greatest historical enemy. Strengthening Britain's position on the lakes with knowledgeable and skillful Native American numbers was contrary to American policy, as the Secretary of War

¹⁵¹ HRS to Harris, Michilimackinac, Sept. 29, 1838, NAM1R37 546.

¹⁵² HRS to Harris, Michilimackinac, Sept. 30, 1838, NAM1R37 563.

¹⁵³ HRS, Personal Memoirs, 648; HRS to T. Hartley Crawford, Michilimackinac, June 26, 1839, NAM234R423 fr. 374-7; Robert Stuart to T. Hartley Crawford, Detroit, June 25, 1841, NAM1R38 511; James Ord to Robert Stuart, Sault, Sept. 8, 1841, NAM1R51 271-274.

observed in July, 1841.¹⁵⁴ Considerations of national defense helped to break down the effort to transform the treaty into one of compulsory removal.

Michigan Citizens, the United States, and Removal

Euro-American settlers are often viewed as the Indians' worst enemy, but the case was not so simple in Michigan. The citizens of Michigan, it turns out, were not single-mindedly determined to drive Indians from the state. Some settlers even organized to have the Indians remain in the region. To be sure, the policy of removal appealed to many, including young Governor Stevens T. Mason, who advocated it in an addresses to the legislature in February, 1836, with full-throated Jacksonian rhetoric: "The history of this unfortunate race should excite our sympathies, and it is but justice to them, that they should be removed to a quarter where secure from the encroachments of the whites, they may be left free, to follow their own pursuits of happiness."¹⁵⁵ Almost a year later, hoping to expedite removal, Mason asked the legislature to push Congress to open Minnesota lands for the Michigan Indians:

The experience of each additional day urges the importance of the removal of the northwestern Indians to some quarter, where they will be no longer molested by the encroachments of the whites. The policy of the federal government has heretofore been to locate them in a district of country south of the Missouri, set apart for their uses, and secured to them upon the faith of the nation. The utmost exertions of the Indian department have not however been able to induce the tribes of our own immediate region to consent to an acceptance of this location. This unwillingness on their part to emigrate to a southern climate, seems to be the only obstacle to a negotiation, by which Michigan might be relieved from their occupancy of a valuable portion of her soil, and a negotiation likewise which in its results would effectively protect the rights of the Indians themselves, and preserve from extinction the comparatively small remnant of a people, which the hand of degeneracy has yet spared.

¹⁵⁴ John Bell to Robert Stuart, Washington, July 30, 1841, in NAM1R51 125.

¹⁵⁵ Stevens T. Mason, Governor's Address to the Legislature, Feb. 1, 1836, in State of Michigan, Journal of the House of Representatives of the State of Michigan, 1835-1836 (Detroit, 1836), 81-82.

It is ascertained, however, that the entire removal of the tribes within our own limits might be easily secured, were they permitted to emigrate to a country of a more northern latitude. . . .¹⁵⁶

Citizens of the state, whom Mason portrayed as dangerous to Indian welfare, valued Indians. The financial panic of 1837 hit very hard and created an enormous specie shortage throughout the nation. Although the federal government violated treaty terms and paid annuities in kind in 1837, by 1838 it had relented, and it paid in coin. These specie payments gave Indians access to cash that many settlers lacked, and since settlers could get their hands on coin by trading with Indians, many sought to keep both Indians and their cash in Michigan. Historian Susan Gray has noted the value merchants in Western Michigan placed on Indian purchasing, made in specie. Removal, as a result, lost traction. The Indians' cash, their availability as a casual labor force, together with their peaceful behavior, sapped the popularity of removal.¹⁵⁷

Indians, with some missionary assistance, petitioned for permission to remain on their reserves beyond the Senate's date for the termination of the reservations in May, 1841. At Grand Traverse, Chief Ahgosa told the Rev. Peter Dougherty that the Indians felt extremely unsettled. George Johnston was telling them that they would have to remove soon, and they "hold on to this place as a bird clings to a branch of a tree waving ready to fall."¹⁵⁸ The "Chiefs and Head-men of the Ottawa and Chippewa" sent one petition to President "Andrew" [his name was John] Tyler,

¹⁵⁶ Stevens T. Mason, Governor's Address to the Legislature, Jan. 2, 1837, State of Michigan, Journal of the House of Representatives of the State of Michigan (Detroit, 1837), 23-24

¹⁵⁷ For the shortage in specie see C. A. Harris to Schoolcraft, June 23, 1837, NAM234R422 fr. 821; C. A. Harris to J. R. Poinsett, January 16, 1838, in SD 106, 25: 2 (315), in NASPIA 3: 36; HRS to C. A. Harris, Michilimackinac, July 31, 1837, and HRS to Harris, s.p., Sept. 20, 1838 NAM1R37 278, 539; Susan E. Gray, "Limits and Possibilities: White-Indian Relations in Western Michigan in the Era of Removal," Michigan Historical Review 20 (1994), 84-85.

¹⁵⁸ P. Dougherty to Biddle and Drew, Grand Traverse, Feb. 15, 1841 NAM1R50 75; also quoted in Elizabeth Neumeyer, "Michigan Indians Battle against Removal," Michigan History 55 (1971): 283.

and Rev. Alvin Coe of Ohio organized another petition among the citizens of Mackinac, both urging that Indians be allowed to remain on the reserves. The Mackinac citizens worried that "some of our best Indians" were leaving for Canada. Not all Mackinac people agreed with the petition, but it had such solid support that one of the signers, W. H. Brockaway, later admitted to having signed mainly out of fear that his failure to do so would prejudice the Indians against him. Responding to this petition was the commissioner, Crawford, who wanted Indians informed that his department had reached "no conclusion" regarding Indian removal, but it would soon do so. (In this same letter, Crawford issued the erroneous opinion that Article 13 would not apply to reserve lands; for further discussion of this argument, see this report, above.) This was not much solice. The Secretary of War told agent Stuart that "they will not be required to remove during the present year." Worried about further defections to Canada, he added that the government was again contemplating a northern location, "to which they will be invited to remove a year or two hence." The conditional nature of the word, "invite," must be kept in mind.¹⁵⁹

The Grand Traverse Ottawas and Chippewas sent another petition to the President and Congress in the fall of 1843, seeking clearance to remain on their Michigan lands. They wanted "to remain on our native soil, to buy the lands where we now live," and they were willing to become Michigan citizens, subject to Michigan's laws.¹⁶⁰ They also petitioned a receptive

¹⁵⁹ A. Coe to John Bell, June 24, 1841, and Chiefs and Head-men of the Ottawa and Chippewa. . . , May 20, 1841, NAM234R424 fr. 690-691, fr. 765-769; W. H. Brockaway to Robert Stuart, Sault St. (sic) Marie, Michigan, May 31, 1841; Crawford to J. L. Schoolcraft, Washington, June 15, 1841; Reuben D. Towner (or Turner) to Stuart, Mackinac, June 23, 1841, NAM1R50 357-358, 531, 601-602; John Bell to Stuart, Washington, July 30, 1841 NAM1R51 125. See also, McClurken, "We wish to be Civilized," 243-246; McClurken, "Ottawa Adaptive Strategies," 41-42; USICC Docket 18-E: 67-68; Neumeyer, "Michigan Indians Battle Against Removal," 283.

¹⁶⁰ McClurken, "Ottawa Adaptive Strategies," 42-43; the document quoted is in NAM234R425: 523; Neumeyer, "Michigan Indians Battle Against Removal," 283, says of the 1843 memorial that the Indians' "basic argument against removal was that the white man did not want the land anyhow."

legislature, which endorsed their request in a message to Michigan's congressmen. The Indians followed up on the first petition with one to the President, asking for his intervention on their behalf, and for his support of their petition. They emphasized that "The country we occupy from the severity of its climate is not well adapted to the advanced culture of the white men, whilst it is all-sufficient for our moderate wants and will afford us the means of livelihood." The Commissioner of Indian Affairs, in his annual report, summarized the petition as seeking "a permanent location on the land of their birth, and ultimately the rights and privileges of American citizens." He said that possibly half of the Indians in question were "useful members of the community," and that they were connected by "blood and marriage" to many of Michigan's citizens. He noted the Michigan legislature's approval, and he submitted the petition to Congress for whatever action "it may be the pleasure of the National Legislature to adopt."¹⁶¹

The year 1844 brought about the election of the Democratic President Polk, famous for a campaign slogan threatening war with Great Britain over the northern boundary in the Pacific Northwest: "Fifty-Four-Forty or Fight!" Instead, the country fought a war with Mexico and gained vast new acquisitions in the southwest. These, along with the recent admission of Texas, upended the geographical assumptions of removal policy. It was one thing to tuck Indians into a corner of the Mexican border, but quite another to have an Indian territory (Now Oklahoma and Kansas) smack in the middle of the nation. The Polk-appointee to the Michigan superintendency, citizen of Grand Rapids William Richmond, came to directly oppose

¹⁶¹ "To the President of the United States of America, this Petition of his Children, the Ottawas and Chippewas of Michigan, respectfully showeth" NAM234R425 frs. 595-98; Report of the Commissioner of Indian Affairs, Nov. 24, 1844, SD q, 28, 2 (449) 311 in NASPIA 2: 92; McClurken, "Ottawa Adaptive Strategies," 249-255.

removal.¹⁶²

Richmond's report of Nov. 6, 1848, endorsed the idea that Indian communities should remain in the state. He found most Indian people to be living relatively well; some had good hunting and fishing; others were good farmers; and children were attending school. Some of the bands had even petitioned for citizenship. Standing in the way of their further development, in his opinion, was their scattered state. Better to find them permanent homes up north:

Should the proper means be adopted for congregating them in communities at favorable points towards the northern portion of the lower Peninsula of Michigan where the Land is fertile, fisheries productive, climates healthy, and where for years, they will be undisturbed by the approach of white settlements; it would facilitate their advancement and improve their condition. . . .¹⁶³

In the Upper Peninsula too, he noted, Indians were seeking permanent homes, and some were purchasing lands to achieve that end. In 1851, Commissioner of Indian Affairs Luke Lea also recommended that Congress find a way to provide for the Ottawas' and Chippewas' "[p]ermanent settlement in the country where they now reside." He had received a "flattering account" from an investigator of these Indians' condition.¹⁶⁴

In 1853, Chippewa leaders from the Upper Peninsula (Sault Ste. Marie, Garden River, Grand Island, and Drummond Island), requested that the United States exchange whatever lands were promised in the West for secure and permanent lands, "here," in Michigan. The petition, translated by one citizen and written by another, contains two errors: first, that they had "bound" themselves to remove, and second that the Mississippi was to be the eastern threshold. But the

¹⁶² McClurken, "We wish to be Civilized," 261.

¹⁶³ Wm Richmond to Wm Medill, Detroit, Nov. 6, 1848 NAM1R40 235.

¹⁶⁴ "Report of the Commissioner of Indian Affairs," Department of Interior, Nov. 27, 1851, in NASPIA 2: 309.

petition raised an important issue. Remove us, they claimed, and you "will rob this country of a large portion of its inhabitants, of its sailors, fishermen, agriculturalists, and lumbermen." For the successful economic development of the Upper Peninsula, Indians were a plus, not a minus.¹⁶⁵ By then, the Michigan Legislature had made a similar request, and the state's constitution had provided for the citizenship of nontribal Indians.¹⁶⁶ The federal government investigated the condition of Indians on the "Cheboygan River, Little Traverse Bay, Grand Traverse Bay, Wing River and other small villages up to Grand River." The investigator was impressed by the extent of literacy (often in Ottawa or Chippewa), industrious farming, and Christianity among the peoples whom he met in the regions of Cheboygan, Little Traverse, Grand Traverse, what might have been Manistee but was more likely Muskegon (eight days travel from Grand Traverse toward Grand River), and Grand River. He gathered that Indians throughout the regions were either purchasing lands within the state for permanent settlements or planning to do so. He thought that the lands near their settlements and proposed settlements were well chosen "by the Indians on account of its distance from the white settlements." The Michigan agent forwarded the information with the recommendation that the government allow the tribes to "locate and remain near Grand Traverse Bay."¹⁶⁷

The Presbyterian Board of Foreign Missions reminded the Office of Indian Affairs that the Ottawas and Chippewas had good reason to oppose removal, because they "have been

¹⁶⁵ Petition of the Chiefs of the Sault Ste. Marie, Garden River, Grand Island, Drummond Island Bands of Chippewa Indians, Nov. 1, 1853, NAM234R404 frames 193-195.

¹⁶⁶ McClurken, "Ottawa Adaptive Strategies," 254-255.

¹⁶⁷ Elias Murray to Luke Lea, Green Bay, Sept. 2, 1851, NAM234R598 frames 41-42; Harvey Murray to Elias Murray, Green Bay, Sept 4, 1851, NAM234R598 frames 43-45; Neumeyer, "Michigan Indians Battle against Removal," 284.

engaged all their lives catching fish, in making sugar from the maple trees, and in living in the forest; and they cannot think of going where none of these are."¹⁶⁸

Toward the end of 1852, Luke Lea, the Commissioner of Indian Affairs, declared of removal in his most public document, the annual report:

The transplanting of these Indians, and the dedication of their present country to their use, and for their future home, was an emanation of the purest benevolence and the dictate of humanity. Vast sums of money have been expended by the government for the sustenance, comfort, and civilization of these unfortunate people, and the missionary has occupied that field of labor long and faithfully; but notwithstanding all that has been done by the government and good men, the experiment has measurably failed.¹⁶⁹

Michigan Indian superintendent Henry Gilbert concurred in 1854, urging the government

To set apart certain tracts of public lands in Michigan in locations suitable for the Indians and as far removed from white settlements as possible and within which every Indian family shall be permitted to enter without charge and to own and occupy eighty acres of land. The title should be vested in the head of the family and the power to alienate should be withheld.¹⁷⁰

Gilbert's plan was not a simple matter of private Indian ownership, for it also involved concentration or colonization, that is, the bringing of Indians who were then scattered throughout the state together under the influence of teachers and missionaries. Such proposals led to the Treaty of 1855, which is beyond the scope of this report.

