

**A REPORT ON THE
1836 AND 1855 FEDERAL
TREATIES WITH THE OTTAWA AND
CHIPPEWA INDIANS OF MICHIGAN**

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The purpose of their trip, the memorial stated, was “to make some arrangements with government for remaining in the Territory of Michigan in the quiet possession of our lands... We do not wish to sell all the land claimed by us...” However, if the government wished, they were prepared to sell “some islands on Lake Michigan and also our claims with some reserves on the north side of the Straits of Michilimackinac” between the “Menominees on the West and terminating at Pt. DeTour on the east.”¹⁹² They shrank “with horror at the idea of rejecting our country forever” and removing west of the Mississippi River, but they also recognized that they could no longer pursue their old lifestyle which was clearly “incompatible with that of a civilized man.” Thus, they proposed “to submit ourselves to the Laws of that country within whose limits we reside.” To do this they required assistance from the federal government: “implements of husbandry” and assistance in “the education of our youth.” Perhaps Congress would also see fit to increase its appropriation for education and place it “in the hands of the Rt. Rev. Frederic Rese, Catholic Bishop of Detroit....”

The stilted language in the memorial, the complaint about their agent, the disingenuous offer of a cession, and the reference to Bishop Rese all attest to the handiwork of Augustin Hamlin, Jr.; whether it accurately represented the thoughts of Apokisigan and the others in the delegation is unknown.¹⁹³ It does make clear that the L’Arbre Croche Ottawas had no intention of ceding their homelands, that they intended to remain where they were and to resist removal, and that they proposed to meet the demands for cession and removal by becoming “civilized” people and citizens of Michigan. Thus, their plans ran counter to those advocated by Schoolcraft in his optimistic reports that a cession of all the lands north of Grand River could be easily attained.

The appeal of Apokisigan’s delegation to remain on their own lands in Michigan fell on deaf ears. Shortly after Schoolcraft arrived in the Capital a decision was made to treat with the Indians for the cession of all their lands in the southern peninsula. Despite his earlier statement that it

¹⁹² It is important to note, again, that the lands the Ottawas were offering to cede were not a major part of their land base. Hamlin represented the memorial as the work of “the Ottawa and part of the Chippeway tribes” although there is no evidence that Chippewas formed a part of the delegation.

¹⁹³ The complaint that their agent had ignored their requests for permission to go to Washington for five or six years is surely an exaggeration. There had been two requests, each of which Schoolcraft had duly forwarded. The failure to receive a response to these requests lay not with Schoolcraft but with the superintendent’s office in Detroit which misplaced the first request. It is also worthy of note that in his lengthy quotation from this memorial, McClurken conveniently omits the section in which Hamlin offered to make a cession of the islands in Lake Michigan and the Chippewa lands on the north shore of Michilimackinac. McClurken, “We Wish to be Civilized,” p. 171 [[HRA013890](#)].

was too late in the winter to assemble the Indians for a cession treaty, Schoolcraft now immediately set in motion a call for delegations to come to Washington to participate in treaty negotiations. On December 24 he notified his replacement, Captain John Clitz, that he had “received the commands of the Secretary of War to treat at this place, with the Ottawas & Chippewas for the purchase of the lands they possess in the peninsula, north of Grand and Thunder Bay rivers....” Clitz was instructed to send “five or six of the principle men in the vicinity of Michilimackinac, representing both tribes,” together with one or two delegates from Thunder Bay “without delay.” There they would be joined by others who were expected from “Grand river and Grand Traverse Bay, and the villages intermediate.” They were directed to report to Charles C. Trowbridge, “Cass’s friend and Cashier of the Bank of Michigan” in Detroit, who would act as the coordinator of the delegations and who would “supply funds to defray their expense to this place.”¹⁹⁴ On that same date Schoolcraft also wrote to Rix Robinson, the trader at

¹⁹⁴ Schoolcraft to Clitz, December 24, 1835 [\[HRA000089\]](#); M1, roll 72, p. 346The characterization of Trowbridge as “Cass’s friend and Cashier of the Bank of Michigan” is taken from James McClurken. McClurken cites two letters, Schoolcraft to Charles A. Trowbridge, January 13, 1836 [\[HRA014748\]](#), and Schoolcraft to Jane Schoolcraft, December 26, 1835 [\[HRA015846\]](#), both in the Schoolcraft Papers, Library of Congress, microfilm roll 7, frames 2298 and 2302, to the effect that it was Cass who made the decision to treat for all lands north of the Grand River prior to Schoolcraft’s arrival. See McClurken, “We Wish to be Civilized,” p. 171-173 [\[HRA013890\]](#).

It may be helpful to note that in September 1835 Schoolcraft compiled a “Statistical Return” that contained the “number and location” of the Indians within his jurisdiction. This document provides an understanding of the relative sizes of the various Indian groups who participated in the treaty of 1836. See below, “Statistical Return...30 September, 1835;” M234, roll 402, f. 191 [\[HRA013910\]](#)

Michilimackinac and vicinity Chippewas and Ottawas	567
St. Mary’s River (Sault Ste. Marie)Chippewas	282
Straits of Michigan Chippewas	260
Cheboigan River Chippewas and Ottawas	84
Thunder Bay & Huron coast Chippewas	187
Grand Traverse Bay Chippewas	360
Beaver Islands Chippewas	125
White River Chippewas	47
L’Arbre Croche and Little Traverse Ottawas	615
Grand River Ottawas	393
Lake Michigan and coast Chippewas and Ottawas	1,467
Total Chippewas	1,261
Total Ottawas	1,008
Total mixed Chippewas and Ottawas	2,118
Grand Total	4,387

Grand River, whom he asked to gather a delegation of the Grand River Ottawa and the Indians at Grand Traverse.¹⁹⁵

Four days after his first message to Clitz, Schoolcraft informed him that the “Secretary of War” now directed that Clitz should “procure the signatures of as many Indians as practicable, duly witnessed,” to a “power of sale” which had been drawn up in Washington and was enclosed. The “power of sale” document, formally approved by Lewis Cass, contained the guarantee that the “privileges of hunting upon the land, and of residing upon it,” were to “be secure” until the cession was “surveyed & sold by the government . . .” Once he had obtained the signatures, Clitz was to “transmit it [the “power of sale”] by express,” to Schoolcraft in care of the “Commissioner of Indian Affairs.”¹⁹⁶ Clitz did not respond to this order until February 17 at which time he submitted “the Power of Sale [underlining in original] attested to by as many of the chiefs and men as was practicable to obtain at this “inclement season of the year.” In this letter Clitz also stated that “two Ottawas chiefs (Catholics) [by which I believe he meant L’Arbre Croche Ottawas] “happened to be present” when the signatures were collected, but they refused to sign.¹⁹⁷

¹⁹⁵ I did not find Schoolcraft’s letter to Robinson but see Robinson to Schoolcraft, January 13, 1836 [[HRA000092](#)]; M1, roll 72, p. 380, in which Robinson acknowledges receipt of the Schoolcraft’s “favor” of December 24, 1835. Robinson was also contacted by Michigan’s newly elected United States Senator, Lucius Lyon, who reported that Schoolcraft had written to Robinson on December 24. Lyon encouraged Robinson to come to Washington and to contact the Indians at Thunder Bay whom he thought “should be represented.” Lyon also wrote to the trader, John Drew, at Michilimackinac. His purpose, he said, was “to have all the different bands fairly represented. . . .” See “Letters of Lucius Lyon,” *Michigan State Historical Society Historical Collections* 27 (1897): [466-467](#). Robinson’s role in the 1836 treaty negotiations is examined in Douglas Dunham, “Rix Robinson and the Indian Land Cession of 1836,” *Michigan History* 36 (December 1952), pp. 374-388 [[HRA015259](#)].

¹⁹⁶ Schoolcraft to Clitz, December 28, 1835 [[004714](#)]; M1, roll 72, p. 348; Clitz acknowledged receipt of **this** letter in February 1836 [[HRA000099](#)]; M1, roll 72, p. 422.

