

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

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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."<sup>60</sup>

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."<sup>61</sup> 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

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<sup>60</sup> HRS to Major Cobbs at Fort Brady, Michilimackinac, Sept. 23, 1835, NAM1R69 121.

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