Ottawa and Chippewa Interpretations of Article 8

The Ottawas and Chippewas persistently and consistently refused to migrate west. They never agreed to do so, but they also knew that the federal government had forced other peoples

¹⁶⁸ Quoted in Neumeyer, "Michigan Indians Battle against Removal," 277. Neumeyer cites Walter Laurie (sic. I believe this should be Lowrie) to Luke Lea, New York, June 30, 1851, in NAM234R598 14-15.

¹⁶⁹ Luke Lea, "Report of the Commissioner of Indian Affairs," Nov. 30, 1852 in SED 1, 32: 2 (658), 250 in NASPIA, 2: 370.

¹⁷⁰ Henry Gilbert to George Manypenny, Washington, March 6, 1854, NAM234R404 frames 371.

westward without real consent. So powerfully did they feel the threat of forced removal that, according to James Schoolcraft, suspicion characterized their attitude:

removing Indians West of the Mississippi, has been carried into effect, the character of the Agent, in the eyes of the Indians, is entirely changed. He is now looked upon with distrust. They are suspicious of all his actions. They attribute design to all he says, and they view him no longer as the Indians['] Agent, but as the Agent of the Government.¹⁷¹

Grand River Ottawas had been objecting to removal ever since 1830, when Slater reported that the "subject of emigration has excited the minds of some of the influential men of the Ottawa tribe, residing on this River. . . ." To be sure, some individuals had accompanied McCoy on a tour of lands in the West, but this had, according to Slater, only hurt the cause of removal. The Ottawas expressed an "utter aversion to emigration to the West," an aversion based partly on an "unfavorable report of those who have explored the country designed for their location"; it was their "strenuous disposition that the Pres. [of the United States] should assure them the title of the soils they now possess."¹⁷²

Slater would assist their plans to remain. As we have seen, he helped a portion of them to purchase lands in Barry County, spending, as Henry Schoolcraft himself noted, "\$6,400 allowed by the ninth article of the treaty, in trust for Chiminoquet."¹⁷³ At the end of 1836, Slater stated of the Grand River Indians generally that, "As a people they know not what to do with themselves; they appear utterly averse to emigrating West of the Mississippi and disinclined to go on to their reservation," which, to be located in the Northern Lower Peninsula, would last but five years.¹⁷⁴

¹⁷¹ J. S. Schoolcraft to R. Stuart, Michilimackinac, Dec. 31, 1841, NAM1R51 743

¹⁷² Leonard Slater to Lewis Cass, Thomas Mission on Grand River, Sept. 28, 1830, NAM1R27 249.

¹⁷³ HRS, Personal Memoirs, 553.

¹⁷⁴ Slater to HRS, Richland, Dec. 28, 1836, NAM1R41 562-564.

Schoolcraft passed Slater's comment to his superiors, citing Slater as "a respectable source."¹⁷⁵ The Commissioner of Indian Affairs was unimpressed, insisting that Schoolcraft "induce" the Grand River Ottawas "to remove, according to the stipulations of the treaty."¹⁷⁶ Ten years later, Slater recalled that the Barry County purchase resulted from the Grand River peoples' "universal prejudice to a removal to the country assigned to them West of the Mississippi."¹⁷⁷ The purchasing of lands, which this report has already treated as an effort to secure desirable tracts in the event of American settlement, was also an effort to build a legal bulwark against forced removal, should American policy move in that direction. Other Grand River Indians followed suit, purchasing lands--sometimes with money they earned in labor-- to the south of the river. One group formed the Black River or Old Wing colony, under the Rev. George Nelson Smith.¹⁷⁸

Grand Traverse Bay Ottawas and Chippewas had much the same response. In 1838, Schoolcraft brother-in-law John Johnston informed Dougherty that the "chiefs have money laid aside and design to purchase their lands as soon as they come in the market."¹⁷⁹ Several years later, as removal still hung over their heads, Dougherty worried that the policy was creating uncertainties that disrupted the Indians' plans for improvement.¹⁸⁰

¹⁷⁵ HRS to C.A. Harris, Detroit, Jan 7, 1837, NAM1R37 134.

¹⁷⁶ C.A. Harris to HRS, Jan. 27, 1837, NAM21R20 499.

¹⁷⁷ Slater to Wm. A. Richmond, Ottawa Colony, Sept. 30, 1846, NAM234R426: 81-83.

¹⁷⁸ George Nelson Smith Journals, entries for June 7, June 9, 1842, microfilm at the Bentley.

¹⁷⁹ Johnston is quoted in Virgil J. Vogel, "The Missionary as Acculturation Agent: Peter Dougherty and the Indians of Grand Traverse," Michigan History 51 (1967) 198. The missionary was Peter Dougherty, and the exact same words appear one of Dougherty's diary entries; see Peter Dougherty, "Diaries of Peter Dougherty," Journal of the Presbyterian Historical Society, 30 (1952), 108.

¹⁸⁰ Peter Dougherty to Robert Stuart, Grand Traverse, August 27, 1841, NAM1R51 225-229.

Richmond, superintending the agency, in several instances gained power of attorney over tracts of land that Ottawas had purchased. Through this kind of arrangement, the Ottawas involved hoped that they would gain a buffer against legal action. In particular, they hoped to avoid, as one feared, having the land "sold for taxes and wholly lost to him."¹⁸¹

Other Ottawas at L'Arbre Croche followed the same strategy, working with William Johnston and Augustin Hamelin, Jr., to purchase lands for permanent homes.¹⁸² Cheboygan Indians worked with Indian agents to purchase lands along the western shores of Burt Lake.¹⁸³ And further north still, at Sault Ste. Marie, Indian objections to removal were made abundantly clear by the Chippewas' refusal to send any members along with the exploring party to the West in 1838. Expressing their opposition to removal, they had said that they "object to it entirely."¹⁸⁴ Nine years later, they sought permission to visit Washington. Their proposed agenda included "to assure themselves of remaining after the termination of annuities on lands they have purchased or which they may buy in the future. . . . to know fully the policy of the government in regard to their removal west. . . . and to obtain an accurate statement of the monies due them under the treaty of 1836."¹⁸⁵

¹⁸¹ Quotation: J. Mitchell Nawwascotta to William A. Richmond Power of Attorney, October 21, 1848; see also Joseph Otagamekee Power of Attorney to William A. Richmond, October 21, 1848, and John Baptist Wabimanido to William Richmond, October 25, 1848 in Grand Rapids Public Library, Special Collections Center, Richmond Family Papers, Box 2, Folder 10; and patent of Mitchel Nawematcotta in Richmond Family Papers, Box 3, Folder 2.

¹⁸² See, for example, Bremer, Indian Agent, Wilderness Scholar, 203.

¹⁸³ F. H. Stevens to W. A. Richmond, July 2, 1846, and map, in Richmond Family Papers, Box 2, Folder 4.

¹⁸⁴ Reply of the Sault Ste. Marie, Carp River, Tequimenon (sic) River and Grand Island Indians to the invitation of the Government to visit the country west of the Mississippi...through their speaker Szheghud, (ca. June 5, 1838) in NAM234R415 617.

¹⁸⁵ William Johnston to W. Medill, Michilimackinac, August 26, 1847, NAM234R426 160-163.

Putting their money down on plots of Michigan land or speaking forthrightly against federal efforts to persuade them otherwise, the Indians of Western, Northern, and Upper Peninsular Michigan manifested their intention to remain in the state. They continued, however, to fear that the government would force them out. Richmond listed this "dread of removal west" as the worst obstacle to their "settlement and happiness" in the state.¹⁸⁶

At Grand Traverse, Ahgosa and Esquagonabay appealed to Schoolcraft in 1841 to assist them in their desire to remain in Michigan, saying, "We feel such an attachment to this our native place, from whence we derive our birth, that it looks like going to certain death from it, we again beg to remind you that we need your aid and advice. We feel anxious to make a purchase from the government of Lands on this point." The two informed Schoolcraft that Dougherty was working to secure for them a land base in the Grand Traverse Bay region, but they had not yet supported him. They wanted first to obtain Schoolcraft's approval.¹⁸⁷

Dougherty, meanwhile, noted that another Schoolcraft brother-in-law, George Johnston, had been spreading rumors that the Indians would soon be forcibly removed. Aghosa had told Dougherty that "this is his place and he wishes to stay." Aghosa apparently sought, like Dougherty, to "buy a little piece of land," to provide for his children.¹⁸⁸

The early part of 1841, the period of Martin Van Buren's lame-duck presidency and the twilight of the Jacksonian phase of the Democratic Party, saw great uncertainty among Michigan Indians and widespread rumors of removal. Schoolcraft heard that Indians in the Grand River

¹⁸⁶ William Richmond to T. Hartley Crawford, Detroit, Oct. 20, 1845, NAM1R40: 36-41.

¹⁸⁷ Esquagonabay and Kosa (witnessed by George Johnston and Jno. W. Johnston) to HRS, Grand Traverse Bay, Jan. 5, 1841, NAM1R50, 9.

¹⁸⁸ P. Dougherty to Biddle and Drew, Grand Traverse, Feb. 15, 1841, NAM1R50 75.

region had been told by the Episcopalian Missionary, Rev. James Selkrig, that the government was planning to forcibly remove those who did not settle on Selkrig's mission near Gun Lake. Schoolcraft wearily observed that Selkrig must have a bad interpreter, that the government had no such intention, and that, "there will be a change in the head of the Indian Office at Washington on or after the 4th March." March 4, of course, was inauguration day.¹⁸⁹ Well beyond that date, amid rumors and uncertainties, Ottawas and Chippewas worked hard, often with the support of Michigan citizens, to prevent their forced removal.

¹⁸⁹ HRS to Messrs. L. Campau and Dr. Charles Shepard, Detroit, March 2, 1841, NAM1R38, 478.

CHAPTER TEN: OTTAWA AND CHIPPEWA LAND USE FOLLOWING 1836

Friction on Ceded Lands

On March 28, 1838, a horrified Hiram Brown discovered the charred bodies of a woman and two children amid the blackened ruins of a cabin in a remote portion of the Maple River Valley. The cabin was the residence of Ansel Glass; dead were his wife and children. Glass himself, immigrant to the state from New York, was missing and, by some, presumed dead. Neither Brown nor any of the other neighbors had seen the family in two weeks, but the Glass homestead was a good four miles from the nearest settlement. Some of Glass's known possessions, such as a "good rifle, two axes, and two barrels of flour packed in a box," were missing. More shockingly, "Several locks of the woman's hair was found near the door of the house, with the skin and flesh attached to them. . . ." The neighbors, apparently, saw this as evidence of Indian scalping, and formed a "strong presumption," that the family had been "massacred by Indians." A search for Ansel Glass's body was soon under way.¹⁹⁰

American citizens in the Grand River Valley (the Maple flows into the Grand) petitioned the President to attend to the murder. They suspected the local Ottawas in particular, and they reasoned that the Ottawas had been excited to hostility against the Americans because the United States had already violated the treaty of 1836, failing adequately to issue the 1837 annuity.

We should respectfully refer you to one act of injustice visited on the Ottawa and Chippewa Nations by the agents of the United States, which we hope has not been by the advice and consent of the Government, an act which has already caused the shedding of blood and if not immediately addressed will in all human probability lead us into another Florida War.

¹⁹⁰ Extract of a letter dated Lyons, Ionia County, Michigan, March 30, 1838, NAM234R423 fr. 140.

The Florida War was the great Second Seminole War, then still raging. They reported that

The excitement has already been so great that many of the settlers have left their farms to seek safety elsewhere and from our knowledge of the Indian character and their hostile feelings we have no hesitation in saying that if Justice is not done them [by the full payment of annuities], and that immediately, the Inhabitants on this frontier will be compelled to leave or be sacrificed to Indian vengeance.¹⁹¹

For several years, settlers and government officials pressed Indians -- first Grand River Ottawas, then Saginaw Chippewas -- about the killings.¹⁹² To their enduring credit, neither Michigan authorities nor settlers actually retaliated or imposed rough justice upon Indians for the murders. Military officers declined to act until "the outrage is proved to have been committed by the Indians," and sober minds entertained doubts that Indians had done any killing. Within a month of the gruesome discovery, missionary Leonard Slater, for example, wrote to Schoolcraft from Ottawa Colony (in the same general region) that the main reason the Ottawas had been suspected was that the government had failed to provide annuities, and settlers expected vengeance from Indians. Slater thought this nonsense: "the white people have made more noise about the money than the Indians ever have done." He also noted that suspicions had shifted away from the Ottawas, had lighted upon the Saginaws, whose guilt he also doubted. Slater reported the opinion of those who "supposed that the man who could [not] be found murdered his own family."¹⁹³

Years later, Judge Albert Miller recalled the events. His memory had faded, for he got

¹⁹¹ Adam L. Root, Philo Bates and 194 others, to President of the United States, 19 April, 1838, NAM234R402 frames 705-708.

¹⁹² Memorandum of a talk, enclosed in HRS to T. Hartley Crawford, May 1, 1839, NAM234R403, frame 82.