¹⁹⁷ Clitz to Schoolcraft, February 17, 1836 [[HRA000099](#)]; M1, roll 72, p. 422. I did not find The “power of sale” document with Clitz’s letter, nor anywhere else among the archival documents of the Michigan Superintendency. A copy of the power of sale document, together with a typed transcription were, however, submitted as exhibits in the 1978 trial, *U.S. v. Michigan*. The archival source of this power of sale document is unknown but the copy appears to be authentic. It consists of a statement signed by numerous Ottawa and Chippewa chiefs from the Michilimackinac region in which they agree to cede their lands “north of Grand & Thunder Bay rivers” and authorize “our chief and delegates at Washington, to cede the same to the United States” subject to certain terms. Those terms were that the “purchase money” was to be divided equally between the Ottawas and Chippewas on a per capita basis, that their debts were to be paid out of the purchase funds, that a place for their removal “east of the Mississippi” be provided, and that a portion of the purchase money be devoted to agriculture and education. The extent of the cession and the amount to be received for it was to be determined by the delegates presently in Washington. Any agreement would have to contain a provision for “hunting upon the land, and of residing upon it, until it is surveyed & sold by the government.” The significance of the power of sale document is that it was drawn up in Washington, approved by Secretary of War, Lewis Cass, and contained the phrase “surveyed and sold” to refer to the Indians’ right to hunt on the ceded land. The treaty would use the phrase, “until required for settlement.” The two phrases were, in my judgment, used synonymously.

I found no similar instructions to the agent at Sault Ste. Marie, but there is a letter from Major Cobbs, the Sault Ste. Marie agent, to commissioner Herring in early January which states that the Indians of that agency were prepared to make a partial cession of their lands. This letter appears to have been in response to the letter sent by Schoolcraft to Cobbs in early November 1835 in which Cobbs was instructed to determine if the Sault Chippewas would be willing to make a cession. Cobbs's letter stated that the Sault Chippewas agreed to cede a portion of their territory marked on an enclosed map "with red dots." Their terms were that the United States supply them with a blacksmith and interpreter, that they be permitted to retain "some small reserves," that they be permitted to "reside and hunt" on the ceded lands until "the U.S. may want the same," and that they be given an annuity for twenty years, "the amount to be agreed on at a Treaty."¹⁹⁸

Although there was little apparent difficulty in obtaining the consent of the Indians at Sault Ste. Marie and Michilimackinac, the same was not true of the Grand River Ottawas. The trader Rix Robinson was at first optimistic that he could persuade the Grand River Ottawas to attend negotiations in Washington, but by February he was expressing doubt that they would agree to attend. On January 27 the Grand Rapid Ottawas posted a letter to the President in which they stated that they were "afraid" because they had heard "that you would make a treaty for our land." They were opposed to moving west: "We refuse to go, it is too hard for us." Robinson believed that their determination not to travel to Washington had been strengthened by a visitation from Augustin Hamlin, Jr., and "two of the chiefs...who went to Washington last fall." Apparently, Hamlin's visit had had the opposite effect of that intended.¹⁹⁹

¹⁹⁸ Cobbs to Herring, January 4, 1836 [[HRA013918](#)]; M234, roll 770, f. 200. The map, which Cobbs said he was enclosing, was not found. On January 10, 1835, Cobbs wrote again to Schoolcraft saying that he had attempted to contact the Indians on Drummond Island several times but that he had been unsuccessful [[HRA000090](#)]. Believing that they had abandoned the island for the British owned Manitoulin Island, he stated that the Sault Chippewas were now willing to include Drummond Island in the area "marked in 'red dots' on a map transmitted to E. Herring, Esq."

¹⁹⁹ Chiefs of the Ottaways [sic] to Andrew Jackson, January 27, 1836; M234, roll 422, f. 145 [[HRA001483](#)]. Robinson to Schoolcraft, January 13, 1836 [[HRA000092](#)]; M1, roll 72, p. 380. Trowbridge to Schoolcraft, January 25, 1836 [[HRA000094](#)]; M1, roll 72, p. 388. Robinson to Trowbridge, February 1, 1836 [[HRA000096](#)]; M1, roll 72, p. 410. Trowbridge to Schoolcraft, February 8, 1836 [[HRA000095](#)]; M1, roll 72, p. 406.

The Indian agent for southern Michigan, Henry Connor, had a different explanation. He reminded Cass in February 1836 of the fate of "Ke-wa-qus-cum," the Grand River Ottawa leader who signed the 1821 treaty in Chicago and thereafter "never was able to say his life was his own, or appear in their Counsels as a Chief." Since that time the Grand River Ottawas "all dread the consequences of treating away from their whole band." Connor to Cass, February 8, 1836 [[HRA001450](#)]; M234, roll 422, f. 17.

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While these efforts to collect Indian delegates for the treaty negotiations in Washington were underway, Governor Stevens T. Mason was delivering his first message to the state legislature. In his address, Mason called for the “immediate extinguishment of the remaining Indian title within the peninsula of Michigan” and he urged the legislators to submit an application to the “general government” requesting the appointment of commissioners “to negotiate with the Indians tribes for all their remaining lands within the peninsula.” The Indians, he advised, were “now prepared for this measure, and the opportunity presented should not be lost.” Whether Mason was ignorant of the efforts already underway at the federal level or whether his speech was timed to coincide with the federal effort is not clear. But he was clearly enunciating the views of his constituents when he warned that Michigan could avoid the fate of the southern states only “by the removal of the source from which the evil must certainly flow.”²⁰⁰

Although it is only marginally evident in the Indian records that this account rests upon, it is evident from other sources that, from the beginning of the treaty negotiations, the federal government worked closely with the leaders of the American Fur Company, and that it counted heavily upon the support of the company’s agents in Michigan to obtain the Indians’ consent to a cession. Reliance upon the traders, to whom the Indians were in debt, had been a staple in Indian cessions in the Old Northwest at least since the days of the Potawatomi treaties, but experience had proven that the cost of their support was likely to be high. Secretary Cass, who had long supported increasingly large payments to obtain Indian cessions, was apparently willing to pay the price. This time he had an additional reason. In the 1836 treaty Cass determined from the beginning that there were to be no “private” reservations created for the mixed blood relatives of the Indians. This time all lands ceded by the Indians would become the property of the federal government; their mixed-blood relatives would receive cash payments which they could use to buy land. Resistance to this provision, which ran counter to previous treaties, was anticipated to

McClurken states that Cass was responsible for sending Hamlin back to Michigan “to recruit a delegation to negotiate the treaty” and that he had promised Hamlin “government employment,” implying that Hamlin had been bribed by Cass. His source for this statement is a letter from Ramsay Crooks to Gabriel Franchere, January 2, 1836. See McClurken, “We Wish to be Civilized,” p. 173, note 39 [\[HRA013890\]](#). Crooks’s letter to Franchere [\[006633\]](#) states that Cass sent the L’Arbre Croche delegation back to Michigan “in order to bring on a full deputation” but it says nothing about Cass promising a government job to Hamlin.

²⁰⁰ George N. Fuller, ed., *Messages of the Governors of Michigan*, I: 175 [\[052604\]](#) (Speech to the Michigan “senate and house of representatives, February 1, 1836”).

be strong, making the trader's support all the more necessary. The anticipated opposition of the mixed blood relatives was also a factor in holding the treaty negotiations in Washington.²⁰¹

Ramsay Crooks, the president of the American Fur Company, was one of the first persons notified of the impending treaty. On January 2, 1836, he informed his agent at Sault Ste. Marie that the government would hold treaty negotiations in Washington at the beginning of March "for the cession of the entire Michigan Peninsula north of Grand River." Anticipating that the treaty would also embrace the Sault Chippewas, Crooks instructed the agent to send him "by the very first opportunity" an account of all debts owed to the company by the Sault Chippewas so that he could "secure the payment of them at the treaty." Crooks also arranged for his agent at L'Anse, John Holiday, to serve as the official interpreter at the treaty negotiations. Many charges, including bringing whiskey into the Indian country and brutalizing his Indian employees, had accumulated against Holiday over the years, but he always managed to evade the charges, thanks to the intervention of Robert Stuart, and to have his license to trade renewed.²⁰²

Crooks originally intended to attend the treaty negotiations as the result of a personal invitation issued by Schoolcraft, but he later declined citing the pressure of business. Robert Stuart, however, did attend. Working through Charles Trowbridge, it was Stuart who insisted that Rix Robinson accompany the Grand River Ottawas to Washington and that John Drew escort the Indian delegation from Mackinac. "Mr. Stuart thinks that with Mr. Robinson and Mr. Drew at Washington, a treaty can be effected without difficulty, but unless they attend it will be very uncertain."²⁰³ Throughout the treaty negotiations various persons who were in attendance kept Crooks informed of developments.²⁰⁴

It was not until mid February that the various Indian delegations and their trader escorts were prepared to leave for Washington. How they made their journey in the dead of winter with the

²⁰¹ Cass to Schoolcraft, March 14, 1836 [\[HRA000104\]](#); M1, roll 72, f. 219, Schoolcraft to Cass, March 30, 1836 [\[HRA003195\]](#); T494, roll 3, letter identified as S. 315

²⁰² Crooks to Gabriel Franchere, January 2, 1836 [\[006633\]](#). For Holiday, see Miriani, "Lewis Cass and Indian Administration in the Old Northwest, 1815-1836," p.115 [\[HRA013318\]](#). McClurken has an extensive discussion of the role of the principals in the American Fur Company in "We Wish to be Civilized," pp. 173-190, notes 52-85 [\[HRA013890\]](#).

