

Indian Land Surrenders in Ontario 1763-1867

by R. Surtees

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Indian Land Surrenders

in Ontario

1763 - 1867

by R. J. Surtees

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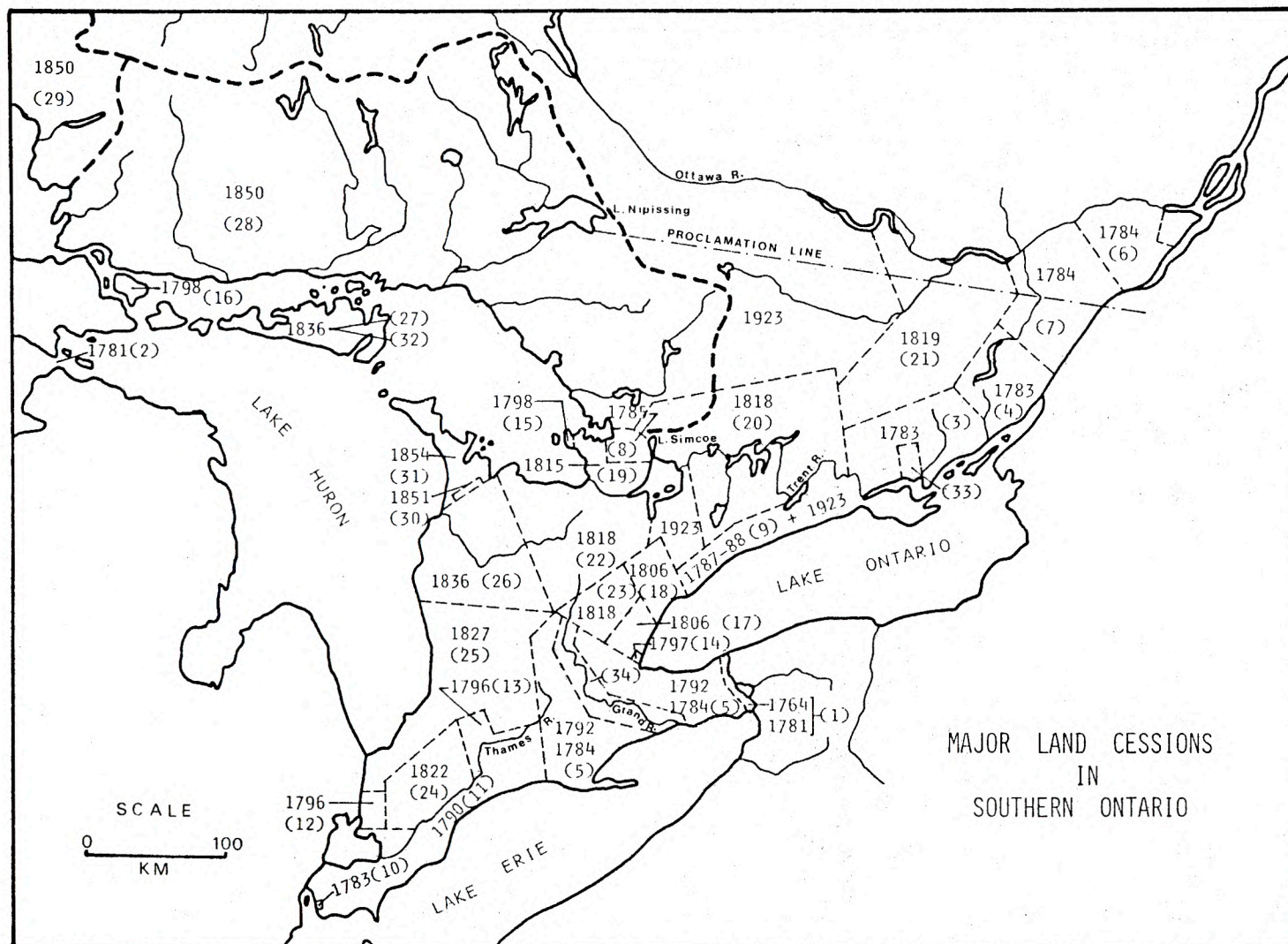
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Introduction