¹⁹³ Lieut. F. Sibley to HRS, Detroit, April 7, 1838, NAM1R44 195; Leonard Slater to HRS, Ottawa Colony, Richland PO, Kalamazoo County, April 20, 1838, NAM1R44 237.

many of the details wrong: the year, the way in which the bodies were discovered, the condition of the bodies, for example. But we can probably trust his memory about two things. First, he recalls being convinced of the innocence of the Saginaw Indians who were brought before him. Second, he recalls a report that Glass was still alive, and in the West. As the judge put it, "The inference almost amounts to a certainty that Glass murdered his own family and absconded, but no efforts were made to secure his arrest and punishment. . . ." ¹⁹⁴

Schoolcraft was among those who initially suspected Indians. He appointed Rix Robinson to discover the killer.¹⁹⁵ Meanwhile, without clear evidence of any Indian's guilt, Schoolcraft used the murders to support his arguments that Indian removal to the West was the best way to secure Michigan's peace. Schoolcraft made his argument clear in his annual report of 1840, written eighteen months after the slayings. The racial overtones are striking.

The murder of Glass and his family on the head waters of Grand River in 1838, which yet remains unexpiated, indicates that it is impossible to shield the settlers, at all points, from occasional outbreaks of personal vindiction. The earlier the local separation is therefore effected between masses of population so wholly dissimilar as the white and the red, the more auspicious will it be for the peace and prosperity of both.

There are no lateral causes to be evolved, it is believed, which will arrest the spread of the Saxon race over the whole continent, and it is not probable that any provision can be made for the preservation of the Aboriginal race, which promises to be so effectual as their colonization or transference to a separate territory.¹⁹⁶

¹⁹⁴ Judge Albert Miller, "The Saginaw Valley," Michigan Pioneer and Historical Society Collections 7 (1884), 243-244. See also James McClurken, "We Wish to be Civilized: Ottawa-American Political Contests on the Michigan Frontier," Ph.D. Dissertation, Michigan State University, 1988, 202-203. Miller accurately recalled the participation of Henry Connor in the case. Connor, the subagent at Saginaw, had been ordered by Schoolcraft to investigate three Indians who had been in the vicinity of the Maple River at the time of the murders. Connor reported the imprisonment of two Saginaw Chippewas, but they were soon released. See HRS to Henry Connor, Detroit, April 10, 1836, NAM1R37 458; HRS to Harris, Michilimackinac, June 15, 1838, NAM1R37 501; HRS to Henry Connor, June 15, 1838, NAM1R37 504.

¹⁹⁵ HRS to Rix Robinson, Detroit, May 23, 1839, NAM1R37 691.

¹⁹⁶ HRS to T. Hartley Crawford, Annual Report, Sept. 24, 1840, NAM1R38 366-369.

It is worth noting that in his published memoirs, Schoolcraft omits this public accusation against Indians. Instead, in the entry for March 30, 1838, he sums up the Glass case in this manner:

An inquest was held this day, in Ionia, on the head waters of Grand River, on the bodies of a woman and two children supposed (mistakenly) to have been murdered by the Indians. By the testimony adduced, it is shown that a Mr. Ansel D. Glass, of whose family the bodies consist, lived about four miles from the nearest neighbor. He had not been seen since the 14th of the month. On the 28th, a Mr. Hiram Brown, one of his nearest neighbors, went there on business, and found the house burned, and the bodies of his wife and children lying half burned in the area of the house (which was of logs), having been previously most horribly mutilated. No trace could be found of Mr. Glass, nor of a good rifle, two axes, and two barrels of flour, which he was known to have had.

Suspicion first fell on the Grand River Ottawas. I investigated the subject, and found this unjust. They are a peaceable, orderly agricultural people, friendly to the settlers, and having no cause of dislike to them. Suspicion next fell on the Saginaws, who hunt in that quarter, and whose character has not recovered from the imputation of murder and plunder committed during the war of 1812. Petossegay was named as the probably aggressor. But on an investigation made by Mr. Conner, at Saginaw, this imputation was also found improbable, and he was dismissed, leaving the horrible mystery unexplained.[here Schoolcraft adds this important note: Mr. Glass was subsequently, in 1841, found alive in Wisconsin.]¹⁹⁷

This clash, that between those like Schoolcraft who expected Indian violence and those like Slater who did not, was not at all about treaty rights. But it demonstrates that Schoolcraft was capable, in a state document, of a rush to judgment to the Indians' prejudice and that he was willing to distort truth in support of Indian removal from the state. At the same time, however, for all the excitement over the Glass murders and in spite of the detention of Indians, the fact that neither the government, the citizens, nor the Indians allowed the incident to escalate out of control into more violence reveals the determination of the various parties to live peacefully.

The year 1838 saw another, much smaller, clash, one that more directly concerns the issue of usufructuary rights on the lands, even when those lands have been sold. Adam Root, a settler

¹⁹⁷ HRS, Personal Memoirs, 590-591.

in Lyons, was one of the men who had authored the petition to the President seeking a speedy resolution of the Glass murder case and, not incidentally, suggesting that one of the sources of Indian discontent was the failure in 1837 to dispense adequate annuities. Root's town, Lyons, sits astride the Grand River just upriver of the mouth of the Maple. Root, hoping for continued peace, wrote that a settler named "Mr. Thompson" had discovered several horses, belonging to Indians, grazing on Thompson's unfenced land. Root considered such lands still part of the commons, and he thought the Indians had as much right as anyone else to let their animals graze on unfenced land: "for it is the common practice of every body to let their cattle run at large as there are but few farms in the country." Schoolcraft agreed. He noted that even if the land was held as private property by Thompson, the fact that it was unfenced left it open for grazing: "Nothing could be more uncalled for, than the shooting of Indian horses, who were feeding on unfenced grass."¹⁹⁸ No one invoked Article 13, but the incident has implications for it, for if Indians' animals could graze upon unfenced and unsettled land, we can assume that Indians could also enter it to recover those animals. Since it was unfenced and unsettled, they could also hunt on it or fish from its river banks.

Remaining, Hunting, and Fishing in Michigan after 1836

Indians not only expected that the Treaty of 1836 permitted them to remain in Michigan, they also understood that the treaty allowed them to hunt on unsettled land. During the late nineteenth century, Indians continued to hunt, and occasionally, literate observers accompanied them. William Cameron, for example, one of the first keepers of the lighthouse erected on Grand

¹⁹⁸ Adam Root to HRS, Lyons, June 14, 1838, NAM1R44 395-396 and HRS to Adam Root, Mackinac, June 30, 1838, NAM1R37 522.

Island in 1853, hunted and fished in company with a Grand Island Chippewa named Powers in the Air. Powers in the Air summered on Grand Island and wintered with the main body of his people on Little Bay de Noc.¹⁹⁹

The Indian understanding of the Treaty of 1836 was known to some Michigan citizens, which is how it is, in part, known to us. That understanding made it into the written record in 1866, when settlers made it the basis for the disfranchisement of potential Indian voters. An organized group of Indians, led by John Ance, Peter Ance, and Joseph Chippewa, attempted to cast votes in an election at the township of Bingham, Michigan (between Sutton's Bay and Traverse City on the Leelanau Peninsula). The local board of electors refused to allow them to cast ballots. Among the reasons the electors cited was that “they were not citizens, they were receiving pay [annuities] from the Government and were consequently minors, besides they were not subject to the Draft, *neither did the Game Laws of the state prohibit their killing Deer and other wild game.*”(emphasis supplied)²⁰⁰ This group of Michigan citizens, election officials no less, saw *tribal* Indians as free of game laws in 1866. If their discrimination against Indian voters would not have appealed to him, their understanding of fish and game laws would have made sense to Charles Kawbawgam.

Kawbawgam [aka Nawaquay-gezhik (Noon Day)], who belonged to the Bosinasse (Echo-maker-Crane) clan of the Sault Ste. Marie band, was the son of Black Cloud, whose name also reads "Mukutay Oquot" on the Treaty of 1836, which he did not sign, but in which he is listed as

¹⁹⁹ Loren R. Graham, [A Face in the Rock: The Tale of Grand Island Chippewa](#) (Washington, D.C. and Covelo, California, 1995), 91-101; Graham cites William Cameron's logs RG 26, National Archives.

²⁰⁰ A. B. Page to R. M. Smith, Bingham, Mich., Aug. 1, 1866, NAM234R407 fr. 1191-1193.

a "chief of the first class, . . . entitled to receive five hundred cash dollars. . . ." The name also appears on a petition of the chiefs of the Chocolay River, Drummond Island, and Grand Island bands to Schoolcraft in 1838. Kawbawgam moved from the Sault Ste. Marie to the Marquette region about 1848.²⁰¹ He associated with the Carp River group. These Indians regularly spent their summers "along the southern shore of Lake Superior east of Keweenaw and wintered at Bay de Noc."²⁰² Kawbawgam himself "lived for a time at Kawbawgam Lake," which was inside the ceded lands.²⁰³ Sometime in 1892-1893, Kawbawgam was apprehended for setting a net in an unnamed stream during the sucker run. In 1907, a local historian of Marquette published this of Kawbawgam's arrest:

In the 93rd year of his age a miserable game warden put the old man in durance for setting a sucker net in a stream. Justice Creary, however, before whom the old man was taken, had a strong enough sense of the fitness of things to peremptorily order his release.²⁰⁴

Such an event is not likely to enter the legal records, but it does indicate that Indians who lived through the signing of the treaty continued to see it as proper to fish in streams without state permission, and it suggests that a judge saw such activity as worth, at least, willful disregard.

That hunting remained important to Indians after 1836 is evident in the official record. Lucius Garvey wrote in 1838 from Manistee that the Indians "take each family annually from one

²⁰¹ Kappler, ed., Treaties, 2: 455; Chiefs of the Chocolate River . . . to HRS, witnessed by Archille Cadotte, March 1, 1838, NAM1R44, 141; Bourgeois, ed., Ojibwa Narratives, 14.

²⁰² Bourgeois, ed., Ojibwa Narratives, 15-16.

²⁰³ Bourgeois, ed., Ojibwa Narratives, 17.

²⁰⁴ Bourgeois, ed., Ojibwa Narratives, 16; Ralph D. Williams, The Honorable Peter White: A Biographical Sketch of the Lake Superior Iron Country (Cleveland, 1907), 28, footnote.

hundred to one hundred fifty muskrats, two or three Deers, one or two Bears, and occasionally Beaver and Otter. The Rat [muskrat] skins are worth from ten to eighteen cents each, Bear, Beaver, and Otter are worth two to five Dollars each. Their Deer skins they make into Mockasins, and the like, the Rat skins and other furs serve as a means of procuring them the greatest share of their clothing."²⁰⁵ Richmond's detailed reports display a far more positive view of Indian hunting than had Schoolcraft's. His census of 1846 listed 3,565 Ottawas, 3,256 Chippewas, and 378 Potawatomis. Of this total of 7,199 people, he observed that 897 "subsist by agriculture," while far more, some 6,302, "subsist by hunting, fishing &c." Richmond honestly added that he could not estimate the "value of their annual hunts" with "any degree of accuracy, as the Indians (except in very few instances) keep no account of them."²⁰⁶ Slater's census of his "Ottawa Colony" in 1847 estimated the value of the hunt to each family at \$50, while the value of all agricultural and horticultural products he put at only \$30. Slater had recently written that "The Indians have become more satisfied that to depend on hunting and fishing for a livelihood is too precarious," but clearly hunting remained vital to these families, even on good land. In the Upper Peninsula, that year's census for Naw to way's band of 127 Chippewas indicated that hunting was worth \$510 to each family, almost double the value of agriculture (\$233).²⁰⁷

Richmond's 1847 annual report described the 900 Indians in the Grand River Valley as mainly still dependent upon hunting and fishing, and he noted that the federal smith working at

²⁰⁵ Lucius Garvey to HRS, Manistee, Sept. 30, 1838, NAM234R423, fr. 199; see also George M. Blackburn, "Foredoomed to Failure: The Manistee Indian Station," Michigan History 53 (1969), 47.

²⁰⁶ W. A. Richmond, "Census and Statistics of the Ottawa, Chippewa and Pottawatomie Tribes of Indians within the Superintendency of Michigan. . . ." 1846, NAM234R426 frs. 119-121.

²⁰⁷ Leonard Slater to W A Richmond, Ottawa Colony, Sept. 30, 1847 and Ottawa Colony Census, 1847; Naw to way band of the Chippewa Census, 1847, NAM234R426 253-255, 305-311, 321-324.

the mouth of the Thornapple river "is of service to them in repairing guns and traps. . . ." He recommended that these Grand River Indians be concentrated northward in several communities north of the Muskegon River on lands "adapted to their condition affording them room and grounds for hunting and agriculture, waters for communication and fishing and a climate healthy and congenial to their habits and constitution."²⁰⁸ He went on to describe the bands between Grand Traverse and Cheboygan, noting that they had purchased lands, and, with federal help,

have erected substantial and comfortable dwellings improved their lands and from their fields hunting and fishing provide abundantly the necessaries of life. Those inhabiting the Islands and north shore of the straits of Mackinac and Lake Michigan obtain their subsistence mostly from hunting and fishing. . . .