²⁰³ Trowbridge to Schoolcraft, January 25, 1836 [\[HRA000094\]](#); M1, roll 72, p. 388

²⁰⁴ Crooks to Schoolcraft, February 13, 1836 [\[HRA000098\]](#); M1, roll 72, p. 418. We have three documents from the American Fur Company Records (microfilm, Central Michigan University) reporting on the treaty negotiations: M. Holiday to Crooks, March 17, 1836 [051996](#); Crooks to William Brewster, March 21, 1836 [020288](#); Rix Robinson to Crooks, March 23, 1836 [020289](#). None of these documents are originals; they appear to be exhibits from the ICC hearings and on that basis I have accepted them as authentic.

Great Lakes frozen over and ship travel halted is not revealed, but there are several references to the “express,” which I take to mean the stagecoach. The first group, six in all from the Mackinac region, accompanied by John Drew, left for Detroit on February 17. They were to be joined by a delegation from Thunder Bay “on their way down.” They had been outfitted with “new clothing” by Captain Clitz and were advised “not to taste or touch one drop of fire water.” Two days later two Indians from the Sault arrived at Mackinac. They had been recruited so suddenly that they had been unable to make arrangements for their families, for whom they requested rations during their absence. On February 21, Trowbridge reported that Leonard Slater, the missionary to the Grand River Ottawas had arrived in Detroit with three “chiefs.” They brought a letter from Rix Robinson saying that he expected to arrive in Detroit the following day with an additional “eight chiefs.” When he failed to appear, Trowbridge advised Slater and his charges to take the “stage” on February 22 because “the sleighing is apparently going off.” I was unable to determine when Robinson and the other Grand Rapid Ottawas left for Washington but Schoolcraft, writing on March 23 implied that he had only recently received Captain Clitz’s report that his Indians had departed Mackinac. He informed Clitz that the Indians had safely arrived “six days previous to your letter.” It was apparently a very long trip. Within days of their arrival the delegates were gathered for negotiations that began on March 15, 1836.²⁰⁵

²⁰⁵ Clitz to Indian Delegation, February 16, 1836 [\[004459\]](#); M1, roll 69, f. 150; Clitz to Trowbridge, February 17, 1836 [\[019793\]](#); M1, roll 69, p. 163. Clitz “note,” February 19, 1836 [\[HRA013919\]](#); M1, roll 72, p. 424. Trowbridge to Schoolcraft, February 21, 1836 [\[HRA000101\]](#); M1, roll 72, p. 434. Clitz to Cobbs, February 22, 1836 [\[004491\]](#); M1, roll 69, p. 165. Schoolcraft to Clitz, March 23, 1836 [\[003750\]](#); M1, roll 72, p. 466. The “chief” from Thunder Bay later decided against making the journey and returned home. See Clitz to Schoolcraft, March 15, 1836 [\[HRA000103\]](#); M1, roll 72, p. 458. Captain Clitz identified the Chippewa “chief” from the Sault in his letter of February 19 as “Waubogeeg.” But in his letter of February 22, he referred to him as “Whiskey,” by which he apparently meant Waubojeeg’s son, Washikee. It is possible that the son had succeeded to his father’s name by this time.

Part 4: The 1836 Treaty

The 1836 Treaty Negotiations

Once the Indian representatives and their trader escorts reached Washington, Secretary Cass issued formal instructions to Schoolcraft for the conduct of the treaty negotiations. It was “impracticable,” Cass said, to “give any definite directions” about the amount Schoolcraft was to offer for the Indians’ land; this was left to his discretion. On other points, Cass was explicit.²⁰⁶

- There were to be no “individual reservations.” The government’s policy, Cass said, was to “extinguish the Indian title as our settlements advance so as to keep the Indians beyond our borders.” If the Indians insisted upon “reservations” for particular bands, Schoolcraft was authorized to permit them so long as it was understood that the Indian tenure would consist only of “possession” of the reserved land “till it shall be ceded to the United States.”
- “No claims for debts” would be provided for in the treaty. Instead, “a reasonable portion of the consideration money” would be set aside “as a general fund for the payment of just claims” against them. A commissioner appointed by the senate and the president would examine the claims, determine which were “just,” and then authorize the payment of just claims from the general fund. “If any portion of the fund remains, it is to be paid over to the Indians.”
- Annuities for twenty years, funds for farming assistance and schools and for presents would be allowed.

On March 15, 1836, the negotiations began. Our knowledge of what transpired is limited to the official minutes of the negotiations and a few pieces of correspondence from persons in attendance.²⁰⁷ Twenty four Indian leaders and nine persons “in charge of the Indian chiefs &

²⁰⁶ Cass to Schoolcraft, March 14, 1836 [[HRA003095](#)]; M1, roll 72, f. 219.

²⁰⁷ “Records of a Treaty concluded with the Ottawa & Chippewa Nations, at Washington, D.C. March 28, 1836 [[033429](#)], [[033447](#)]; Papers of Henry Rowe Schoolcraft, the Library of Congress. All quotations in this section are to this document unless otherwise indicated. The recorder uses the spelling “Apokosegan” for the L’Arbre Croche headman whom I identify as Apokisigan in this report. The minutes also use the name “Waishkee” for the Sault “chief.” There are many spelling variations of all the Indian names. For instance in Kappler’s printed version of the treaty, Apokisigan’s name is spelled Apawkozigun.

Delegates” were initially present in addition to Schoolcraft, the secretary, and the interpreter.²⁰⁸ The Indian leaders were identified by name and the number from each location was indicated: Grand Traverse (2), Grand River Ottawa (7), Maskego (3), Cheboigun (1), L’Arbre Croche (7), the Chenos (1), Oakpoint (1), and Sault Ste. Marie (2). Some were denominated “chiefs” and others as “delegates,” but the distinction between the two terms is not clarified.

The negotiations began with Schoolcraft giving a short account of events leading to the convocation. During the previous summer, he explained, a band from Ottawa Island came to Mackinac with a formal offer to sell Drummond Island. It was not a part of the country to which the secretary of war had given prior consideration, but, having heard that “some of the Indians of the [lower Michigan] Peninsula had gone, & others were going to live, in that part of Lake Huron,” he inquired “how much of their land the Indians would sell and what price they demanded for it.” Schoolcraft then communicated the secretary’s inquiry to the Indians at Mackinac and “different places.”

Continuing his introductory remarks, Schoolcraft stated that the secretary of war had directed that the Indians’ replies should be directed to the “Agent at Mackinac” but a group of Ottawas “who had heard this message” came instead to Washington in early December 1835. These Indians put their offer in writing. They were willing to sell the “Manito Islands” and lands on the north side of the Straits between the Menomonee River and Point Detour. Unwilling to treat with this one group only, the President “sent for you all” even though it was winter and “he knew you were absent on your hunting grounds....” The Sault Chippewas had also submitted an offer to sell “a part of their lands.” It was his understanding that the Indians of the Michilimackinac area “on the west side of the straits” had also “signed a paper” setting forth their terms for a cession but that “this paper was never received.” In reply to these offers to sell, the federal government now proposed to “extend the cession south to Washtanong on Grand River...and north to Chocolate River on Lake Superior. How much you will cede, depends on your wisdom.”²⁰⁹

²⁰⁸ I am not able to identify all of the persons “in charge of the Indians Chiefs” but among them were the traders Rix Robinson from the Grand River Ottawa district and John Drew from Mackinac; the missionary Leonard Slater, also from Grand River; Augustin Hamlin, Jr. from L’Arbre Croche; and Robert Stuart from the American Fur Company.