The era of land cessions by native people in Ontario began in 1764. The first piece of land involved was a two- or four-mile strip on the left bank of the Niagara River, purchased from the Seneca tribe of the Six Nations Confederacy by Sir William Johnson, the Superintendent General of Indian Affairs for the northern Superintendency. In negotiating this agreement, Sir William followed the regulations recently issued in the Royal Proclamation of October 7, 1763. That particular document, based on past colonial treaties with Indians and outlining current thinking of colonial administrators, would form the basis for all subsequent land cession agreements. In Canada, those numbered about 32 in the years between 1764 and 1862, and can be divided into three distinct groupings according to geography and chronology.

Between 1764 and 1806 the government acquired the lands of the shoreline of the upper St. Lawrence and the lower Great Lakes, from Pointe au Baudette to Lake St. Clair. From 1815 to 1827 the lands beyond the first range of settlement were purchased. These involved about 7 million acres which cut a wide swath from the Ottawa River to the eastern shores of Georgian Bay. After 1836 the northern and northwestern reaches of the province of Upper Canada were acquired. These included the Saugeen Peninsula, Manitoulin Islands and the north shores of Lake Huron and Lake Superior. At the time of Confederation, the Indians retained only three substantial sections of territory

within the bounds of present-day Ontario: the lands of the Hudson's Bay Company which lay beyond the height of land; the central portion of the province lying south of Lake Nipissing between the Ottawa River and northern Georgian Bay; and several small pieces of land, reserved for Indian use, which were scattered throughout the province and which, taken together, constituted a substantial territory. This study concentrates on the terms and circumstances surrounding the 32 major cessions that resulted in this circumstance.

It was clear that the expanding European colonies were going to demand and secure access to the Indian lands of the continent. What was not clear was the form those demands would take or the methods which would be used to satisfy them. Nor was it clear what role ultimately would be left to the original Indian proprietors. In 1763 the British Crown, having just recently assumed full and sole control of the eastern portion of North America from Georgia to Newfoundland, attempted to establish some rules for the management of its American empire by issuing a Royal Proclamation on October 7th.¹ Fully one third of that proclamation concerned Indians and Indian lands.

The most significant feature of the Proclamation was the establishment of the Indian Country. Although the Crown claimed sovereignty over the full territory, it also decreed that interior land was to be considered the possession of the Indian tribes who occupied it. Non-Indians were forbidden to enter the Indian Country for settlement purposes, those who had already done so were ordered to

move out, and all private persons were forbidden to buy the right of occupancy from any Indian band or tribe. Should lands be required, and should any Indian group be willing to sell its land in order to satisfy that requirement, the arrangements for the sale were to be made through the auspices of the Crown. Royal representatives would meet the concerned Indians in public council to make the purchase for, and in the name of, the Crown. This provision was an indication that the Crown expected the Indian Country would be invaded and that the line separating it from the area of white settlement was a temporary provision. It was also an indication that the past methods of securing access to Indian lands through private or colonial purchases were considered to be inadequate and confusing. Through the Royal Proclamation the Crown expected to be able to impose some controls over the advance of white settlement and thus limit racial quarrels that had occurred already and could easily occur again.

The first agreement made under this new system was concluded by Sir William Johnson at Niagara in 1764.² More dramatic was the Treaty of Fort Stanwyx, also negotiated by Sir William, in 1768, for it had the effect of pushing the eastern boundary of the Indian Country considerably westward. The Province of Quebec, as Canada was officially known until 1791, was not seriously affected by the Fort Stanwyx agreement or by any other treaties concluded before the American Revolution began. The exigencies of that war, however, and the immediate post-war crisis respecting the loyalists, caused the British in Canada to seek possession of lands that had been declared part of the Indian Country by the Royal Proclamation.