He also suggested that Indians on the Lake Michigan shores of the Upper Peninsula were less comfortable than those on the Lower Peninsula, but he attributed the discomfort to the lack of substantial and permanent dwellings. In any case, Richmond went on to state that, "As a general thing the Indians are as comfortable in the spring as any other season; as they have the avails of the winter hunt and sugar season to depend upon. . . ."²⁰⁹ Unlike Schoolcraft, Richmond did not find spring starving times and terrible hunting conditions. James Ord, in contrast, did see hunting that year as "not very successful, in consequence of the decrease of game."²¹⁰

Richmond's 1848 report is again optimistic about the conditions for hunting and fishing. He wrote of the Ottawas to the north of the Grand River that:

The Ottawas of Lake Michigan are making great efforts to secure themselves permanent homes by purchasing lands along the rivers and bays of the Lakes. Their position enables them with moderate efforts to live well. The land is very productive, the fishing

²⁰⁸ William Richmond to William Medill, Detroit, Nov. 20, 1847, NAM1R169-172, also in NAM234R426 217-224.

²⁰⁹ Wm Richmond to Wm Medill, Detroit, Nov. 20, 1847: Annual Report, NAM1R40 169-172.

²¹⁰ James Ord to W.A. Richmond, Sault Ste. Marie, Oct. 20, 1847, NAM234R426 frs. 225-228.

profitable, and the country still yields to the adventurous hunter a good return for his toil.²¹¹

He again advocated the concentration of the Ottawas into a few villages that might be served by federal employees in the northern part of the lower peninsula. There, he argued, "Land is fertile, fisheries productive, climates healthy, and where for years, they will be undisturbed by the approach of white settlements; it would facilitate their advancement and improve their condition...." The Black [Macatawa] River band of Ottawas were determined, Richmond wrote, to adopt this policy, to head north to near Grand Traverse Bay. This group was also known as the Old Wing colony, to distinguish it from the Black River Band of Chippewas in a different part of the state. The Black River or Old Wing Ottawas formed a branch of the Grand River Valley Ottawas. Richmond also noted that the Chippewas in the Mackinac agency, while suffering from an epidemic of alcohol abuse, still had profitable fishing.²¹² Earlier that year, Richmond had described some of his difficulties in gathering statistics on the Indians of Michigan. He could not collect the data when making annuity payments "owing to the great anxiety of the Indians to return to their homes to prepare for their hunts," and, in general, since the Indians were "absent from the settlements and much scattered at this season it is not probable the whole will or can be obtained before spring."²¹³

Later Michigan agents continued to point out the importance of hunting, fishing, and gathering to the Ottawas and Chippewas. Charles Babcock wrote of the Grand River Ottawas in 1851 that they "subsist chiefly by hunting and fishing. . . ." He said that the Ottawas and

²¹¹ Wm Richmond to Wm Medill, Detroit, Nov. 6, 1848, NAM1R40 233-37.

²¹² Wm Richmond to Wm Medill, Detroit, Nov. 6, 1848, NAM1R40 233-37.

²¹³ Wm Richmond to Wm. Medill, Detroit, January 31, 1848, NAM1R40 176.

Chippewas to the north on Lake Michigan had "fine opportunities for their favorite pursuits, and the ready demand for Furs, Fish, and game yield a good support."²¹⁴ In 1864 the U.S. Interpreter Edward Ashman wrote from Sault Ste. Marie that an epidemic of influenza and measles had disabled the Shaw wun and O Shaw waw no bands of Chippewas, killing eight and rendering the rest "unable to fish or hunt." On the other hand, the Indians "in the interior back of Grand Marais and Pictured Rocks" were hunting.²¹⁵ In 1866, United States Michigan Agent H. J. Alvord reported that the Sault Ste. Marie Chippewas depended "mostly upon fishing for a living," while on the Lower Peninsula Indians at Grand and Little Traverse depended "mostly upon fish and game for a subsistence."²¹⁶ In 1880, federal agent George Lee decried the loss of Indian homesteads to white intruders, who, knowing Indians lacked equal access to the law, simply took over their properties, while they were "away at work or hunting and fishing. . . ."²¹⁷

Beginning in 1863, Indians from all over the state, including many from the ceded area, enlisted in Company K of the First Michigan Sharpshooters. It is worthy of note that these were special forces, not regular infantry; they had a reputation for skill with firearms. It seems logical that they would have acquired some of the skill through hunting; at least this must have been the assumption of their recruiters. These Michigan men saw action at such famous engagements as Petersburg and Spotsylvania, and several, captured at Petersburg, met brutal deaths in the notorious Confederate prison at Andersonville, Georgia. Company K had its fair share of battle

²¹⁴ Charles Babcock to Luke Lea, Detroit, Nov. 27, 1851 NAM1R40 459-463.

²¹⁵ Edward Ashman to D.C. Leach, Sault Ste Marie, Jan. 7, 1864, NAM234R407 frames 458-459.

²¹⁶ H.J. Alvord to S. V. Bogy, Nov. 16, 1866, NAM234R407 frs. 852-865.

²¹⁷ George W. Lee to Commissioner of Indian Affairs, Ypsilanti, Michigan, February 1, 1880, NAM234R415 frs. 124-130.

dead and wounded, as well.²¹⁸

If federal employees could see that hunting remained important after 1836, so could missionaries. Dining frequently on venison in the winters of 1840 and 1841, Rev. George Nelson Smith, Congregational missionary at Old Wing, noted one late December day that Indian hunters had killed eight deer on the Pigeon River, which flows into Pigeon Lake and then into Lake Michigan south of Grand River. In 1842, Smith noted pigeon hunting, sugaring, sugar selling, and bear hunting near the Macatawa River, and he also noted that the people fished on Macatawa Lake.²¹⁹ Rev. John H. Pitezel, Methodist missionary at the Sault, visited an Indian village at "Mah-shkoo-ta-sa-ga," twelve miles down the St. Mary's River, in February, 1844. A "subordinate chief," I-ah-be-dah-sing, shared with the missionary "several rabbits" recently trapped.²²⁰ In 1846 Slater recalled that the presence of "much game near us" had been a consideration in the selection of lands for his Ottawa Colony of Grand River Ottawas.²²¹ That year, too, the Episcopal minister H. H. Cumming noted that Grand River Indians were away hunting, even from his agricultural colony south of the Grand River, for a month each year.²²²

Dougherty at Grand Traverse Bay reported an incident in 1846 in which a little boy mishandled a gun and accidentally shot another child. The boy's relatives, according to Ottawa

²¹⁸ Charles Adam Weissert, "Notes on Michigan Indians who served in the Civil War," unpublished manuscript in the Charles Adam Weissert Papers, Box 2, Bentley.

²¹⁹ George Nelson Smith, Journal, microfilm reel 1, entries for December 21 and December 23, 1840; April 8, April 9, April 17, April 19, Sept. 30, October 2, October 17, 1842; March 20, 1843, in the Bentley.

²²⁰ John H. Pitezel, Lights and Shades of Missionary Life (Cincinnati, 1861), 48, 50, facsimile accessed through the University of Michigan and the Making of America Books at <http://www.hti.umich.edu/t/text/gifcvtdir/aja30609.0001/00000005.tifs.gif>

²²¹ Leonard Slater to William A. Richmond, Ottawa Colony, Sept. 30, 1846, NAM234R426 81-83.

²²² H. H. Cumming, report, Nov. 26, 1846, NAM234R426 107-109.

and Chippewa norms, made the aggrieved family a large gift of "guns and traps and blankets." That guns and traps feature prominently in the incident suggests that hunting and trapping were still important practices.²²³ Dougherty later wrote a brief description of Ottawa and Chippewa lifeways for Henry Schoolcraft. Among the many tasks performed by women, he included dressing skins and sewing deer skin strips into the snowshoe frame; among those performed by men he included hunting, trapping, and drying pelts.²²⁴ Presbyterian missionary Andrew Porter, working among the Ottawas at Bear Creek in 1853, reported that even though game was in short supply, Indians went out with "their families for the sake of hunting and trapping and fishing, and all in generality for almost nothing but what can they do, they are ignorant with respect of farming. . . ."²²⁵ Two years later, he explained that the mission's "young men . . . have been in the woods instead of coming to school, they are very poor and fur is a cash article here."²²⁶ Ruth Craker, who grew up in the Presbyterian mission town of Omena, recalled that the Grand Traverse Bay area Indian hunters often "pushed on to Manistee, Muskegon, and the Sable rivers, even migrating to the Kankakee in Illinois, to spend the winter in hunting fishing and trapping."²²⁷ The Baptist missionary at the Sault in 1850 reported that there was "some" hunting, but he also observed that some Indians were traveling to a "distant hunting ground" in order to take game. So far were they traveling that they would be gone from late September through the

²²³ Dougherty to W.A. Richmond, Grand Traverse Bay, Sept. 26, 1846, NAM234R426 92-97.

²²⁴ Peter Dougherty to War Department, Office of Indian Affairs, Grand Traverse Bay, Jan. 21, 1848, HRSP/DLC/SHSW, reel 37, Container 49, part 2, n.p.

²²⁵ Andrew Porter to Lowrie, nd. but context suggests 1853, AIC, PHS, Box 7 reel 1, vol. 1 Letter No. 88.

²²⁶ Andrew Porter to Lowrie, Bear Creek Mission, March 25, 1855, Presbyterian Mission Papers, Box 7: Reel 1, vol. 1: no. 154.

²²⁷ Ruth Craker, First Protestant Mission in the Grand Traverse Region (Leland, Michigan, 1935), 7.

"latter part of the winter."²²⁸

Indians did not hunt for the fur trade alone; they also hunted for their own immediate use; for skin with which to make articles of clothing, cordage, tents, and bundles, and for food. Other reports of 1838 suggest as much. On the Upper Peninsula, Indians were noted as having hunted for ducks on Sable Lake in the middle of the nineteenth century.²²⁹ Peter Dougherty at Grand Traverse mentioned Indians fishing, killing a wolf, and killing pigeons for breakfast. He noted also that they hunted for ducks.²³⁰ Fowling remained an important food-procuring activity.

Immigrants sometimes depended on Indian hunting. Jim Baker's family moved from Pennsylvania to the Upper Peninsula, in the environs of Gould City, Mackinac County, in 1888. In his memoirs, dictated to Cecil Prater and later published in 1976, he recalled that the region's Indians had helped to feed his destitute family by providing them with fish and game.

The Indians were better to us than our own kind. They gave us lots of fish and venison. Dad and the rest of our family have always been grateful to Indian people everywhere for their kindness. Here we were over a thousand miles from home, strangers in a strange country, yet we never had an Indian steal from us. In fact they gave.

One of the gifts his family received was "a deer hound, awfully skinny, but he could sure run."²³¹ Hunting with dogs was a part of Indian life in the late nineteenth century.

Tourists and amateur ethnographers also described Indians hunting. Johann Georg Kohl, writing of the Chippewas of the Upper Peninsula near Sugar Island in 1860, described their

²²⁸ A. Bingham to David Aitkin, Sault Ste. Marie, Sept. 30, 1850, NAM234R426 frs. 615-616.

²²⁹ Bourgeois, ed., Ojibwa Narratives, 45.

²³⁰ Peter Dougherty, "Diaries of Peter Dougherty," Journal of the Presbyterian Historical Society 30 (Sept. 1952), 175-192.

²³¹ Cecil Prater, ed., The Land of Indian Elik: Upper Peninsula Life in the Late 1800's and Early 1900's; The Story of Jim Baker as Told to Cecil Prater (Grand Marais, Michigan, 1976), 10, 11.

method of hunting deer at night from canoes. During the black fly and mosquito seasons, the animals took respite from the insects in the rivers, only to be shot down by canoeing hunters who had blinded them with torchlight.²³²

The recollections of the Chippewa Charles Kawbawgam (d. 1902) mention successful beaver trapping in his youth on a "Pine River, about half way between Lake Michigan and Lake Superior." The context of this story, which places the events in the eastern portion of the Upper Peninsula, suggests that the place referred to is Pine Creek, which flows into the Manistique River between the Lake Superior State Forest and the Seney National Wildlife Refuge.²³³

Hunting, fishing, sugaring, and gathering remained important parts of the Indians' economy after 1836. The treaty provided for the establishment of temporary reservations, and it sent teachers to various bands of Ottawas and Chippewas. The writings of these teachers, who were generally missionaries, as well as those of other federal employees at the agencies, make it very clear that hunting occupied an important place in Indian lifeways.

Michigan's woods, meadows, swamps, and waters provided more than game; they provided many other important resources for everyday life. In 1848, Peter Dougherty said of the Grand Traverse Bay Ottawas and Chippewas that women worked hard at carrying water, chopping wood, carrying wood, ornamenting clothing, making mats, making bark twine and ropes, gathering roots, and sewing the seams of the bark canoes. Women also gathered the materials for, and constructed, the separate lodges to which they retired during menstruation. His information is sketchy (he did not mean it to be comprehensive), and it came to him mainly from

²³² Kohl, Life Among the Lake Superior Ojibway, 311-312.

²³³ Bourgeois, ed., Ojibwa Narratives, 48-49.

two men, "Chiefs of this place viz [that is], Ash-qua-go-na-be and Ah-go-sa." Of men's activities he also noted chopping wood; making the wooden farming implements and the wooden bows, arrows, bowls, ladles, and cradles; gathering bark for lodges and for canoes; and building houses.²³⁴ While much of the wood, bark, and root material needed for the above tasks might have been available in the immediate vicinity of a village, local resources would have eventually been exhausted, and the people would have had to either travel farther to gather the materials, or move their village. Aboriginally, moving the village was often the best option among the corn-fed Ottawas and those Chippewas who were agricultural, since fields eventually had to go fallow and since the habitations could be rebuilt without too much difficulty. By the early nineteenth century, however, secure possession of lands demanded more permanent settlement.