²⁰⁹ It is not clear to me at what point in time the decision was made to seek the cession of Chippewa lands in the northern peninsula. Schoolcraft had sought an expression from the Sault Chippewas of their willingness to sell as early as November 1835, before he left for Washington. Lucius Lyon, Michigan’s Senator who was seeking to secure Congressional recognition of Michigan statehood and who was in close touch with Schoolcraft at this time, believed as late as March 1836 that the treaty negotiations were only for land in “the northern part of the peninsula

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He was “authorized,” Schoolcraft continued, to “make you the most liberal offer...when you have made up your minds as to the quantity of land you will cede, let us know....” Their just debts to the traders would be paid as part of a settlement. “No objections will be made...to your fixing on proper and limited reservations to be held in common” but no reservations would be granted to their “relations” who would be compensated instead “in money.” “The usual privilege of residing and hunting on the lands sold till they are wanted will be granted.”²¹⁰ At this point an Indian identified only as the “chief speaker” replied that the Indians requested “three nights” to consider this proposal. The meeting then adjourned until March 18.²¹¹

When the council reconvened on March 18, the still unidentified “chief speaker” stated that the Indians had a “great desire to know...what the Chief from L’Abre [sic] Croche was about to do.” The chief speaker then announced that the Indians had concluded “not to part with any of our lands.” They did not understand why “our half breeds and white friends” would not be permitted to receive reservations and “we object to it.” The Ottawa “chief,” Megis Ininne, then rose and stated his objection to having the Chippewas present and to the “course which the chief and party from L’Arbre Croche, Apokisigan, had taken.” He concluded by saying that while his people “had never before refused to listen to the call of their Great Father...this time they must.” They had “concluded not to sell any land.”

At this point Apokisigan of L’Arbre Croche rose. He stated that he was one of those who had come to Washington the prior winter. For himself, he said he was “satisfied with propositions

of Michigan.” Ohio, Indiana and Illinois, were opposed to the southern boundary proposed by Michigan and, Lyon, realizing that Michigan would not gain the southern boundary, proposed in February 1836 that the Michigan statehood bill “change our western boundary so as to give Michigan all the country on the south shore [of] Lake Superior” or “about twenty thousand square miles of land, together with three-fourths of the American shore of Lake Superior, which may at some future time be esteemed very valuable.” To this end, Schoolcraft was asked to appear before the Senate committee that was considering the statehood bill to describe its resources and potential value. See “Letters of Lucius Lyon,” *Michigan State Historical Society Historical Collections* 27 (1897): [402](#), [480-482](#), [486](#). Schoolcraft and Lyon were old friends. Lyon, who was a surveyor by trade and a land speculator, had named a “village” on his property “after my friend, Henry R. Schoolcraft....” *Ibid.*, p. 449 [[HRA015103](#)].

²¹⁰ In stating that the Indians would have the right to reside and hunt on the ceded lands “until they are wanted,” Schoolcraft appears to be paraphrasing the language in earlier treaties in which the right to hunt on ceded land was commonly described as a right to be enjoyed so long as the ceded lands remained the property of the United States.

²¹¹ On March 17, 1836, Mary Holiday, the trader-interpreter’s daughter, reported to Ramsay Crooks on the first day’s treaty proceedings. Her account confirms the treaty minutes. She stated that “some of their [the Indian delegates’] white friends are influencing them to decline treating with the United States at present” because Schoolcraft had informed them that they would not be permitted to receive private land reserves. She also conveyed “a wish” that Schoolcraft had expressed that day that Crooks attend the negotiations; “He thinks you could do much towards promoting a treaty with these Indians. See Mary Holiday to Ramsay Crooks, March 17, 1836 [[020285](#)]; American Fur Co. Papers, roll 23, f. 1385. This source is a typescript, apparently introduced in the Ottawa-Chippewa claim before the Indian Claims Commission, claims 18E and 58 consolidated.

respecting reservations made to them at the first council” because while “some chiefs present have sold lands and have been benefitted [sic]...we have not received so much as one pipe of tobacco.”²¹² Apokisigan was followed by a member of his own delegation, Blackbird [Mackatabenese], who said “that he was opposed to the sale of their lands,” and that “His voice was now with the Ottawas” [presumably, the Grand River Ottawas].²¹³

Schoolcraft then responded. He “was sorry” that the Ottawas objected to the treaty. Having given “no for an answer to [the Great Father’s] call, it was uncertain when he would listen to them again.” He then turned to the Chippewas “north of the straits” and said that the Great Father, recognizing their poor and destitute situation and the fact that their game was diminishing every year, was willing to treat with them the following Tuesday for a cession of all their “lands in the North Peninsula” even though it was “of little value...feeling a desire to benefit you....” If the Ottawas changed their mind, they could attend the next session also, but for now “the Government had nothing more to say to them on the subject of their lands” except that he hoped when they returned home “they would not be ashamed at seeing their Chippewa Brothers in possession of many goods, and much money and themselves entirely destitute and very poor.”

As the meeting prepared to adjourn, Augustin Hamlin, Jr. asked permission to speak. He said he felt compelled to speak out by the “interest he felt for his nation and the consequences that would result from the course that had been taken.” He stated that what Schoolcraft had just heard from the Ottawa chiefs “was not their words...but the words of white men who wanted reservations, and [who had] dictated to them what to say.” The Ottawas had been “constantly beset by individuals and disturbed in their private councils, often called out sometimes one, then two and as many as six had been called at one time, their minds were disturbed—perplexed—& they did not know how to act in answer to the proposition respecting the Treaty....” They had been “instructed to say No, once, twice, and thrice in order that they might obtain more for their lands....” If left alone, Hamlin stated, “they would sell, with some reservations for themselves....”

²¹² Apokisigan’s reference to “some chiefs present [who] have sold land and have been benefitted” referred to the Grand River bands who sold their land south of Grand River in the 1821 treaty of Chicago and received a blacksmith shop and an annuity in return.

²¹³ Lucius Lyon, the Michigan Senator, who was following the negotiations, reported on March 19, 1836 that the Indians had said the previous day that they “would not sell and the present prospect is discouraging.” Still, he was optimistic that the Indians’ “objections will be overcome and that the United States will get the lands.” He also reported on this same day that it was well known in Washington that Secretary of War Lewis Cass would soon be leaving that office to become the U.S. ambassador to France. See “Letters of Lucius Lyon,” *Michigan State Historical Society Historical Collections* 27 (1897): [486 \[HRA015103\]](#).

Following Hamlin's remarks Schoolcraft ordered "the substance" of Hamlin's remarks to be translated, that the Indians be given "a private room for their councils" and that they not be disturbed by "any person." He then adjourned the meeting until the following Tuesday, at which time it was postponed for one more day.²¹⁴

When the delegates reconvened, Schoolcraft announced that he had received "the paper" from Mackinac containing the names of those Indians who were willing to sell their land with reservations.²¹⁵ Apokisigan then "offered to sell "all their lands in the lower peninsula except lands north of the Manistic-Sturgeon and Cheboygan [Rivers], and south of a line commencing half way between the Maskego and Grand River."²¹⁶ He then invited "the Grand River Indians to consent to live in his reservation north." He was followed by Megis Ininne of Grand River who now agreed to sell the lands of the Grand River Ottawas, provided they received "reservations" and he appointed Rix Robinson to examine the treaty terms "to see that it was right."

With the Sault Chippewas, the Grand River Ottawas, and the L'Arbre Croche Indians all now expressing a willingness to sell some of their lands, Schoolcraft proposed the creation of a reservation consisting of "100,000 acres of land north of the waters of Grand River..." This

²¹⁴ On March 21, 1836, during the recess in the treaty negotiations, Ramsay Crooks wrote to an acquaintance in Detroit to say that because of the government's unwillingness to accept the trader's claims at face value and its insistence instead that all claims be investigated by a government appointed commissioner, he thought it was unlikely that a treaty would be effected. The traders' resistance to the intervention of a government "commissioner," plus that portion of the Indian delegation that was "thoroughly opposed to selling at all," led him to believe that there was a "greater likelihood" that "this misplaced negotiation" would end in "impasse." Ramsay Crooks to William Brewster, March 21, 1836 [\[020287\]](#); American Fur Company Papers, roll 1, f. 1394. It was also in this letter that he stated he was unable to attend the negotiations, despite his desire to do so, because of pressing business considerations. This source is a typescript that was apparently introduced in the Ottawa-Chippewa claim before the Indian Claims Commission, claims 18E and 58 consolidated. Crooks' role in the treaty negotiations, based on a study of the archives of the American Fur Company, is described at length in Dunham, "Rix Robinson and the Indian Land Cession of 1836," pp. 380-382 [\[HRA015259\]](#).

²¹⁵ On March 23, 1836, Rix Robinson wrote to Ramsay Crooks to say that he and Robert Stuart had fought "faithfully" to get "our claims" paid in the treaty, but that it was now unlikely that they would prevail. Robinson blamed the failure on "Mr. Drews' Indians [from Mackinac who] all deserted him and consented to form a Treaty." This corresponds to Schoolcraft's announcement of the same day that he had received "the paper" from Mackinac that stated the Indians there were willing to sell. Rix Robinson to Ramsay Crooks, March 23, 1836 [\[020289\]](#); American Fur Company Papers, roll 23, f. 1411. This source is a typescript that was apparently introduced in the Ottawa-Chippewa claim before the Indian Claims Commission, claims 18E and 58 consolidated.