The settled regions of Canada had been exempted from the regulations regarding the Indian Country. The French, while in power in Canada, had been very circumspect in their dealing with the Indians as their principal enterprises in North America - the fur trade, missions and an active imperialism - had depended on the good will of the native tribes. At no time, however, had the French recognized aboriginal title to land. The French claimed New France by right of discovery and conquest. Whatever lands were held by the Indians, such as the villages at Lorette, Oka or Caughnawaga, were grants to them by the Crown, through one of the missionary societies.³ Britain accepted that claim, and drew the boundary of the Indian Country accordingly. The important section of the boundary was the line drawn from the south shore of Lake Nipissing to the point on the St. Lawrence River crossed by the 45th degree of latitude. The line then ran from Lake Nipissing to Lac St. Jean. Between those lines, the Indians were not recognized as the owners of the land; beyond it they were. It did not become an issue for the first two decades of British rule in Canada because no land was required for settlement beyond the Lake Nipissing line.

The successful revolt of the American colonies altered that circumstance. Refugee loyalists who sought asylum in what remained of British North America had to be accommodated. About 7000 persons, including about 2000 Indian loyalists, sought such refuge, and they indicated a preference for land beyond the western-most seigneurie. If that preference was to be granted, the British had to make suitable

arrangements with the Indians who, by the rules set down by the British themselves, were recognized as possessing the right of occupancy to the region beyond the Lake Nipissing line.

It has been customary to describe the people who occupied the region west of the last seigneurie as wandering bands of Indians. Such a description is misleading. It is true that the Algonkian and Iroquoian groups who claimed the region were not consistently sedentary, but definite lines of demarcation were recognized and honoured. Specifically, the Iroquois from New York, the Six Nations Confederacy, were, by 1760 or so, restricted to the area south of Lake Ontario. They did penetrate the Niagara frontier, but the village locations they had established on the north shore of Lake Ontario, such as the mouth of the Ganaraska River or Teiaiagonon on the Humber River, in the seventeenth century were no longer available to them. Mississaugas, in a long conflict that occupied the first half of the eighteenth century, had wrested control of the north shore of Lake Ontario from the Confederacy. Mississauga traditions maintain that they began to enter the Ontario peninsula from the west after the Huron dispersal in 1649-50. One source suggests that they were a segment of the Shawnee, and came from the Ohio Valley by way of Sault Ste. Marie and the north shore of Lake Huron.⁴ They established themselves for a time at the Mississagi River. This latter observation is confirmed by the writings of the trader Alexander Henry, who noted a band of Mississaugas at that location in 1763. By this time they had moved fully into southern Ontario as well.

Their conflicts with the Iroquois for control of southern Ontario have been described in colourful detail in Copway's Traditional History...of the Ojibway Nation. During and after that long struggle they settled in the river valleys of southern Ontario, notably in the valleys of the Thames, the Grand, the Humber, the Credit, the Ganaraska, and the Trent. Moreover, they did not move constantly or randomly, but in a pattern which saw them return regularly to established locations. These rendezvous points tended to be located at the mouths of rivers where fish, especially salmon, could be found in abundance. In the winter, they broke up into smaller groups or bands for purposes of survival. Definite spheres of influence and control were thus centred in the river valleys.

In the western end of the province the Mississaugas had several other Algonkian-speaking tribes as neighbours, particularly the Potowatomies and Ottawas. The Wyandots were also in that region. These tribes formed a major segment of the western Confederacy that had supported Pontiac in 1763, and would follow Little Turtle, Blue Jacket, and Tecumseh in the future. North of Lake Ontario, along the Toronto Carrying Place, the Mississaugas met the Chippewas, a related tribe, who dominated Lake Simcoe, Georgian Bay, and the shores of Lake Huron. The Chippewas also used the Manitoulin Islands, but these were considered nonetheless to be a possession of the Ottawas. The Indians who occupied the Bruce Peninsula were, like the Chippewas and Mississaugas, of the Ojibwa tribal grouping but were usually known as the Saugeens. The northern shores of Lake Huron and Lake Superior,

beyond the Saugeen lands, were occupied by the northern Ojibwa. They numbered about 2500, divided into about two dozen individual bands who resorted to fairly fixed locations on the upper lakes. The most important of these bands congregated near the fur-trading establishments of Sault Ste. Marie and Fort William. Until the middle of the nineteenth century, however, these bands did not figure in the land alienation process.