Material goods were increasingly gathered for commercial purposes. In 1849, for example, a "large number of the men" from Grand Traverse "found employment" gathering tan bark: the bark of chestnut, oak, and hickory trees, used in tanning hides. Some of the men also spent portions of the winter "chopping wood, and getting out hoop, stave, and shingle stuff." Hoops and staves were for barrels, which would have been used to store fish and other foods. Shingles would have been for the Western-style homes in which the Indians of the Northwestern Lower Peninsula were increasingly dwelling.²³⁵ This may be why Ernest Hemingway has Indians appear, before World War I, at a barking camp in the Two-Hearted River region of the Upper Peninsula, in one of his most highly regarded collections of stories.²³⁶

²³⁴ Peter Dougherty to War Department, Office of Indian Affairs, Grand Traverse Bay, Jan. 21, 1848, HRSP/DLC/SHSW, reel 37, Container 49, part 2, n.p.

²³⁵ Peter Dougherty to Charles Babcock, Grand Traverse, Sept. 12, 1849, NAM234R426 frs. 445-451.

²³⁶ Ernest Hemingway, *In Our Time* ([1925] New York, 1970), 16.

Wild berries remained an important source of food and trade throughout the nineteenth century. In 1847, Father Baraga, who worked among both the Chippewas of L'Anse, and, earlier, the Ottawas of L'Arbre Croche, noted that the Chippewas of Lake Superior gathered strawberries, raspberries, and whortleberries, though only the last was abundant in the L'Anse region. Ottawas made prunes and gathered, in addition, honey and nuts, especially those who lived around Grand River.²³⁷ George Nelson Smith, a Methodist working among the Grand River Ottawas at various sites just South of the river following the treaty, noted that they harvested cranberries, packed them in barrels, and traded them at the St. Joseph River for flour.²³⁸

The trade in berries continued even as Indian communities in Southwestern Michigan became encircled by the settlements of U.S. citizens. Slater complained in 1841 that the Ottawa Colony children were withdrawn from school to collect, with the "entire family," berries for sale "among the white population."²³⁹

In 1877 U.S. Indian agent E. J. Brooks observed that Indian women and children spent portions of the year "picking and selling berries."²⁴⁰ In 1879 and 1880, U.S. Indian agent George W. Lee and Ottawa historian Andrew Blackbird each wrote letters to the Federal Commissioner of Indian Affairs, complaining that one Lucy Penasway, an Ottawa widow, had had her private homestead improperly taken from her--the despoiler's claim was that the lands had been

²³⁷ Rev. Frederick Baraga, Chippewa Indians ([1847] New York-Washington: Studia Slovenica/ League of Slovenian Americans, 1976): 64.

²³⁸ George Nelson Smith, Journal, entry 14 Nov. 1840, in George Nelson Smith Papers, 1835-1879, Library of Congress, microfilm, reel 1, at the Bentley. See also Dwight Goss, "The Indians of the Grand River Valley," Michigan Pioneer and Historical Society: Collections 30 (1906) 185-186.

²³⁹ Leonard Slater to Robert Stuart, Ottawa(sic) Colony, Barry, Richland P.O., Aug. 18, 1841, NAM1R51 183-185.

²⁴⁰ Quoted in Dunham, "Cache Pits," 246.

abandoned--"while she and her children were away picking berries."²⁴¹ Lee elsewhere reported to his superiors in 1880 that around Grand Traverse Bay, Little Traverse Bay, and the Mackinac region, "women, Children, and Old Men have earned considerable by picking Whortleberries, and Blackberries, as well as Rhasberries(sic), which are abundant in this vicinity, and from which they have derived not inconsiderable revenue in their season." A band identified with one "Old Chief Shawwano" of the Sault, which had lost 300 acres of private land for failure to pay back taxes, sustained life "by fishing, picking berries or an odd day's work. . . ."²⁴² Lucille Winberg, an Ottawa in Northern Lower Michigan, recalled of the 1930's that "we did used to go back there years ago and pick blueberries." She added that canning was by then the method of storage.²⁴³

Recent archaeology confirms the role berries played in the economic strategies of mid-nineteenth century Ottawas and Ojibwas. Archaeologist Sean B. Dunham reports work on the Ne-con-ne-pe-wah-se site in Newaygo County, near Fremont, Michigan. The site reaches far back into precolonial times, but Dunham's report focuses on its nineteenth-century features. The land was legally patented in 1855 to Ne-con-ne-pe-wah-se. The most notable nineteenth-century features of the site are twenty "surface depressions," which Dunham explains were cache pits. A list of seeds recovered from the pits indicate that they were meant for storing choke berries, bunchberries, red-osier dogwood, beechnut, witch-hazel, spicebush, honeysuckle, cinquefoil, pokeweed, cherries, sumac, raspberries, elderberries, nightshade, mountain ash, grapes, and corn-maize. According to a principle of Indian land use already noted in this report, this was not a

²⁴¹ A. Blackbird to Commissioner of Indian Affairs, Little Traverse, Mich, April 26, 1880; George W. Lee U.S. Indian Agent to Commissioner of Indian Affairs, Ypsilanti, Michigan, Dec. 24, 1879, NAM234R415 frs. 8-9, 87-89.

²⁴² George Lee to Commissioner of Indian Affairs, Monthly Report for August, 1880, NAM234R415 frs. 396-400.

²⁴³ Winberg quoted in Dunham, "Cache Pits," 246.

place for long-term occupation, but was rather frequented for gathering and storing nuts, fruits, and herbs. Grand Valley Ottawas had before 1850 moved north and purchased lands a mile to the east of the site; presumably Ne-con-ne-pe-wah-se was with this group and had purchased this site with foreknowledge of its value for gathering. He and his family likely lived with the others in the easterly village, and had sought to solidify their peoples' access to Fremont Lake and its nearby fruits. Dunham observes that this would indicate the adaptation of a traditional strategy to modern times: "The separation of habitation and caching locales has been observed in regard to Late Woodland cache pit sites, perhaps indicating continuity in traditional settlement and subsistence practices." And he later writes: "The seeds recovered from the pits provide evidence for the scheduled, seasonal collecting of nuts and berries from multiple environments and the intentional storage of surplus goods at a specific location. This confirms the continued importance of the seasonal round in Ottawa subsistence during the 19th century."²⁴⁴ Ne-con-ne-pe-wah-se and others likely purchased the site in order to prevent their exclusion from it by settlement. Having just been dislodged from the Grand River Valley, this group would be both keen to remain in the temperate, familiar regions of Michigan and to establish the sites they needed to maintain their lifeways. They understood that while the treaty guaranteed their access to lands unsettled by whites, valuable fruiting lands were likely places for imminent white occupation, thus the necessity of purchase.

Schoolcraft was remarkably quiet about fishing in his annual reports. He well knew that the attachment to fishing made removal to the Plains unattractive, and he wrote widely about Indian fishing elsewhere. After he left office, in any case, other Indian agents more regularly and

²⁴⁴ Dunham, "Cache Pits" 225-260, quotations on 242-248.

easily reported the importance of fishing. Richmond wrote favorably of the role fishing played as a complement to hunting and agriculture in his three annual reports of 1846, 1847, and 1848. In the last he detailed fishing as a "profitable" activity for the Ottawas of Lake Michigan and the Chippewas of the Upper Peninsula. He thought the Ottawas of the Black River (or Old Wing Colony), who were then moving northward to an area near Grand Traverse Bay, would find useful fisheries.²⁴⁵ Charles Babcock's report of 1851 represents fishing as yielding "a good support" for the Chippewas on Lake Michigan, and he noted its importance to the Grand River Ottawas and the Ojibwas of the Upper Peninsula, but he was not optimistic about the general condition of Indians outside of the peoples living along the coast from Grand Traverse to Michilimackinac.²⁴⁶ In 1866, H. J. Alvord's report again noted the dependence on fishing of the Indians in the Upper Peninsula and in the Grand Traverse Bay and Little Traverse Bay regions. The strategy adopted by the Indians in the Northern Lower Peninsula, he noted, involved purchasing small tracts of land along "the bays and rivers of the great lakes," raising crops on the land and fishing and hunting beyond.²⁴⁷ The Indians were, in short, following the lead given by the Treaty of 1836.

Subagents and missionaries also noted the continued importance of Indian fishing after 1836. Lucius Garvey, a subagent at the Manistee River Mission in 1838, reckoned that "about one fourth part of their living consists in the article of fish."²⁴⁸ That year, too, the leaders of the

²⁴⁵ William Richmond to William Medill, Detroit, Oct. 30, 1846, same to same, same place, Nov. 20, 1847, same to same, same place, Nov. 6, 1848, NAM1R40 140-45, 169-72, 233-237 (quotation).

²⁴⁶ Charles Babcock to Luke Lea, Detroit, Nov. 27, 1851 NAM1R40 459-463.

²⁴⁷ H. J. Alvord to S. V. Bogy, Nov. 16, 1866, NAM234R407 frames 852-865.

²⁴⁸ Lucius Garvey to HRS, Manistee, Sept. 30, 1838, NAM234R423 fr. 199.

Chippewas from the Upper Peninsula wondered when a promised cart and yoke of oxen would be delivered to them, because they wanted "to transport our fish, as the whites do, at the different places and portages, instead of carrying them, as has been our custom." It is likely that their goals were as market-oriented as they were subsistence-oriented. That year Rev. A. Bingham, a missionary at the Sault, noted that "the Indians have Barreled up and sold to the merchants of our place about 140 Barrels fish since the opening of Navigation." In 1850 he noted that they had spent "the summer and autumn in barreling fish for market. . . ." Also at the Sault, Ord reported in 1847 that "the fish taken at the Forks, and their other fishing places, enable them to support during the summer, their families, notwithstanding the high prices of provisions." He estimated that the various bands had sold on the market 400 barrels of fish.²⁴⁹ Finally, from the Sault in 1850, the Methodist missionary proposed moving the school building to Naomikong, to be closer to the fishing grounds. The Naomikong River runs through a wetland into the Whitefish Bay about two or three miles west of Naomikong Point.²⁵⁰ Many of the Sault bands had relocated to that point in the 1840's, and they were soon followed by bands from as far west as Grand Island.²⁵¹

In 1840 the missionary Smith and his wife purchased fish from former Grand River Indians then residing at the Macatawa River. His diary notes "fresh fish" (in March), and "fish" (in May), paying at one time fifty cents for each. Over the following dozen years, he would

²⁴⁹ A. Bingham to David Aitkin, Sault Ste. Marie, Sept. 30, 1850, NAM234R426 frs. 615-616; James Ord to W.A. Richmond, Sault Ste. Marie, Oct. 20, 1847, NAM234R426 frs. 225-228. The "Forks" likely refers to the forks of the St. Mary's River around Sugar Island below the Sault.

²⁵⁰ J. H. Pitezal to David Aitkin, Methodist Mission, Sault Ste. Marie, 12 August, 1850, NAM234R426 frs. 639-641.

²⁵¹ Cleland, Place of the Pike, 32.

occasionally note that Indians went off to fish or returned from fishing.²⁵² Smith moved north with the group in 1848, to a site "in Township 32 North Range 11 West," on the Lake Michigan shore, where there was good shore trout and whitefish fishing.²⁵³ Commercial fishing suffered a serious blow in 1841, when it became clear that the market for Great Lakes fish had been saturated, but Indians continued to fish, and some continued to barrel up the fish in hopes of a sale.²⁵⁴ Perhaps Dougherty in 1841 had the poor prices for fish in mind when he blamed irregular school attendance in his Presbyterian station at Grand Traverse, in part, on "the precarious mode of subsistence depending much on fishing and hunting." In any case, his statement, typical of the times, indicates the continued importance of fishing to the Grand Traverse people.²⁵⁵ In June, 1842, Dougherty noted that all of the Indians were engaged in fishing.²⁵⁶ He renewed the complaint in 1846, adding that the intensified farming had only exacerbated the problem, because the people were working harder in the fields in order to be able to leave them during the fishing seasons.²⁵⁷ In January, 1848, he included cleaning fish among the women's chief activities and fishing itself among the men's.²⁵⁸ Over four years later Dougherty again pointed to the

²⁵² George Nelson Smith, Journal, microfilm, Bentley, entries for March 18, 1840, May 8, 1840, March 20, 1843, and Dec. 13, 1852.

²⁵³ George Smith to W. A. Richmond, Old Wing, Sept. 4, 1848, NAMR426 frs. 348-351.

²⁵⁴ Chiefs of the Chocolate River, Drummond Island and Grand Island to HRS in presence of Achille Cadotte, March 1, 1838, NAM1R44 141; A. Bingham to HRS, Sault Ste. Marie, July 31, 1838, NAM234R423 f. 203-205; James Ord to Robert Stuart, Sault Ste. Marie, Sept. 8, 1841 NAM1R51 271-274; A. Bingham to Robert Stuart, Sault Ste. Marie, Aug. 18, 1841, NAM1R51 189-192.

²⁵⁵ P. Dougherty to Robert Stuart, Grand Traverse, August 27, 1841, NAM1R51 225-229.

²⁵⁶ "Peter Dougherty Diaries," *JPHS* 30 (Dec. 1952), 246.

²⁵⁷ Dougherty to W.A. Richmond, Grand Traverse Bay, Sept. 26, 1846, NAM234R426 92-97.