²¹⁶ I find it difficult to comprehend exactly what Apokisigan was saying at this point. It is obvious that he intended to retain ownership of the land north of the Manistee-Sturgeon-Cheboygan Rivers, the homelands of the L'Arbre Croche, Mackinac, and Cheboygan bands. It appears that he also proposed retaining the land half way between the Muskegon and Grand Rivers claimed by the Grand River Ottawas but, if this is so, it is unclear why he invited the Grand River Ottawa to move to "his reservation north." What his statement does say is that he was willing to cede all the land south of the Manistee river to a point half way between the Muskegon and Grand rivers. Obviously, this was less than what Schoolcraft had in mind.

reservation was to be “located in two places” to be determined by the “Chiefs after their return home.”²¹⁷ The Indians were given one day to consider the proposed reservation.

On Thursday, March 24, the delegates reassembled. Apokisigan repeated his demand for the “same reservation” he had described on Wednesday. Big Sail, the chief from Cheboygan, who had said nothing to this point in the proceedings, presented a written statement [which is not in the record] “containing the wishes of his band” and their assent to the 100,000 acre reserve. Apparently not understanding the government’s unwillingness to permit private reservations, he also asked that “John Drew and his daughter” and “John Holiday and his family” be given reservations. He concluded by appointing Robert Stuart as his agent to examine the terms of the treaty. Megis Ininne of Grand River also approved the 100,000 acre reservation and asked that Rix Robinson be given a “one square mile” private reserve at the rapids of Grand River.²¹⁸ Wassangaso gave the “full consent” of the Grand Traverse Indians to the sale and the reservation, asked that William Leslie and his family be each given one section, and then appointed Leslie to “act for the Grand Traverse band.” Blackbird of L’Arbre Croche, who had earlier opposed the sale, now “gave his assent to all the propositions and appointed Hamlin to examine the treaty for the L’Arbre Croche band. The Indians from St. Ignace simply appointed

²¹⁷ Again, there is ambiguity in this proposal. On its face, Schoolcraft’s proposal of “two reservations” totaling 100,000 acres appears to support the two reservations that Apokisigan had described, but in the absence of a map or other clarifying information, it is impossible to know if he and Apokisigan were referring to the same areas.

²¹⁸ There is a contemporary account that professes to account for the change in the position of the Grand River Ottawas from opposition to the sale of their lands to approval. The Baptist missionary, Issac McCoy, was in Washington at the time of the treaty negotiations. As the founder of the Thomas mission to the Grand River Ottawas and as a proponent of removal, he had a strong interest in the future of this band. According to McCoy, the Grand River Ottawas “strongly objected to selling any of their country,” as the initial statement of Megis Ininne indicated. Twice, McCoy relates, the Grand River Ottawas “met in council” and twice they resolved to oppose a sale. Learning that the L’Arbre Croche delegates were bent upon ceding the whole of the Ottawa territory, they resolved to send a delegation but, in order “to appear aloof...from anything that would look like making a treaty,” the delegation they sent was composed of men who were not chiefs and were thus “incompetent to treat.” In order to assist them in defeating a cession they asked Leonard Slater, the Baptist missionary at the Thomas mission, whom McCoy had appointed, to accompany them to Washington. During the course of the negotiations, Slater, who unlike McCoy did not support the idea of removal, was approached by unnamed parties who “intimated to him that if the treaty could be effected, provision could be made for him of several thousand dollars.” McCoy says he “entreated” with Slater “to reject every such wicked offer” but in the end Slater succumbed to the temptation and the treaty was signed “by the very delegation that was sent to Washington to *prevent* it.” As a consequence of Slater’s action, his “missionary brethren” had disowned him.

Although he did not explicitly take credit for the insertion of the removal clause, McCoy did write that he lobbied the secretary of war, the commissioner of Indian affairs, and the Senate Indian Affairs committee for compensation to his missionary board for the loss of the investments in buildings it had erected on lands that were included in the cession. This compensation was provided in the amendment to the eighth article of the treaty by the Senate. Although he stopped short of claiming credit for the insertion of the five year limitation on the reservations created in the final version of the treaty, McCoy noted with satisfaction that this amendment was adopted. See Issac McCoy, *History of the Baptist Indian Missions* (William M. Morrison: Washington, D.C., 1840), pp. 494-498 [[HRA013920](#)].

“Mr. J. Drew to act for them in forming the treaty,” while those from Sault Ste. Marie appointed “H.A. Levake to transact business for their band.”²¹⁹ After hearing these requests and appointments, Schoolcraft adjourned the meeting until the following day at which time “the Treaty was presented for the signatures of the Chiefs and Delegates” and at that time it was signed.²²⁰

Some comments are in order before proceeding to an analysis of the treaty document itself.

1. There was no mention of compensation to the Indians for their ceded lands during the negotiations. Nor were annuities, schools, blacksmith shops, or agricultural assistance discussed.
2. Removal was not mentioned. All of the Indian spokesmen who agreed to a cession did so on the basis of reserving 100,000 acres in two locations, indicating their desire to remain in Michigan. The boundaries of these reservations were not clarified in the discussions.
3. Although Schoolcraft presented the delegates with a map of the desired cession area, it is not part of the record.
4. Either the Indians did not understand that private reservations for their Métis relatives had been forbidden or they were persuaded by these relatives to request them anyway.
5. Because the Indians were incapable of reading the treaty terms, they delegated this important task to the traders (and Augustin Hamlin, Jr. in the case of the L’Arbre Croche Ottawas) who accompanied them to Washington.

²¹⁹ Big Sail, or Chingassamo as his name also appears in the treaty, is not listed among the delegates from Cheboygan in the official minutes. There were probably more Indians who attended the treaty negotiations than were officially recognized. Wassangaso, who is here identified as the spokesman for Grand Traverse bands, is listed in the treaty as being from Maskigo. It is possible that Maskigo and Grand Traverse are different names for the same band.

²²⁰ On the day the treaty was signed, Schoolcraft wrote to his wife, Jane. The treaty secured “to this unfortunate race, great advantages.” He asked his wife to “Rejoice with me. The day of their prosperity has been long delayed, but has finally reached them...” He had “scarcely” eaten or “slept for two days” but at last “All that could be wished in the way of schools, missions, agriculture, mechanics &c, &c, is granted. Much money will be annually distributed, their debts paid, their half breed relatives provided for, every man, woman & child of them, & large presents given out.” Schoolcraft to My dearest Jane, March 28, 1836 [\[052000\]](#). The source of this letter is not indicated but it is almost certainly from the Schoolcraft Papers, Library of Congress, roll 25. Lucius Lyon, who signed the treaty, immediately notified the Detroit *Free Press* of the treaty’s terms. He reported that it had been secured by “Mr. Schoolcraft with the approbation of the secretary of war and in the face of difficulties and embarrassments which no person of less superior qualifications could have overcome.” Within a few years, Lyon predicted, towns would spring up at the mouth of all the rivers that flowed into Lake Michigan “for a hundred miles north of Grand River, if not all around the lower peninsula.” The upper peninsula would “very shortly” begin to supply lumber from “its vast forests of the very best pine....” See “Letters of Lucius Lyon,” *Michigan State Historical Society Historical Collections* 27 (1897):[493-494](#).

6. Schoolcraft skillfully played the majority Indian opposition to a cession against the willingness of the Sault Chippewa delegates, his relatives, and Apokisigan to exchange some land for payments of some kind. By holding out the lure of “many goods, and much money” he succeeded in obtaining their consent to a cession of their lands. Augustin Hamlin, Jr. was instrumental in this change of attitude.
7. Apokisigan was motivated by the Grand River cession of 1821 and the benefits he had seen the Grand River Ottawas receive as a result of their participation in that treaty. He did not expect that his people, the L’Arbre Croche Indians, would have to give up any of their homelands. He was, from the beginning, willing to cede the land of other bands in order to receive government benefits.
8. In the end, the traders’ hopes to have all the Indian debts paid to them without scrutiny was defeated by the decision to have the debts reviewed by a federal commissioner.
9. Following the consent of the Indians to the idea of a cession and the nomination of their trader advisors to examine its terms, a document was drawn up and presented for their signatures in just one day.

The First Version of the 1836 Treaty

When all the parties to the treaty negotiations reconvened on March 28, 1836, the document presented to the Indians for their signature contained many provisions that had not been discussed during the negotiations, and there were significant changes in a number of items that had been discussed. Subsequently, the March 28, 1836, treaty version would be twice amended, each time without Indian input. In order to comprehend the meaning of the final treaty document, it is necessary to analyze each of three version that led to its final wording.