Along the eastern fringes of the province, and in the valleys of the Ottawa and the Madawaska, the hunting rights were generally conceded to belong to the Canadian Iroquois and their Algonkian associates. Although the Canadian Iroquois had contacts and connections with the Iroquois League, they were not a part of it.

They had started settling in villages in the seventeenth century at a French mission for Christian Iroquois at La Prairie, on the south shore of the St. Lawrence River just to the east of the Lachine rapids. From this beginning four separate Iroquois enclaves evolved in New France at Caughnawaga, Oka, St. Regis, and Oswegatchie. The Oka settlement, at the Lake of Two Mountains, also contained a group of Nipissings and Algonkians, although it existed quite distinctly from the Iroquois element. Caughnawaga and St. Regis contained members of several tribes, but, like Oka, over time they became largely Mohawk in character. The fourth, Oswegatchie, begun during the late 1740s, was filled by Onondagas and a scattering of Cayugas and Oneidas. All four Iroquois cantons were associated in the loose

grouping of French mission Indians known as the Seven Nations of Canada. Each, however, also claimed distinct stretches of territory. The Oka group, for example, claimed hunting rights in the lower Ottawa Valley, as well as the lands drained by the Madawaska River. The Mississaugas recognized the Gananoque River as the boundary between their lands and those of the Iroquois, and were loathe to cross it. The land immediately to the east of that river appears to have been a buffer zone, although the agreement which saw it surrendered to the British was made by an Oka chief. The rest of the upper St. Lawrence was clearly divided between the Oswegatchies who claimed the frontage from the Long Sault west to about Toniato Creek, and the St. Regis Mohawks who claimed the land between the Raisin River and the Long Sault.

The need to provide for the loyalists, and then to assist the fledgling white settlements that grew subsequently impelled the British to seek ownership of the lands along the shoreline of the upper St. Lawrence and the lower Great Lakes between 1781 and 1806. The Indians of the several sections of the province were very accommodating and permitted the British to encroach on their lands in a remarkably peaceful process. Because written records have seldom documented the feelings and words of the Indians, one can only surmise why the several tribes were willing to tolerate such encroachments.

The numbers of people involved were at first very small. The Algonkian-speaking peoples of southern Ontario numbered only about 5500 persons. The first assault on their lands was made by an