²⁵⁸ Peter Dougherty to War Department, Office of Indian Affairs, Grand Traverse Bay, Jan. 21, 1848, HRSP/DLC/SHSW, reel 37, Container 49, part 2, n.p.

importance of fishing, but this time in mortification, for he had lost a boat belonging to an Indian, and the owner needed it "to fish as the fish were just getting plenty." This was clearly a wooden plank boat, blown across the bay and broken to pieces on the rocks. By 1850, Indians in this part of Michigan were purchasing and building the more seaworthy boats for deep water fishing.²⁵⁹ Mackinac was still providing a good central market for the Indians' catch.²⁶⁰

A clear reference to the importance of fishing on inland lakes is in Slater's recollection, in 1846, of the lands selected for his colony. Nearby, he wrote, "are large Lakes which abound with a variety of fish. . . ." ²⁶¹ That same year, H.H. Cumming wrote from the nearby Ottawa Protestant Episcopal Colony, also known as the Griswold Colony (not far from Wayland, Michigan, some twenty miles south of Grand Rapids), that this colony of 360 purchased acres was "beautifully situated in the neighborhood of several large lakes abounding in fish."²⁶² Ruth Craker, who, born in 1894, grew up in a mission household in the Grand Traverse Bay region, understood that Indians were fishing by torchlight on the inland lakes even as settlers had come to occupy portions of the region in Peter Dougherty's day: "When the first white settlers came to Antrim and Charlevoix Counties, they named the largest of these lakes Torch Lake, because on many a dark night scores of canoes were upon this lake, and in each canoe was a red man spearing the fish by torch light." Torch Lake was not alone; Craker called the entire "chain of inland lakes in Antrim County with its outlet at Elk Rapids" a "favorite resort for Indian fishing,

²⁵⁹ P. Dougherty to Walter Lowrie, Grand Traverse Bay, November 24, 1852 AIC PHS Box 7 Reel 1, vol. 1, 52.

²⁶⁰ M. C. Gilbert to Commissioner George Manypenny, Detroit, June 17, 1853, NAM234R404, fr. 46-49.

²⁶¹ Leonard Slater to William A Richmond, Ottawa Colony, Sept. 30, 1846, NAM234R426 81-83.

²⁶² H. H. Cumming, report, Nov. 26, 1846, NAM234R426 107-109.

hunting, and trapping.” Boardman Lake, in Traverse City, she also pointed to as a place where Indian men “speared many a pickerel thru the ice.”²⁶³

Long an established feature of Ottawa and Chippewa lifeways, the trade in maple sugar continued after the making of the Treaty of 1836. At Mackinac in September, 1836, the United States Board of Commissioners, hearing the claims of traders to be settled according to the treaty, noted another kind of claim. "Kaysheaway and Pondegakowa" of L'Arbre Croche and Grand River accused some "Maskigo" [Muskegon] River Indians of killing their horses, but the accused denied the charge and said that they were in the Muskegon region to make sugar.²⁶⁴ Henry Schoolcraft's annual report for 1837 noted that the Northern Ottawas, particularly those resident at Little Traverse and L'Arbre Croche, produced maple sugar for sale in the market at Mackinac, while the Grand River Ottawas also went sugaring.²⁶⁵ In April, 1837, William Johnston noted that Indians in the Michilimackinac region had just been through a period of hunger, but were now "making sugar," and they would find it "easy now to procure subsistence." In the ledger of James Schoolcraft, there is an 1838 entry noting his payment of a "sugar credit" to "Madame La Charite, Indian Woman."²⁶⁶ When an Ottawa and Chippewa party returned from its 1838 exploration of western lands -- sites for their possible settlement after a possible removal -- Megis Ininee, one of the participants, said that they were "disappointed in not seeing the Sugar

²⁶³ Ruth Craker, First Protestant Mission in the Grand Traverse Region (Leland, Michigan, 1935), 6-7.

²⁶⁴ Claim 22, Report of the Board of Commissioners assembled at Michilimackinac, 21-22.

²⁶⁵ HRS to Commissioner Harris, Sept. 15, 1837, NAM234R422 frames. 729-746.

²⁶⁶ William Johnston to HRS, April 3, 1837, and James Schoolcraft, "Abstract," Container 41, Part 2: frs. 14546-14549, HRSP\DLC\SHSW.

tree."²⁶⁷ At Sault Ste. Marie in 1838, Ord thought that during the season the Chippewas had "prepared a considerable quantity of Maple Sugar," a good deal of which they had sold to traders. Three years later, he thought the season had been the best ever.²⁶⁸ In 1847, he observed that Indians in the Upper Peninsula had made "about 8000 pounds" of maple sugar that year.²⁶⁹

Missionaries noted sugar making with considerable regularity in the late 1830's and for the next several decades. The Baptist Rev. Abel Bingham noted the abundance of sugar among Indians at Sault Ste. Marie in 1838 and 1841.²⁷⁰ Pitezel, a dozen years later, referred to the interruption of school during the "sugar making season" as a "customary" occurrence.²⁷¹ At Grand Traverse Bay, Dougherty ran a school which, in 1846, he reported had been operating year-round except "while the families were absent at their sugar camps."²⁷² Porter adjusted his mission at Bear Creek to the rhythm of Ottawa "sugar making." He noted that the sugaring families were fairly close by, within two or three miles of one another, so he was able to keep a small school in session during the sugar season.²⁷³ At Middle Village, in the Little Traverse Bay region, fellow Presbyterian J. G. Turner considered closing his school when the sap ran, since

²⁶⁷ "Reply of the Ottawa and Chippewa delegation. . ." NAM234R415 fr. 655.

²⁶⁸ James Ord to HRS, Sault Ste. Marie, Sept. 1, 1838, NAM234R423, fr. 191; James Ord to Robert Stuart, Sault Ste. Marie, May 31, 1841, NAM1R50, 393.

²⁶⁹ James Ord to W. A. Richmond, Sault Ste. Marie, Oct. 20, 1847 NAM234R426 225-228.

²⁷⁰ A. Bingham to HRS, July 31, 1838, NAM234R423, frames 203-205; Extracts of a Letter from A. Bingham to James Ord, Sault Ste. Marie, May 28, 1841, NAM1R50 397-400; A. Bingham to Robert Stuart, Sault Ste. Marie, August 18, 1841, NAM1R51 189-192.

²⁷¹ J. H. Pitezel to David Aitkin, Methodist Mission, Sault Ste. Marie, 12 August, 1850, NAM234R426 frs. 639-641.

²⁷² Dougherty to W.A. Richmond, Grand Traverse Bay, Sept. 26, 1846, NAM234R426 92-97.

²⁷³ Andrew Porter to Walter Lowrie, Bear River, March 3, 1853; same to same, March 24, 1853, Bear River; same to same, Black River-Little Traverse, May 11, 1853; AIC PHS, Box 7, Reel 1, volume 1, No. 58, No. 59, No. 74.

parents would take their children away for "two to three weeks."²⁷⁴

Dougherty mentioned the Ottawas' and Chippewas' seasonal movement to sugar bushes in letters of 1841, 1850, 1853, and 1862.²⁷⁵ He also mentioned sugar camps in his 1848 description of men's and women's labor.²⁷⁶ In 1842, Joseph Dame, who worked with Dougherty, noted that most of the hauling he had performed was for "fire wood and removing them to their sugar camps the most of them have gone across the bay to make sugar."²⁷⁷ Dougherty disliked the seasonal movements required by sugaring, but in 1849 he added maple sugar to the list of Ottawa and Chippewa products that supplied the people with incomes. After discussing barrel and shingle making, wood-chopping, and tan-bark gathering, he concluded: "From these sources together with their sugar crop they have the means of supplying their families better than in any former year."²⁷⁸

The Old Wing Ottawas made maple sugar both before and after their northward migration. As in other places, the original mission school (near today's Holland) shut down during sugaring time.²⁷⁹ Smith noted that they gave him sugar as gifts, that they traded sugar

²⁷⁴ J. Turner to Lowrie, Middle Village, Michigan, Feb. 18, 1854, AIC PHS, Box 7, Reel 1, volume 1, No. 112.

²⁷⁵ Peter Dougherty to Robert Stuart, Grand Traverse, August 27, 1841, NAM1R51, 225-229; Peter Dougherty to Rev. J. C. Rankin, March 1850; Peter Dougherty to Walter Lowrie, Grand Traverse Bay, Feb. 22, 1853, AIC PHS Box 7, Reel 1, volume 1, No. 3, No. 56; Peter Dougherty to Walter Lowrie, Omena, Michigan, Feb. 28, 1862, in Peter Dougherty Papers, Microfilm 1, 1860, at the Bentley. In this last document, he names April as the school vacation time, and he says that the moderate winter caused the Indians to expect "sugar weather soon."

²⁷⁶ Peter Dougherty to War Department, Office of Indian Affairs, Grand Traverse Bay, Jan. 21, 1848, HRSP/DLC/SHSW, reel 37, Container 49, part 2, n.p.

²⁷⁷ Joseph Dame to R. Stuart, Grand Traverse, March 31, 1842, NAM1R52 243-246.

²⁷⁸ Peter Dougherty to Charles Babcock, Grand Traverse, Sept. 12, 1849, NAM234R426 frs. 445-451.

²⁷⁹ George Smith to W. A. Richmond, Old Wing, Sept. 4, 1848 NAM234R426, 348-351.

with him for pork and quilts, that they sold sugar at such places as Grand Haven, the St. Joseph River, and even Chicago. The mission also shut down for a time in the summer, when the members moved to their locations on Black Lake for hunting and fishing. A new migration of settlers, many of them from the Netherlands, placed enormous pressure on the Old Wing mission. The newcomers' fenced their own fields and released into the woods their animals, which found good eating in Indian fields as the Indians summered by the lake. The destruction was strong argument for moving, and the Protestant followers of Smith, including the Wakazoo family, squared off against the Makasebe family, including the key leader Benasewekezhik, arguing for a migration to the Grand Traverse Bay region. In 1849, they located new lands and made the move. Wrote Smith, "They will not live among the Dutch, their sugar Camps are gone and they make sugar some where else." After the move to the North, Smith helped them cut a road to a new sugaring place. Their sugar camps were about two miles, he noted, from the mission that he set up in the Grand Traverse Bay region. The new mission was named Wakazoo.²⁸⁰

The Episcopalian H. H. Cumming, inhabited, like Slater, a tract of land that the Grand River Ottawas had purchased to the South. He noted in 1846 that the people of his settlement were off sugaring about one month a year.²⁸¹ The next year, Naw to way's band of 127 Sault Ste. Marie Chippewas made some 2,400 pounds of sugar. If there were five people in a typical

²⁸⁰ Entries for June 15, 1840, February 9, 1841, March 25, 1841, Feb. 1. 1842, Feb. 4, 1842, March 1, 1842, April 19, 1842, March 3, 1844, March 10, 1848, March 1, 1850, March 4, 1852, March 13, 1852, George Nelson Smith, Journal, microfilm 1, at Bentley; George Nelson Smith to William Richmond, Old Wing, Aug. 1, 1847, NAM234R426 frames 249-252; George Nelson Smith to William Richmond, Old Wing, Dec. 27, 1848, NAM1R62 391; George Nelson Smith to Charles Babcock, Old Wing, May 1, 1849 and same to same, Grand Traverse, July 10, 1849, NAM1R63 11, 133; same to same, Grand Traverse, Oct. 9, 1850, NAM1R64 413-416.

²⁸¹ H. H. Cumming, report, Nov. 26, 1846, NAM234R426 107-109.

"family," that would mean an average of 96 pounds per family, leaving a marketable surplus.²⁸²

Though the description is from just outside the region under discussion and refers to Saginaw Chippewas not party to the treaty, it is worth reading a missionary's description of Indian sugar-making in the 1840's, both for the mix of native and imported technology and for the sense of sugar-making's importance to the state's Indians.

Sugar making is also a happy time. Usually by this time the corn has been consumed and the hunt, at this time of year, is not very successful. Often Indians live on sugar alone. Sugar does not take much effort to produce. The women scatter in the forest and look for areas where maple trees are plentiful. These are then tapped with an ax. They make a wedge or a spigot of rolled up birch bark and insert it into the tree so that the sap runs freely into the vessel which is placed underneath. When the vessel is full, it is emptied into a kettle that hangs over the fire and the sap is boiled down. The sap has a tendency to boil over, so a woman takes a pine twig and beats the boiling sap, which causes the foam to recede. At the right time the kettle is taken from the fire. The thick sap is stirred for a long time till it turns into good, sweet brown sugar. This is then packed into twenty-to thirty-pound nicely decorated boxes made of birch bark. It is often sold to dealers. Sometimes the women make really pretty little figures of this sugar, such as a tortoise shell, and other forms. This is usually given to visitors as a gift. But out of necessity the sugar is usually eaten.²⁸³

Craker describes the importance of sugar-making to Indians in the Presbyterian mission town of Omena, after Dougherty moved to New Mission Point in 1853.

The Indians at new mission made a business of sugar making in the spring, just as their Ottawa ancestors did at Arbour Croche. Many families lived in the sugar bush during the season. Mrs. Susan Pequongay said that her father often tapped 1100 trees at a time. The wooden spiles called na-go-ma-kon-quan were driven firmly into the gash in the maple tree. The sap pails used were 10 quart containers made of birch bark, shaped like a canoe, and called we-gwas-ne-ba-gun. The to-ba-je-gon was a container carved out of a basswood tree, and large enough to hold 100 gallons of sap. The sap was stored in these containers when the sap ran freely, and the kettles were overflowing. The maple syrup

²⁸² Naw to way band of the Chippewa Census, 1847, NAM 234 426 321-324; one "Netaway" marked the 1820 Treaty of Sault Ste. Marie, and Henry Schoolcraft mentions one "Nattaowa" as a son of Maidosagee and the grandson of the leading Crane member, Gicheojeedebun. Kappler, ed., Treaties, 2: 188; HRS Personal Memoirs, 570.