The first version signed on March 28, 1836, contained the following provisions:²²¹

²²¹ “Articles of treaty made and concluded at the city of Washington...,” [\[HRA013923\]](#) M668, roll 8, f. 92. This microfilm document, containing Schoolcraft’s handwritten version of the March 28, 1836, treaty is very difficult to read, but it is possible to compare this copy to the 1836 printed version that appears in M668, roll 8, f. 112, and to establish that the printed version is a faithful reproduction of Schoolcraft’s handwritten version. My references are to the printed copy of the treaty in M668, f. 112 [\[HRA013929\]](#). See also Kappler, *Indian Affairs, Laws and Treaties*, 2: [450-456](#).

Article One:

The area of cession was described in detail. The land area within the cession appears to be identical to that contained in *Eighteenth Annual Report of The Bureau of American Ethnology, Part 2: Indian Land Cessions in the United States*, Michigan Map 1, plate 29.

Article Two:

Five reservations were authorized for the Ottawas and Chippewas in the lower peninsula.

1. a 50,000 acre reservation “on Little Traverse bay
2. a 20,000 acre reservation “on the north shore of Grand Traverse bay
3. a 70,000 acre reservation “on, or north of the *Piere Marquette* river
4. a 1,000 acre reservation to be chosen by Big Sail “on the Cheboigan”
5. a 1,000 acre reservation to be chosen by “Mujeekewis, on Thunder-bay river

Mjueekewis was not a signatory to the 1836 treaty but is listed as a “chief of the first class” at Thunder Bay in the schedule of payments to chiefs that was “annexed” to the treaty and referred to in article 10 of the treaty.

Article Three:

For the Chippewas “living north of the straits of Michilimackinac” nine reservations were authorized:

1. “Two tracts of three miles square each, on the north shores of the said straits, between *Point-au-Barbe* and *Mille Coquin* river, including the fishing grounds in front of such reservations, to be located by a council of chiefs.”
2. The “Beaver Islands of Lake Michigan.”
3. “Round Island opposite Michilimackinac, as a place of encampment for the Indians, to be under the charge of the Indian Department.”
4. “The Islands of the Chenos, with a part of the adjacent north coast of Lake Huron, corresponding in length and one mile in depth.”
5. “Sugar Island with its islets.”
6. “Six hundred and forty acres, at the mission of the Little Rapids.”
7. A tract of unspecified acreage “commencing at the mouth of the *Pississowining* river, south of Point Iroquois, then running up said stream to its forks, thence westward in direct line to the Red water lakes, thence across the portage to the Tacquimenon river,

and down the same to its mouth, including the small islands and fishing grounds, in front of this reservation.”

8. “Six hundred and forty acres, on Grand Island, and two thousand acres on the main land south of it.”
9. “Two sections, on the northern extremity of Green Bay, to be located by a council of the chiefs.”

All locations left indefinite in this article were to be “made by the proper chiefs, under the direction of the President.” The “reservation for a place of encampment and fishing...under the Treaty of St. Mary’s of the 16th of June 1820, remains unaffected by this treaty.”

Article Four:

In consideration of the cession, the United States agreed to pay:

1. \$30,000 in specie as an annuity for twenty years divided as follows:
 - A. \$18,000 to the Indians between Grand River and the Cheboygan river;
 - B. \$ 3,600 to the Indians on the Huron shore, between the Cheboygan and Thunder Bay rivers;
 - C. \$7,400 to the Chippewas to the Chippewas north of the straits; and
 - D. \$1,000 to be invested in stock by the Treasury Department which could not be sold without the consent of the Senate and the President. The value of the stocks “may...be given after the expiration of twenty-one years.
2. 5,000 per year for twenty years “and as long thereafter as Congress may appropriate for the object, for education, teachers, schoolhouses and books “in their own language.”
3. \$3,000 per year for twenty years and as long thereafter as Congress may appropriate for missions.
4. \$10,000 for agricultural implements, cattle, mechanics tools, and “such other objects as the President may deem proper.”
5. \$300 per year for vaccine, medicines, and the services of physicians so long as the Indians remained on their reservations.
6. Provisions in the amount of \$2,000; 6,500 pounds of tobacco; one hundred barrels of salt, and five hundred fish barrels; each for twenty years.
7. \$150,000 “in goods and provisions” upon the ratification of the treaty.

Article Five:

\$300,000 for the payment of “just debts.” If this sum turned out to be less than the total of the just debts, the debtors would each receive a prorated amount. But, if the \$300,000 exceeded the sum of just debts, “the balance shall be paid over to the Indians, in the same manner that annuities” were paid.

Article Six:

In lieu of “individual reservations” for “their half-breed relatives” whom the Indians were “desirous of making provision for,” \$150,000 would be paid according to a formula that recognized three classes of “half-breeds” as determined by the “chiefs.” Men, women and children were eligible but they had to be “of Indian descent and actually resident” within the boundaries of the area ceded. There were other restrictions too numerous to indicate here.

Article Seven:

In consideration of the cession and as “a further earnest of the disposition felt to do full justice to the Indians,” the government promised for “ten years and as long thereafter as the President may deem...useful and necessary,”

two “mechanics...to teach and aid the Indians, in...the mechanic arts”;

two farmers and assistants ...to teach and aid the Indians, in...agriculture”;

and a dormitory at Michilimackinac for visiting Indians and a person to “keep it, and supply it with firewood.”

In addition, the government promised for at least twenty years and “as long after the expiration of the twenty years as Congress may appropriate”:

two “additional blacksmith shops,” one on the “reservation north of Grand river” and the

second at Sault Ste. Marie, plus renovation of the Michilimackinac blacksmith shop;

a permanent interpreter at the reservation north of Grand river and at the Sault; and

a gunsmith at Michilimackinac.

Article Eight:

Whenever the Indians should desire it “a deputation” would be sent west of the Mississippi “to the country between Lake Superior and the Mississippi” where “a suitable location “among the Chippewas” would be provided for them to remove to “if they desire it, and it can be purchased upon reasonable terms.” This area was sometimes described as the area north of St. Anthony’s Falls [present day Minneapolis]. If this location did not meet their

expectations then “some portion of the country west of the Mississippi, which is at the disposal of the United States” would be arranged.

Indian improvements in the land ceded would be appraised and the value paid to “the proper Indian” but the time of payment for improvements was not indicated.

The federal government would pay the costs of removal, provide one year’s subsistence, and provide them with other articles similar to those given to the Potawatomis.

Article Nine:

In addition to the “general fund set apart for half-breed claims,” an additional fund of \$48,148 dollars was authorized “for aid rendered by certain of their half-breeds,” in lieu of individual reservations. Prominent among these “special friends” were the traders who accompanied the Indians to Washington and members of their families: Rix Robinson, who received \$23,040 of the total; John Drew, who received \$4,480; Edward Biddle and John Holiday (also the interpreter); the missionary, Leonard Slater, from the Thomas mission to the Grand River Ottawas, who received \$6,400; and Augustin Hamlin, Jr. “being of Indian descent.”

Article Ten:

\$30,000 to be distributed to the chiefs upon “the ratification of the treaty,” distributed according to a formula specified in a “schedule...annexed” to the treaty.

Article Eleven:

Special lifetime annuities to two elderly chiefs, the Wing and Chusko, the latter a signatory of the original 1795 Treaty of Greenville.

Article Twelve:

All expenses of the treaty would be paid by the United States.

Article Thirteen:

The Indians were granted the “right of hunting on the lands ceded, with the other usual privileges of occupancy until the land is required for settlement.”

There are several points to emphasize about the provisions of this first version of the treaty before proceeding to the subsequent amendments.

1. In place of the two reserves totaling 100,000 acres discussed during the treaty negotiations, the first version of the treaty provided for fourteen reservations totaling

- at least 158,080 acres plus the Beaver Islands, Round Island, the Chenos Islands with a large appendage on the mainland of the upper peninsula of Michigan, Sugar Island, and a large reservation of unspecified acreage south of Whitefish Bay in the upper peninsula.²²² The area of these reservations was more than double than contemplated by Schoolcraft during the treaty negotiations. None of the reservations in the lower peninsula specified the inclusion of fishing grounds, but three of the reservations in the upper peninsula did. The reservations whose boundaries were left “indefinite” in the treaty were to be determined by the Indians but only under the direction of the President of the United States. No changes in the description of these reservations were made in subsequent versions.
2. It is not known who determined the sites of these reservations or who suggested the language in Articles Two and Three, but the reservations appear to be areas in which the Indians maintained their permanent homes or where they conducted much of their economic activity.²²³ The exception to this generalization is the 70,000 acre reservation north of the Pere Marquette River, which later documents indicate was intended as a refuge for the Grand River Ottawas and some of the coastal bands.
 3. Although it is not possible to assign a value to some items promised in the treaty, the sum of those items that were stated in dollars and guaranteed for a specified number of years was approximately \$1,635,000, making the award to these Indians the largest in the history of treaty negotiations to that date. Schoolcraft himself later estimated the total at \$2,000,000.²²⁴
 4. If the debts owed by the Indians exceeded the \$300,000 provided for in the treaty the balance was to be paid to the Indians “in the same manner” that annuities were paid.