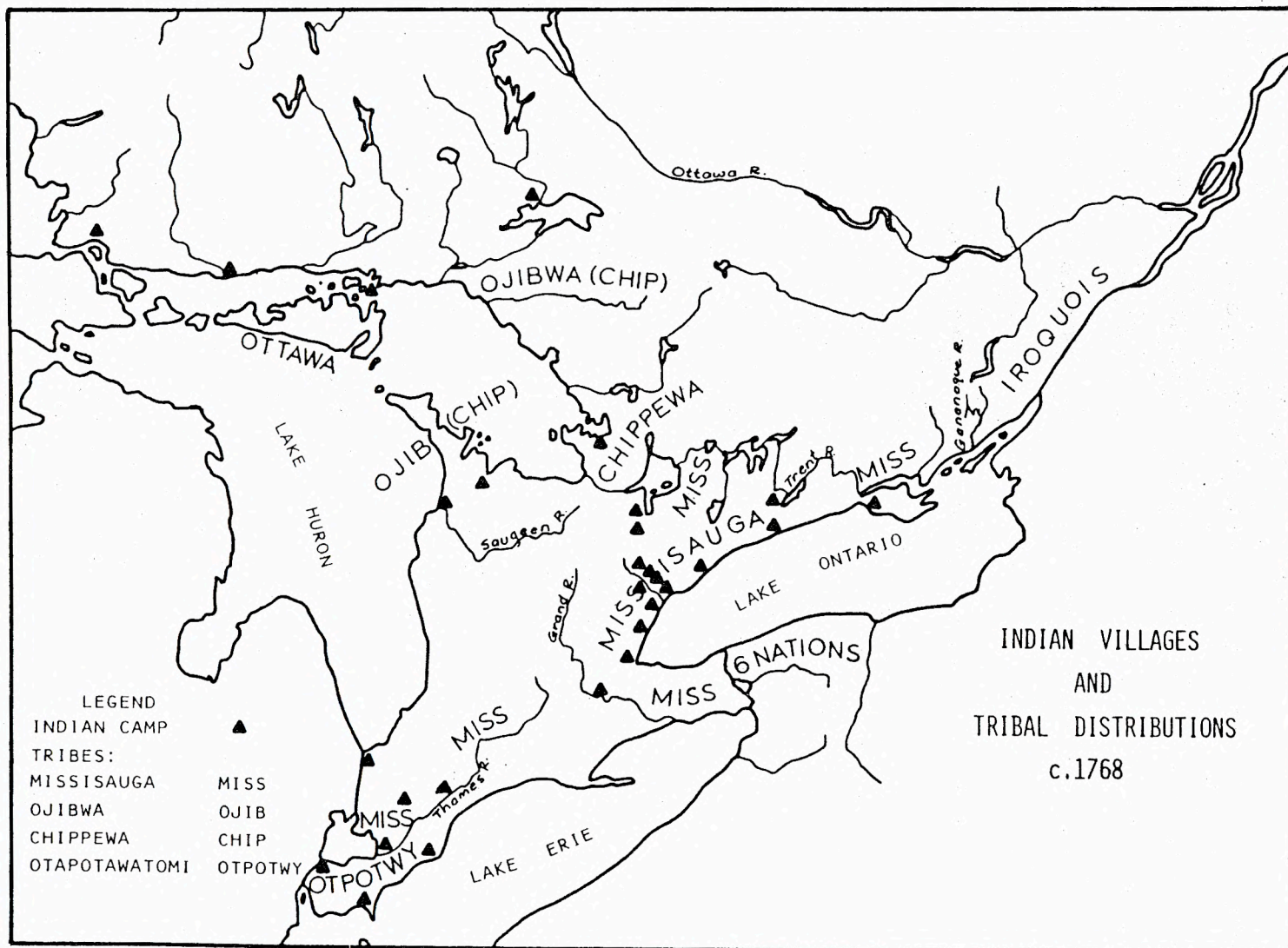
approximately equal number of loyalists and about 2000 loyalist Indians. These people could easily be accommodated in the vast lands available. The white population, though growing, expanded very slowly. By 1812 there were only about 75,000 persons in the white communities, sparsely scattered across the north shore of Lake Ontario, the lower Thames valley, the Niagara frontier, and the upper St. Lawrence. For three decades, therefore, the pressure from white settlement was slight. As well, the sale of lands apparently did not mean any severe dislocation. For these reasons there was insufficient cause to organize strong resistance. Such organization would probably have proven difficult in any case, for the tribes, while respecting one another's spheres of influence, had never formed any solid alliances. The British in turn, made it part of their policy to prevent any from taking shape. By skillful use of such instruments as rations, presents and the location of agents, the Indian branch of the British government worked to make its Indian friends dependent on it but isolated from each other. In this fashion the British managed to prolong or increase the Indian tendency to remain unallied.

Perhaps the most significant factor that inclined the Indians to sell land was their prevailing concept of land ownership. The Europeans had a highly developed sense of private property and private ownership; this was alien to the Indian mind which thought in terms of shared and communal land belonging to the band as a group. Hunting territories were used by one and all. They were aware, of course, that whites had different ideas; they had seen traders build houses or

fence off portions of land for livestock. These restrictions were generally recognized and respected. It was a large intellectual leap, however, from such limited holdings to an organized town, township or county. And in the wilderness, in 1783-84, Indians could not envisage that a land sale around the Bay of Quinte, for example, would result in a widespread white community. Indeed, for decades it did not. The whites who moved into the area stayed close to the shore, and both races used the hinterland for such traditional pursuits as hunting and fishing.