²⁸³ Baierlein, In the Wilderness, 53.

was made in large iron kettles. In the camps these kettles were boiled inside of the temporary wigwams. One might see twelve of these kettles placed over an open fire in one wigwam. A hole in the roof allowed the smoke to escape. The Indians made several products from the maple sap. The syrup was called se-wag-a-ma-da , the delicious maple wax was known as peg-a-wa-da, and the sugar was siz-abah-quah. The sugar making season was a merry time for the Indian people, and was anticipated many months before the time. Mrs. Susan Pequongay was born at her father's sugar camp in the spring of 1853. That camp was located on a hill west of the farm house now owned by Mr. George Prindell.²⁸⁴

Within five years of 1836, Stuart, a former fur trader and successor to Schoolcraft, wrote the clearest statement of the role maple sugar occupied in the Michigan Indians' plans for their future. He described the reluctance of Indians to move to the West. Though he said that the Grand River region was fast becoming inhospitable to the Ottawas' way of life, he thought that the Northern Lower Peninsula was not likely to be settled by Americans soon: "so there is no urgent necessity for removal on that account." Indians would and should remain in the state: "The Indians generally make some cultivation of the soil and manufacture of maple sugar, which with their fine fish might enable them to live very comfortably."²⁸⁵

Henry Davenport, a carpenter working in federal pay at Grand Traverse Bay, wrote in the mid-1840's that he had fabricated "16 Troughs for holding Sap which had to be hauled the distance of between 163 miles." He added that he had cut wood "at the Sugar Camps for the Indian women who had got out of wood and whose husbands" were away hunting.²⁸⁶

In 1846, Richmond wrote to John Mogwawgo (a leader among the L'Anse Chippewas-- just to the west of the ceded region), that he thought it was foolhardy for Indians to invest too

²⁸⁴ Craker, First Protestant Mission, 29-31.

²⁸⁵ Robert Stuart to T. Hartley Crawford, Detroit, October 18, 1841, NAM1R38 578-587.

²⁸⁶ Henry Davenport to Justin Rice, April 1 (no date--1844 likely from surrounding documents), NAM234R425 fr. 602.

much time in farming, to the neglect of more profitable sugaring and even hunting -- both of which Richmond, probably correctly, thought would be more likely to succeed in the Upper Peninsula. Richmond, having come to some understanding of Ottawas and Chippewas in the ceded lands, was recommending their strategy to their Indian neighbors.

I have been told that you are unwilling to allow your people to make sugar, or procure kettles to boil the sap, or make any provision for the coming spring to support your families--that you are also opposed to have your young men hunt, but that they must spend all their time clearing the lands and splitting pine rails-

You should advise them to procure kettles &c: in order that they may make sugar in the proper season, for this will be a great saving and will not interfere with your farming operations. You should also procure some provisions to supply the wants of your people during the spring, and potatoes, corn &c.: so that you may have seed for your farms at the right time. I think you should allow your men to hunt occasionally, when it does not interfere with their farming business, as it will be a means of assisting them to support their families.²⁸⁷

Richmond again noted the importance of sugaring when he suggested that the best time for annuity payments was just after the sugar season and just before the planting.²⁸⁸ Slater noted in 1847 that his small Ottawa colony produced 3,060 pounds of maple sugar (contrasted with 30 pounds of honey).²⁸⁹ Weather patterns greatly affect sugar production; in the spring of 1850, "owing to the season," sugar production was "unusually poor" at Sault Ste. Marie.²⁹⁰

An 1865 petition from Ottawas in Oceana County complained that the federal blacksmith

²⁸⁷ Wm Richmond to John Mogwawgo (a chief at L'Anse) Detroit, Feb 8, 1846, NAM1R40 76-77.

²⁸⁸ William Richmond to William Medill, Detroit, February 1, 1848, NAM1R40 177.

²⁸⁹ Ottawa Colony census, 1847, NAM234R426 305-311; Slater also mentioned Sugar in a letter to Charles Babcock, Oct. 1, 1849, NAM234R426 fr. 452.

²⁹⁰ A. Bingham to David Aitkin, Sault Ste. Marie, Sept. 30, 1850, NAM234R426 frs. 615-616.

was threatening to close up his shop "through the season of making Shugar(sic)."²⁹¹ Even as the Civil War drew to a close, then, sugaring was highly important to these Ottawas.

The decades that followed that war saw the accelerated displacement of Ottawas and Chippewas on the Lower Peninsula; even those who had established legal homesteads found it difficult to avoid being driven out by unscrupulous men. Michigan's Indian agent reported one such case in 1880. John Blackbird, an Ottawa who had a legal title to a homestead near Petoskey, was at risk of losing it. The agent, George Lee, had learned of a "conspiracy to get possession of the Indians' land because it was valuable and near the town and railroad terminus and command ready sale." Lee had gone to Little Traverse himself to gather evidence, and much of it concerned the fact that Blackbird had a sugar camp and crops, along with a shanty and a house. Lee heard from at least five individuals about the presence of a sugar camp on the piece of land. These persons included Warner Johnson, Liberty Ingalls, Abner Lee, John S. Keqy, and Jeremiah Blackbird. Even in 1880, sugaring remained important to Indians in the neighborhood of Little Traverse Bay.²⁹²

Craker, whose family worked in the mission town of Omena, Michigan in the Grand Traverse Bay region, kept a photo album that includes a photograph, probably from the first decade of the twentieth century, that shows one "Peter Na on ga be," in the late winter woods,

²⁹¹ Petition from Chiefs, . . . , Elbridge, Oceana County, Feb. 24, 1865, NAM234R407, frs. 749-751. Their names included, as "Chiefs," Shawyaubunno, Pahawega, Pabaunal, Shawbeyuaung, Aseeuaoea, Cohmoba, ushkebanoyosh, Wabekake, Kiendwaha, and as "Head Men," Cogkeshequon, Joseph Elliot, Tushquagoshiek, Mecontawaze, Mawbeese, Kangannequaung, Mesawbia, Cawkeshiba, and Joseph Kaunckey.

²⁹² George W. Lee to Commissioner of Indian Affairs, Mackinac Agency, Ypsilanti, Michigan, Oct. 25, 1880, NAM234R415, 500-514.

boiling down the maple sap.²⁹³

Maple sugar production, a commercial as well as a subsistence activity throughout the span of the nineteenth century, occupied an important place in the economic life of Michigan's Indians. Men like John Blackbird, seeing the advance of actual settlement by non-Indians, and knowing that this might end their customary use of sugar bushes, tried to protect their camps by purchase or homesteading. In an era of discrimination, this was a highly uncertain strategy. But it does speak to the importance that maple sugar played in the nineteenth-century Ottawa and Chippewa vision of their future in Michigan. On unsettled lands, that is, lands not farmed or planted in towns, they expected to have access to the rock maple, as Schoolcraft had called it.

A Note on Other Forms of Work

It is important to note that, as before 1836, in the years that followed Indians did pursue other sources of subsistence and profit than farming, hunting, fishing, gathering, sugaring, trading, or crafts. Service and wage labor were already a part of Indian life in 1836, and they would continue to be thereafter. Indians had long received goods in exchange for military and diplomatic alliance with colonial powers, a practice as old as colonization. Alliance sometimes meant service in war. Indians also worked canoes in the colonial fur trade and paddled explorers and missionaries throughout the interior. There are reports from the treaty period of Indians "chopping cord wood for the traders. . . ." ²⁹⁴ They carried messages for U.S. citizens across an unfamiliar landscape. ²⁹⁵ Following the Civil War they were not only working in lumber, but

²⁹³ Ruth Craker, "Photo Album," in Omena Presbyterian Church Records, Bentley.

²⁹⁴ Francis Audrain to HRS, Sault Ste. Marie, January 1, 1834 NAM1R68 594.

²⁹⁵ General Abstract of Disbursements and Expenditures made by Henry R. Schoolcraft. . . . [1836] P 79-1998, Container 41, Part 2, General Correspondence, Frame 14635; HRS Personal Memoirs, 587.

were managing animal teams for heavy transport.²⁹⁶ Indian agent George Lee reported from Michigan in August, 1880, that Indians in the Northern Lower Peninsula harvested firewood, railroad ties, telegraph poles, and hemlock bark, all of which they sold on the market.²⁹⁷ This report cannot possibly detail all aspects of Indian economic life. Where hunting, fishing, sugaring, other resource gathering, and craft production were concerned, however, the resort to the ceded lands was an important aspect of Article 13.

Throughout the nineteenth century, Indians continued to resort to the inland lakes, rivers, meadows, and woodlands of Michigan, much as they had in the years before the Treaty of 1836. In the Grand Valley, settlement was a slower process than might have been expected before the Panic of 1837 sank the nation in depression. North of the Grand Valley, settlement occurred slowly, as expected. Indians hunted, fished, gathered, and produced maple sugar to such an extent that citizens of Michigan associated them with these activities. A few citizens had even expressed their understanding that state regulations did not apply to tribal members.

²⁹⁶ Peter Dougherty to Walter Lowrie, Omena, Jan. 4, 1865, Peter Dougherty Papers, Bentley.

²⁹⁷ George Lee to Commissioner of Indian Affairs, Monthly Report, August, 1880, NAM1R415 frs. 396-400.

CONCLUSION AND SUMMARY

This historical report explores the meaning of Article 13 of the Treaty of Washington, March 28, 1836. It examines Ottawa and Chippewa property and land use before 1836. It analyzes Ottawa and Chippewa understandings of Article 13 in 1836. The report delves into various American interpretations of the article, particularly U. S. Attorney General Benjamin Butler's faulty 1837 opinion. The report reveals the importance of federal land policy and Indian policy in the period to a proper understanding of the article. Finally, the report briefly describes continued Ottawa and Chippewa use of the ceded lands following the treaty agreement.

Chapters One through Four of this report outline specific aspects of Ottawa and Chippewa history, culture, and land use that have the most relevance for Article 13. These include subsistence and early commercial activities, as well as some religious practices. The chapters discuss traditional Ottawa and Chippewa band regulation of land use, possession, and territoriality, along with the religious and cultural importance of both the land and the means of gaining a living from it.

Chapter One outlines Ottawa and Chippewa history in the centuries before 1836 and discusses the seasonal economies of the peoples. Chapter Two explains the history of land use in more detail, emphasizing that valuing traditional culture did not mean resisting all change or opposing all engagement with European powers and the United States. Well before 1836, Ottawas and Chippewas actively engaged in the market. The chapter provides a brief but suggestive catalog of the extensive economic purposes for which Ottawas and Chippewas resorted to Michigan's interior in the years before 1836. The first two chapters, taken together,

begin to suggest the material importance of Article 13 to the Indians who accepted the Treaty of 1836.

Chapter Three speaks directly to another important dimension of the Article 13: the nature of Ottawa Chippewa property-holding and land-use rights as revealed in historical documents and modern anthropology. It identifies the sharing of a territory's resources as an important marker of alliance among these peoples, and it suggests that Article 13 represented such an agreement. In 1836, Ottawas and Chippewas gained assurance from the American commissioners that they would retain, indefinitely, expansive privileges to use the resources of Michigan's unsettled lands. No longer would access to the interior for hunting, fishing, and other resource use belong exclusively to the Indian peoples or to their bands under the direction of band leaders; no longer would the Indians be able to settle on ceded lands with any permanent security of title, unless they did so under American authority; no longer could the Indians restrict American use of the ceded lands. In ceding lands to the United States, the Indians were, in fact, surrendering a great deal. Overall control and disposition of the ceded lands now belonged to the United States, which incurred, among other obligations, that to defend and to protect the Indians' retained usufructuary rights. These rights were highly important, and they had precedence among the peoples of the Great Lakes.

Article 13 resembles arrangements that Ottawas, Chippewas, and Potawatomis had variously made with one another in certain regions where hunting, fishing, and even sugaring rights might be shared. Chippewas, for example, had previously extended to Americans the right to collect firewood to warm soldiers at Fort Brady without ceding the land on which the dead wood lay. During whitefish runs, many bands of Ottawas, Chippewas, and probably Hurons had

fished together, as allies, at the Straits of Mackinac and on the St. Mary's River. Chapter Three provides other examples of such resource sharing. Article 13 resembles these native traditions in its emphasis not on the possession of land or territory itself, but on the designation of rights to collect resources under certain limitations. Leaders among Ottawas and Chippewas assigned such usufructuary rights to their followers and sometimes to their allies. In Article 13, the United States was taking on the role of the leader, with all the attendant responsibilities of leadership. Chapter Three, finally, illuminates briefly the sacred significance of specific places, a significance that highlights the importance of the land, and access to it, in the hearts and minds of Ottawas and Chippewas.

Chapter Four examines the Indians' use of the lands in the treaty-making period. It demonstrates that, despite much talk about over-hunting and a decline of game, Ottawas and Chippewas in 1836 correctly foresaw a future in which hunting, fishing, and other usufructuary activities would remain vital to their lives. Taken together, the first four chapters provide important background information for the Ottawas' and Chippewas' understanding of Article 13 and its probable role in their futures.

Chapters Five and Six relate the history of the Treaty of Washington itself, with a particular emphasis on the origins and meaning of Article 13. As Chapter Five makes clear, on the eve of treaty-making, American settlers pressed hard upon the boundaries of Indian Country only in the Grand River Valley, yet Grand River Indians proved to be the most reluctant of all Indian participants in the land cession. Ottawas and Chippewas who lived further to the North had much less to fear from settlers, because much of the land in both the Northern Lower Peninsula and the Upper Peninsula was unsuited to agriculture. Reasonably enough, the Indians

did not anticipate any efforts to farm unsuitable land, which accounts for a good half of those regions. Familiar with the quality of the soil and the climate, Ottawas and Chippewas did not therefore anticipate much American settlement in the Northern Lower Peninsula or in the Upper Peninsula. Nor, outside of the Grand River, were they feeling much pressure from actual settlers in 1836.