²²² Helen Tanner estimated the size of this reserve at 250,000 acres in her 1974 report submitted in the case of the *United States of America v. State of Michigan*, making it by far the largest of the fourteen reservations.. See Tanner, *Report*, p. [p. 12 \[000222\]](#).

²²³ In his memoir, Schoolcraft wrote that the 1836 cession was “obtained on the principle of making limited reserves for the principal villages....” Schoolcraft, *Personal Memoirs*, p. 534 [\[011665\]](#).

²²⁴ *Ibid.* There are other estimates in the archival records. See Schoolcraft to Cass, April 26, 1836 [\[HRA001505\]](#); M234, roll 422, f. 185. “Original Memorandum of the Committee of Indian Affairs...made by Gen. Tipton,” no date [\[HRA000109\]](#); M1, roll 72, p. 470. Both of these archival documents put the total at \$1,708,410 before the Senate added \$200,000 to the total as compensation for the fourteen reservations.

This provision would be changed in the second version and would result in many complaints in the years that followed.

5. The provision for removal, article eight, was discretionary, not mandatory. Two areas into which the Indians might be removed were described: “the country between Lake Superior and the Mississippi,” or “the country west of the Mississippi, which is at the disposal of the United States.”
6. Continuing the practice first enunciated in the Treaty of Greenville, the treaty provided for “the right of hunting on the lands ceded.” There was no mention of a right to fish, although the right of the Sault Chippewas to a “reservation for a place of encampment and fishing...under the Treaty of St. Mary’s of the 16th of June 1820,” was upheld. In addition to the right to hunt on the ceded lands, the treaty recognized a right to “the other usual privileges of occupancy,” although the “other usual privileges of occupancy” were not clarified. The treaty also stated that the right to hunt on the ceded lands would continue “until the land is required for settlement,” although Schoolcraft had expressed this idea orally during the treaty negotiations as “till the lands are wanted.”
7. Over the years the treaty language used to describe the Indians’ hunting rights on ceded lands evolved but the meaning remained the same, i.e., whenever the ceded lands passed from federal ownership to private hands, the Indians’ right to hunt on them would cease to exist. In the Treaty of Greenville (1795) the right of Indians to hunt and fish on ceded land had been vaguely described as “so long as they [the Indians] demean themselves peacefully.”²²⁵ In 1804, in a treaty with the Sac and Fox Indians, the right to live and hunt on ceded lands was defined as so “long as the lands now ceded to the United States remain their property.”²²⁶ The following year, in a treaty with the Wyandot, Ottawa, Chippewa, Munsee and Delaware, Shawnee and Potawatomi Indians, the phrasing returned to “so long as they shall demean themselves peaceably,” but in a treaty with the Piankashaw Indians that same year,

²²⁵ Kappler, *Indian Affairs, Laws and Treaties*, 2:42. [\[HRA015275\]](#)

²²⁶ Kappler, *Indian Affairs, Laws and Treaties*, 2:76. [\[HRA015277\]](#)

the right was described as so “long as the lands now ceded, remain the property of the United States.”²²⁷

By 1805 the right of the Indians to hunt on ceded land so long as it remained the property of the United States appears to have been well established. In 1807 and 1808, in the two treaties negotiated by Governor Hull in Michigan with the Ottawa and the Chippewa Indians, it was specified that the right to hunt and fish on ceded lands lasted as long as the ceded lands “remain the property of the United States.”²²⁸ From 1816 to 1829, the wording changed only slightly. The right to hunt was now determined to be “so long as it [the ceded land] “may continue to be the property of the United States”²²⁹; “while it continues the property of the United States”²³⁰; “as long as the same [the ceded lands] shall remain the property of the United States”²³¹; “so long as the same shall be the property of the United States”²³²; and “so long as the same shall remain the property of the United States”.²³³

Then, in the Menominee Treaty of 1831, the language became “until it be surveyed and sold by the President.”²³⁴ While the Menominee Treaty was apparently the first to use the phrase “surveyed and sold,” it will be recalled that Secretary of War George Graham had used this identical phrase to characterize the meaning of “while it continues the property of the United States,” in referring to the 1817 treaty with the Ohio Indians. Moreover, Secretary Cass, who instructed Schoolcraft on what he should do to obtain the 1836 treaty with the Ottawas and the Chippewas, also used the phrase, “surveyed & sold” when he approved the “power of sale” document.

²²⁷ Kappler, *Indian Affairs, Laws and Treaties*, 2:89. [[HRA015281](#)]

²²⁸ Kappler, 2:93-94 [[HRA015283](#)], 100 [[HRA010791](#)].

²²⁹ Kappler, *Indian Affairs, Laws and Treaties*, 2:132 [[HRA015289](#)] (1816).

²³⁰ Kappler, *Indian Affairs, Laws and Treaties*, 2:149 [[HRA015292](#)] (1817), 2:186 [[HRA015295](#)] (1819), 2:200 (1821) [[HRA015298](#)].

²³¹ Kappler, *Indian Affairs, Laws and Treaties*, 2:275 (1826) [[HRA015301](#)].

²³² Kappler, *Indian Affairs, Laws and Treaties*, 2:279 (1826) [[HRA015991](#)].

²³³ Kappler, *Indian Affairs, Laws and Treaties*, 2:299 (1829) [[HRA015352](#)]. The 1805, 1807, 1808, and 1816 treaties made specific references to the right to fish but subsequent treaties did not refer to fishing rights. Several of the treaties negotiated by Lewis Cass also extended the right to the “privilege of making sugar,” so long as Indians did not “commit unnecessary waste upon the trees.”

²³⁴ Kappler, *Indian Affairs, Laws and Treaties*, 2:322 [[HRA015986](#)].

8. Following the treaty negotiations and Senate amendments to the treaty, Schoolcraft had to secure the Indians' approval to the amendments. At that time, in July 1836, Schoolcraft told the Indians that they could remain on their lands until they were required for "actual Survey and Settlement." [This event is described at greater length below.] In this way, he expanded upon the meaning of "settlement" and linked the use of "survey" in the 1831 Menominee Treaty with that of "settlement" in the 1836 Ottawa and Chippewa Treaty.
9. In my judgment, from 1807 to 1836, all the various phrases used to describe the moment at which the Indians' right to hunt on ceded land ceased to exist had essentially the same meaning: once the land passed from the ownership of the United States, the Indians' right to hunt ceased. By 1836 surveying and selling ceded lands had become the most visible means of ending the Indian right.

On March 30, 1836, Schoolcraft notified Cass that "a treaty of cession" had been concluded" and he enclosed the treaty with his cover letter. The Indians had ceded "about ten million of acres in lower Michigan, besides an extensive tract of their pine lands north of the straits," he wrote. No reservations for their relatives and friends had been permitted because he was "determined that, if the country was purchased at all, it should belong exclusively to the United States." The treaty "contemplated" the removal of the Indians to an area west of the Mississippi and "under the present impulse of emigration, the incipient steps for this measure may be anticipated within a few years." He especially recommended to Cass that they be removed to the region "north of St. Anthony's falls" which the Indians preferred. Because the Indians wished to return home "immediately" and because they were "destitute of funds," he requested that the President and the Senate approve the treaty "at an early period."²³⁵

The Second Version of the 1836 Treaty

Two days after submitting the treaty to Cass, Schoolcraft wrote to the secretary a second time. The president had "expressed his wishes" for additional "limitations upon some of the

²³⁵ Schoolcraft to Cass, March 30, 1836 [\[HRA013934\]](#); T494, roll 3, f. 361.

provisions of the treaty,” Schoolcraft informed Cass, and, as a result, he had reassembled the Indians and had “concluded a supplemental article.”²³⁶

The supplemental article that was added to the initial version of the treaty²³⁷ described in great detail limitations to be placed upon the traders’ claims, and it explicitly forbade those persons who received payments in lieu of land under the terms of article six from access to the annuity payments. It also forbade those persons who received monetary compensation under article nine from sharing in the payments provided for in article six. Lastly, the supplemental article provided that “any excess of the funds set apart in the fifth and sixth articles, shall, in lieu of being paid to the Indians, be retained and vested by the Government in stock,” with the understanding that the money invested would not become available until twenty one years had passed. According to Schoolcraft, this request had come from the Indians themselves who wanted this money to be saved “for the benefit of their children.”

The last part of the supplemental article would result in controversy and recriminations in the years that followed. The language in article five provided that any excess remaining after the traders’ claim had been paid should be paid directly to the Indians in the same way that their annuities were paid. Because this provision was not deleted when the supplemental article was added to the treaty, the final document contained two conflicting methods for disposing of any excess in the \$300,000 fund created for the payment of the Indians’ debts. Schoolcraft and the Indian Office would insist on withholding and investing the excess; some of the Indians, led by Augustin Hamlin, Jr. would insist that the money be paid to them directly.

The Third Version of the 1836 Treaty

Following the insertion of the supplemental article, the Indians left Washington, and the amended treaty was submitted to the Senate for its approval. The Senate formally acknowledged receipt of the treaty on April 4, 1836, and referred it to the Committee on Indian Affairs. On May 16, 1836, the Committee on Indian Affairs reported the treaty “with amendments” to the full Senate, and on May 20, 1836, the treaty as amended was approved. The amendments proposed

²³⁶ Schoolcraft to Cass, April 1, 1836 [[HRA013938](#)]; T494, f. 365. There is a notation on the cover to this letter to “See letter to President, 1 April, 1836.” I could not find this letter. In his *Personal Memoirs* Schoolcraft stated that it was because of objections made by the Ottawas “to a matter of detail” that the treaty signing was delayed. See Schoolcraft, *Personal Memoirs*, p. 554 [[011675](#)].

²³⁷ M668, roll 8, f. 112 [[HRA015856](#)].

by the Committee on Indian Affairs were approved as submitted; an amendment from the floor to strike the ninth article was defeated.²³⁸

The Senate amendments changed significantly both the treaty that the Indians had signed on March 28 and the one that they approved on April 1, 1836.

- The reservations that the Indians had approved in articles two and three of the earlier versions of the treaty were now limited to a maximum of five years “and no longer unless the United States grant them permission to remain on said lands for a longer period.”
- The compensation to the Indians in article four was enlarged by \$200,000 “in consideration of changing the permanent reservations...to reservations for five years only.” This additional compensation for the cession of their reservations would be paid “whenever their reservations shall be surrendered.” Until that time interest on the \$200,000 would be “annually paid to the said Indians.” The amount of interest was not specified nor was the manner of dividing the annual interest among the various Indians groups.
- The Senate then struck all of the original article five relating to the manner in which the \$300,000 for the payment of debts was to be administered. The new and final article five read as follows: “The sum of three hundred thousand dollars shall be paid to the said Indians to enable them with the aid and assistance of their agent to adjust and pay such debts as they may justly owe, and the overplus if any to apply to such other use as they may think proper.” This change gave to the Indian agent, rather than to a special commissioner appointed by the president and senate as provided in the original version, the authority to determine what debts were just. More importantly, in making this substitution, the Senate neglected to note that the supplemental article added by President Jackson had already modified that section of article five that dealt with any surplus in the fund for the payment of debts. The result was that the treaty specified two different ways of dealing with any surplus: the amended article five, like the original article five, provided that the “overplus if any” could be used for any purpose the Indians thought

²³⁸ For the Senate amendments see M668, roll 8, f. 100 [\[HRA015856\]](#) and M1, roll 72, p. 478 [\[004482\]](#). For the Senate vote on the amendments, see *Journal of the Executive Proceedings of the Senate of the United States of America*, vol. IV (24th Cong., 1 sess.), pp. 541-545 [\[HRA011014\]](#), 550 [\[HRA011019\]](#).

proper; the supplemental article provided that it should be “retained and vested by the government in stock” and could not be spent without the consent of the Senate and the President for at least twenty-one years.

- The Senate also amended article eight. Instead of the possibility of removing to the area north of St. Anthony’s Falls, the Michigan Indians were now offered only a place for “final settlement...South West of the Missouri River,” where the southern Indians were being congregated. The original article was theoretically strengthened by the addition of a phrase guaranteeing their final settlement place “forever.”²³⁹

The reasons for the changes inserted by the Senate are not indicated. Schoolcraft later wrote in his memoir that the amendments were the work of Senator Hugh L. White, the chairman of the Senate Indian Affairs Committee, who had “fallen out” with President Jackson and was himself a candidate to succeed Jackson in the upcoming 1836 election. Schoolcraft charged Senator White with “utter ignorance” of the Indians’ “history, character, and best interests;” a desire to “embarrass or disoblige President Jackson and his agents;” with violating “in some respects, the very principle on which alone” the Ottawa and Chippewa cession had been “obtained;” and with introducing “features of discord, which disturb the tribes and some of which will long continue to be felt.”²⁴⁰

While Schoolcraft’s account is plausible, i.e. that the Senate amendments were an attempt by Senator White to embarrass Jackson, it is equally plausible that the Senate was simply implementing the long standing federal policy of clearing Indian title from the Northwest Territory and, after years of approving treaties for ever smaller land cessions at steadily escalating costs, wished now to end the matter for all time. The Senate amendment to article four stated specifically that the intent was to change the reservations that Schoolcraft and Cass were willing to tolerate for another generation from “permanent reservations” to “reservations for five years only.” In this regard it is important to note that while Schoolcraft was in Washington negotiating this treaty, delegations from the Swan Creek and Black River Chippewas and from

²³⁹ At the instigation of the influential Baptist minister, Issac McCoy, article eight was also amended to provide compensation for the loss of improvements on land within the cession that had been developed by the Baptist mission board.

²⁴⁰ Schoolcraft, *Personal Memoirs*, p. 538 [\[011667\]](#). At another entry, Schoolcraft noted that the Senate had ratified the treaty only with “essential modifications, which have not had a wholly propitious tendency. *Ibid.*, p. 535 [\[011665\]](#).”

the Saginaw Chippewas of Michigan [both of which had ceded their lands, except for certain reservations which they retained, in 1807 and 1819 respectively], were also in Washington to negotiate new treaties in which they agreed to sell their remaining reservations and move west of the Mississippi River.²⁴¹ Taken together, these three treaties in 1836 with all the Indians of Michigan clearly had as their goal the abolition of all Indian land titles within the territory that was soon to become a state.

Obtaining Indian Consent to the Amended Treaty

The Senate amendments necessitated the reconvening of the Indian leaders and the procurement of their assent to the changes. Returning to Michilimackinac from Washington at the end of May 1836, Schoolcraft issued a call for the Indians to assemble at Michilimackinac on July 10 to ratify the Senate amendments.²⁴² As a consequence of the creation of the Territory of Wisconsin on July 3, 1836, the governor of Michigan ceased to exercise the function of Superintendent of Indian Affairs in Michigan. Anticipating this event, the Indian appropriations act of June 14, 1836, provided for the creation of a separate office of Superintendent of Indian Affairs for Michigan to which Schoolcraft was appointed effective July 2, 1836. Henceforth, in addition to his duties as Indian agent at Michilimackinac, Schoolcraft and his successors would be solely responsible for all the Indians in Michigan. There was no additional compensation provided for this increase in responsibility, but the superintendent was now authorized to reside in Detroit, although he was encouraged to reside at Michilimackinac during “the open season of the year.” As a result of this decision, the superintendents gradually spent more and more time in Detroit, becoming increasingly isolated from their Indian charges.²⁴³

In addition to preparations for his meeting with the Indians to discuss the Senate amendments, Schoolcraft was also busy ordering the “goods and provisions” in the amount of \$150,000 that was provided in the treaty for distribution at the time of “ratification.” Shortly

²⁴¹ Kappler, *Indian Affairs, Laws and Treaties*, 2: 461-462 [[HRA010875](#)], 482-486 [[HRA010751](#)], 501-502 [[HRA010758](#)], 516-517 [[HRA011020](#)]. Schoolcraft, *Personal Memoirs*, p. 535 [[011665](#)].

²⁴² Schoolcraft to Cobbs, June 16, 1836 [[004493](#)]; M1, roll 69, f. 159. Schoolcraft to Cass, June 20, 1836 [[HRA000880](#)]; M1, roll 69, f. 161

²⁴³ Cass to Schoolcraft, July 2, 1836 [[HRA013941](#)]; M21, roll 19, p. 118. This document is also published in Carter, *Territorial Papers of Michigan*, XII: 1202-1203 [[HRA014751](#)]. For the tendency of the Michigan Superintendent of Indian Affairs to reside solely in Detroit. See Hill, *The Office of Indian Affairs*, pp. 90 and 95 [[HRA013668](#)].