Not threatened by the prospect of American settlement, these northern Ottawas and Chippewas had other concerns. Engaged in commerce, their debts were rising. Steamships, recently invented and now plying the Upper Great Lakes, sent crews ashore to harvest furs in total disregard for native rights and possession. The American Fur Company and its competitors were establishing advanced trading stations on the Upper Peninsula, muscling in on Indian resources. The Federal Government, meanwhile, slashed its Indian Office budget, and it announced the elimination of blacksmith services highly valued by Indians within reach of Mackinac Island.

Ottawas from the regions of the Straits of Mackinac and Little Traverse Bay offered minor land cessions in exchange for both debt relief and the retention of the blacksmith service. The United States, with Henry Rowe Schoolcraft leading the way, responded to these offers by seeking a much vaster cession. Once Schoolcraft received official permission to pursue an expansive cession, he struggled to assemble delegations. Chapters Five and Six cast doubt upon the adequacy of some delegations. Hastily assembled in the middle of the hunting season, when the peoples were dispersed, the degree to which the delegations represented their peoples' will is open to question.

The United States would have the upper hand in the discussions, but Chapter Five

concludes that it could not simply have its way with the Indians. It would have to make some concessions in exchange for the land. Ottawas and Chippewas, after all, had been faithful in their alliance with the United States since 1815; for instance, they had refused to engage in Black Hawk's War in 1832. The facts of an armed border with British Canada and the recent eruption of the costly Seminole War in Florida provided Americans with other practical reasons to take Ottawas and Chippewas seriously. Any effort to force these peoples to the West would only result in their flight to the North, where they might prove dangerous in any future war between Great Britain and the United States.

Chapter Six focuses on the making of the Treaty of Washington, and it closely examines the origins and meaning of Article 13. It treats the assembling of a treaty council in Washington over the months of December 1835 through March 1836, the Senate's dramatic amendments to the Treaty in May 1836, and the securing of Indian assent to the amendments at Mackinac in July of that year. It pays particular attention to Ottawa and Chippewa understandings of usufructuary rights. It describes the Ottawas' and Chippewas' hopes, based on the treaty in general and Article 13 in particular, for a future in Michigan. It reveals, too, that the federal government, and Schoolcraft in particular, led the Indians to rely on those hopes. Following the agreement, as the United States delivered hunting, fishing, and sugaring implements in high proportions under its treaty obligations to Ottawas and Chippewas, the Republic effectively informed Indians of its expectation that hunting, fishing, and sugaring would remain vital to their lives.

Because Chapter Six concerns the actual making of the Treaty of Washington, its most important findings merit more detailed restatement than those of other chapters.

The Treaty of Washington, concluded between March 15 and March 28, 1836, is poorly

documented. The journal of the treaty council is brief and uneven; in it, Schoolcraft does most of the talking. Many Indians came to Washington D. C. with no expectation that they would face American demands for a cession so enormous. Indeed, the extent of Upper Peninsular cessions demanded by the United States came virtually without warning. Schoolcraft recruited specific Chippewa men from Sault Ste. Marie, to one of whom he was related by marriage. He carefully avoided other important leaders in the region, which left more than a residue of discord at the Sault. During the council, he threatened Ottawas that if they did not accept American offers, he would treat separately with Chippewas, leaving Ottawas without compensation for their Upper Peninsular claims.

The council journal contains little discussion of Article 13. According to the journal, when Schoolcraft first laid the entire American proposal on the table, he included a stipulation for retained rights to reside and hunt on the ceded lands "till they are wanted"; from this, the article that emerged differs substantially.²⁹⁸ It states that the Indians would retain the right to hunt on the cession, along with the "usual privileges of occupancy, until the land is required for settlement."

In the background of Article 13 are earlier formulations for retained usufructuary rights. Schoolcraft hoped, as he demonstrated in his "power of sale" of late December 1835, that Ottawas and Chippewas would agree to relinquish their usufructuary rights to the ceded lands when those lands were surveyed and sold.²⁹⁹ A month earlier, Chippewa Indians mooting a

²⁹⁸Jn. Hulbert, in HRSP/DLC/SHSW, container 41, pt. 1: frs. 13930 ff., pp. 5-9. Hulbert's record is filed in two places. The first several pages begin at fr. 13973, but then back up to 13930, and proceed from p. 5-18.

²⁹⁹ HRSP/DLC/WMU container 40, frs. 13635-13636, 13637. The document is dated in brackets, [Dec. 28, 1836].

much smaller land cession had instead considered retaining usufructuary rights as long as Americans did not occupy the land.³⁰⁰ Article 13 speaks neither of survey and sale nor of American occupancy but of Indian occupancy and American settlement. The wording of the article has precedent in two documents: an 1820 letter by Lewis Cass that contrasts military occupation with settlement ("the land is not required for the purposes of settlement, but solely with a view to its military occupation"), and Schoolcraft's own letter of January 13, 1836, in which he deletes the phrase "until it is required for settlement" in favor of "for many years."³⁰¹ Cass was Schoolcraft's patron, mentor, and superior; it is very likely that Schoolcraft had Cass's letter at his disposal in 1836. It is clear, in any case, that the Americans, not the Ottawas and Chippewas, came up with the article's wording.

As brief as the council journal is, it does reveal considerable Indian resistance to Schoolcraft's initial offer. We do not know exactly how Article 13 was designed, but it differs substantially from the power of sale. It most resembles the scratched-out portion of Schoolcraft's January 13 letter. It appears that Schoolcraft, facing Indian resistance in March, resorted to the notion of "required for settlement" as a way of securing a vast cession at a good price. He would later state that the article helped to accomplish that end. In February 1837, he stated that the Indians wished to cede "but a small portion" of the final cession, that they wished for compensation "rateably disproportionate to that which was finally paid," and that "the right named [in Article 13], combined with the principal of consolidated reservations, was found to to

³⁰⁰ Capt. John Clitz to Elbert Herring, Michilimackinac, Nov. 17, 1835, NA1R69 147.

³⁰¹ Cass to John C. Calhoun, Sault Ste. Marie, June 17, 1820, in Clarence Edwin Carter, ed., The Territorial Papers of the United States, vol. 11, The Territory of Michigan, 1820-1829 (Washington, D.C., 1943), 36-37; HRS to C. C. Trowbridge, HRSP/DLC/SHSW : container 13, fr. 2302.

[sic] be among the more efficacious reasons brought forward, to induce them to enlarge the tract ceded. . . ."³⁰² The high importance of Article 13 becomes even more clear in the light of the Senate's decision to terminate those "consolidated reservations" after a period of only five years.

At Mackinac in July, faced with the Senate's abrupt decision to terminate the treaty's initially permanent reservations after a period of only five years, Indians again agreed to the cession. Chapter Six finds that the Mackinac proceedings occurred under a cloud of illegitimacy, that Schoolcraft sent the articles of assent to Washington before he had secured all the signatures, and that many signers faced a fait accompli. Schoolcraft himself, though in contradictory ways, would report that Article 13 was the touchstone of Indian agreement. On July 18 (before all delegates had arrived), he declared the deal to be sealed, stating that Indians agreed to the Senate revisions after a "consideration of the practical operation of the provision contained in the 13th article of the treaty, which secures to them, indefinitely, the right of hunting on the lands ceded, with the other usual privileges of occupancy, until it is required for settlement."³⁰³ Chapter Six makes special note of the word "indefinitely." Three years later, in September 1839, he recalled events differently. From a dispassionate "consideration of the practical operation" of the article (as in the July 1836 letter), he recalled in 1839 that the Indians embraced it out of desperation. The Senate's revision "induced the Indians to throw themselves upon the usufructuary right, to the ceded territory, secured to them by the 13th Art. of the Treaty. . . ."³⁰⁴ The formal agreement, the articles of assent of July 1836, confirms the centrality of Article 13. In fact, it plants new

³⁰² HRS to CA Harris, Detroit, Feb. 27, 1837, NAM1R37 169-170, also in NAM234R422 fr. 631.

³⁰³ HRS to Cass, Michilimackinac, July 18, 1836, NAT494R3 369, also in NAM1R37 3-5.

³⁰⁴ HRS to T. Hartley Crawford, Michilimackinac, Sept. 30, 1839, NAM1R38 120-135; also in NAM234R423 frs. 442ff.

words into the agreement, stating that the Indians understand that the United States will allow Indians to remain on their reservations even after the terminal date, "until the lands shall be required for actual survey and settlement."³⁰⁵ Both conditions would have to be met, and both would have to be actual. The word "actual" is highly important.

The word "actual" is analyzed in Chapter Seven. The term "actual" had emphatic meaning in the context of nineteenth-century settlement and land policy, but its usage is not surprising to us. The meaning is exactly what one would expect today: an actual settlement was a place inhabited by a person or persons living upon the land, or it was the process of actually inhabiting the land. Proof of residence was required by those seeking proof of actual settlement.

Chapter Seven also treats Attorney General Benjamin Butler's opinion of 1837 that, in Article 13, the phrase "until the land is required for settlement" means until the federal government sells or grants the land to individuals. The chapter suggests that Butler's decision fundamentally misreads Article 13. Several factors influenced Butler's decision, including strong (and well-connected to the Democratic Party) interests in regional development, a humanitarian desire to protect Indians from squatters, an antipathy for the disruptions caused by squatting, and a concern for order. Some of this was honorable, some was opportunistic, but as a reading of Article 13, Butler issued the wrong opinion. As the chapter makes very clear, settlement and ownership were different things in the nineteenth century, just as they are today.

Schoolcraft did much to shape Butler's opinion. He supported the idea that settlement

³⁰⁵"Articles of Assent to the amendments of the . . . Senate, . . . concluded at Michilimackinac in Michigan, on the twelfth day of July, Eighteen hundred and thirty six, between Henry R. Schoolcraft, Commissioner, . . . and the Chiefs and Delegates of the Chippewa and Ottawa (sic) Tribes, Assembled in general council," NAM668R8 frs. 106-112.

should be equated with sale, and during the controversy that brought about the Attorney General's opinion, he even stated that he had carefully explained this to the Indians when making the treaty. But in that very letter, he contradicts himself, stating too that he used the word "'settlement' in its ordinary meaning to denote the act or state of being settled."³⁰⁶ Schoolcraft's shifting interpretation of Article 13 fits into his broader pattern of inconsistency, a pattern that biographer Richard Bremer concludes marked the Indian agent's official career:

As Indian agent he felt an obligation to protect his Indian wards from white traders and other human predators. Yet as American nationalist he regarded them as an obstacle to the country's development, and as a bureaucratic subordinate he did his share to defend official policies that adversely affected them even to the point of fabricating parts of his official reports.³⁰⁷

It is my opinion that Schoolcraft misled his superiors in 1837 when he recalled to them that he had, the previous year, explained to Indians that settlement meant private ownership.

Chapter Seven further explains that the federal policy of preemption, of which Schoolcraft was deeply aware, established settlement as something quite distinct from ownership. The policy also disrupted Schoolcraft's hopes for the orderly settlement of lands acquired by the U.S. in the 1836 treaty. Chapter Seven concludes with a discussion of mining lands and timber lands, demonstrating that while a mining town or a lumber town was a settlement, mining camps, timber camps, and military garrisons were not. Nor were mined lands or timbered lands.

Chapter Eight continues the discussion of the concept of settlement, examining other Federal Indian treaty stipulations for retained usufructuary rights. It finds Article 13 to be unique, and it suggests that the article could only mean that Indians retain the stipulated rights

³⁰⁶ HRS to C. A. Harris, Detroit, Feb. 27, 1837 in NAM1R37 168-9, and NAM234R422 fr. 631.

³⁰⁷ Bremer, Indian Agent, Wilderness Scholar, 351-352.

until American settlers needed the lands for their farmsteads, towns, and homes.

Chapter Nine addresses the question of Indian removal. The Treaty of Washington, March 28, 1836, set certain conditions for voluntary removal, but it did not mandate removal. Indian removal, in any case, rapidly lost support among Michigan's citizens.

Chapter Ten demonstrates that Indians continued to hunt, fish, and gather resources from the ceded lands well after 1836. The chapter provides evidence that some of the citizens of the state in the late nineteenth century saw some propriety in unregulated Indian hunting and fishing.

Recapitulation:

Reluctantly accepting American offers and ceding enormous acreage in the Treaty of 1836, Ottawas and Chippewas were peoples to whom hunting, fishing, and other resource use in the interior of Michigan constituted important facets of their economic, cultural, and even religious lives. The Indians reasonably expected to pursue these activities into the indefinite future. American officials supported this expectation, as does the language of Article 13. This is the case on the surface of the article; it is far more the case when the article is read within the contexts of nineteenth-century federal land policy and Ottawa and Chippewa understandings of property and alliance. Indians were, in effect, offering to share the resources of the interior with the numerous Americans and to have Americans come settle the lands when needed for the rapidly growing U. S. population.

Indians understood that Article 13 protected their usufructuary rights to the land as long as it was not actually occupied residentially by Americans. For lands to be settled, people would have to make lives and futures upon them, improve them, build upon them, and make them productive. Generally, settlement meant the establishment of durable farms or villages. It did not mean the establishment of temporary camps, garrisons, trading posts, or fishing stations.

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