Such circumstances tended to reinforce the Indian view that they were simply selling the use of the land to non-Indians, and that very little would change. If that were the case, selling land to the British could be seen as a convenient way of acquiring such cherished trade goods as hatchets, kettles, blankets, and guns. To what extent native people had become dependent upon such items is a matter of debate; but no one would deny that they were eagerly sought, and the sale of land was a convenient way to get them.⁶

When the British sought land in the early years of the province of Upper Canada, the Indians were therefore usually prepared to oblige. In addition to these general factors, each sale had its own set of peculiar circumstances that might reinforce this tendency. As the years passed, however, and as the full meaning of the written agreements began to come home to the Indians, their attitudes started to harden. This required the British officials to use other arguments and other methods to get the land they wanted.



Indian Villages and Tribal Distributions, c. 1768

In general, it can be said that the hand of government was consistently strengthened by a growing white community, and the Indians, in turn, grew progressively weaker. These parallel developments continued for a century during which the bulk of what is now Ontario was sold to the government by the Indians. The procedures, precedents, methods, and circumstances of the process led to a distinctive system of land alienation - the treaty system - which was to be fully in place by the time of Confederation.

The Single Payment Cessions, 1781-1815

A strong sense of urgency surrounded the first land purchases that the British arranged with the Indians of Ontario. Two were concluded in 1781 while the American Revolution still raged. Immediately upon the conclusion of that conflict, five others followed, in 1783-84, in order to provide lands in the remnants of British North America for the loyalists displaced by the war. Three more, in 1785, 1787, and 1788, were also hastily taken. In addition to the obvious pressures exerted by the Revolution, the British officials in Canada were plagued by a general shortage of manpower and by a paucity of information regarding both the terrain and the native people who inhabited it.

The land cession agreements of the first few years, therefore, were mixed. All accomplished the original intention of transferring ownership of substantial blocks of land from Indian to non-Indian hands, but the terms and the records of those deals were often incomplete and, in some cases, defective. No fewer than five of them required subsequent negotiation and clarification. The land cession agreements that followed in 1790, 1796, 1797, 1798, 1806 and 1815 were recorded more carefully. In all cases, however, the single most important characteristic was the stipulation that for a specific single payment, the various Indian bands involved agreed to surrender a specified land area.

Niagara and the Island of Michilimackinac, 1781 (1) and (2)

During the Revolutionary war, the British in Canada were primarily concerned with the safety of the western posts, especially Oswegatchie, Niagara, Detroit and Michilimackinac. These had to be retained in order to preserve the fur trade, maintain the allegiance of the western Indians, and prevent a flanking attack on Canada by American rebels. Their security was threatened by American efforts to win the support of the Indians, the possibility of attack from the frontier settlements of the rebellious colonists, and by the necessity of supplying them with provisions and reinforcements from Quebec and Montreal. The vulnerability of the supply line was demonstrated vividly by the invasion of Canada by rebel armies led by Montgomery and Arnold in 1775-76.

To reduce that vulnerability and to strengthen the ability of the western posts in the performance of their purposes, Frederick Haldimand, who replaced Guy Carleton as Governor of the Province of Quebec in 1778, proposed a scheme of supplementing the resources of the posts by establishing agricultural settlements in the immediate vicinity of the military establishments.¹ These would help supply provisions to both the garrisons and the substantial numbers of Indian warriors who regularly visited the posts and who expected to be granted rations while there. In peace time, post commanders attempted to keep such visits short, but during war they had to be more generous.

As the Revolution dragged on, the post at Niagara began to receive Indian visitors and refugee loyalists. The latter group included individuals who made their way to British territory as well as an organized military unit known as Butler's Rangers. The Indians included a large portion of the Six Nations Confederacy. These newcomers, who at one point raised the number of persons dependent on the post to 5000,² greatly strained the fort's resources and inclined Haldimand to pursue his idea of an agricultural settlement at the fort. The support of the Secretary of State for the Colonies, Lord Germain, overcame local opposition to the scheme.³

The best area for such a farming enterprise lay on the left bank of the Niagara River, opposite the fort. This presented a problem, however, for the Six Nations claimed certain rights regarding the Niagara River, according to the 1764 treaty arranged by Sir William Johnson.⁴ The Mississaugas, who had also staked a claim to the left bank, maintained that their rights had not been extinguished by that treaty. Haldimand therefore issued orders to settle both claims in order that his agricultural scheme could proceed.⁵

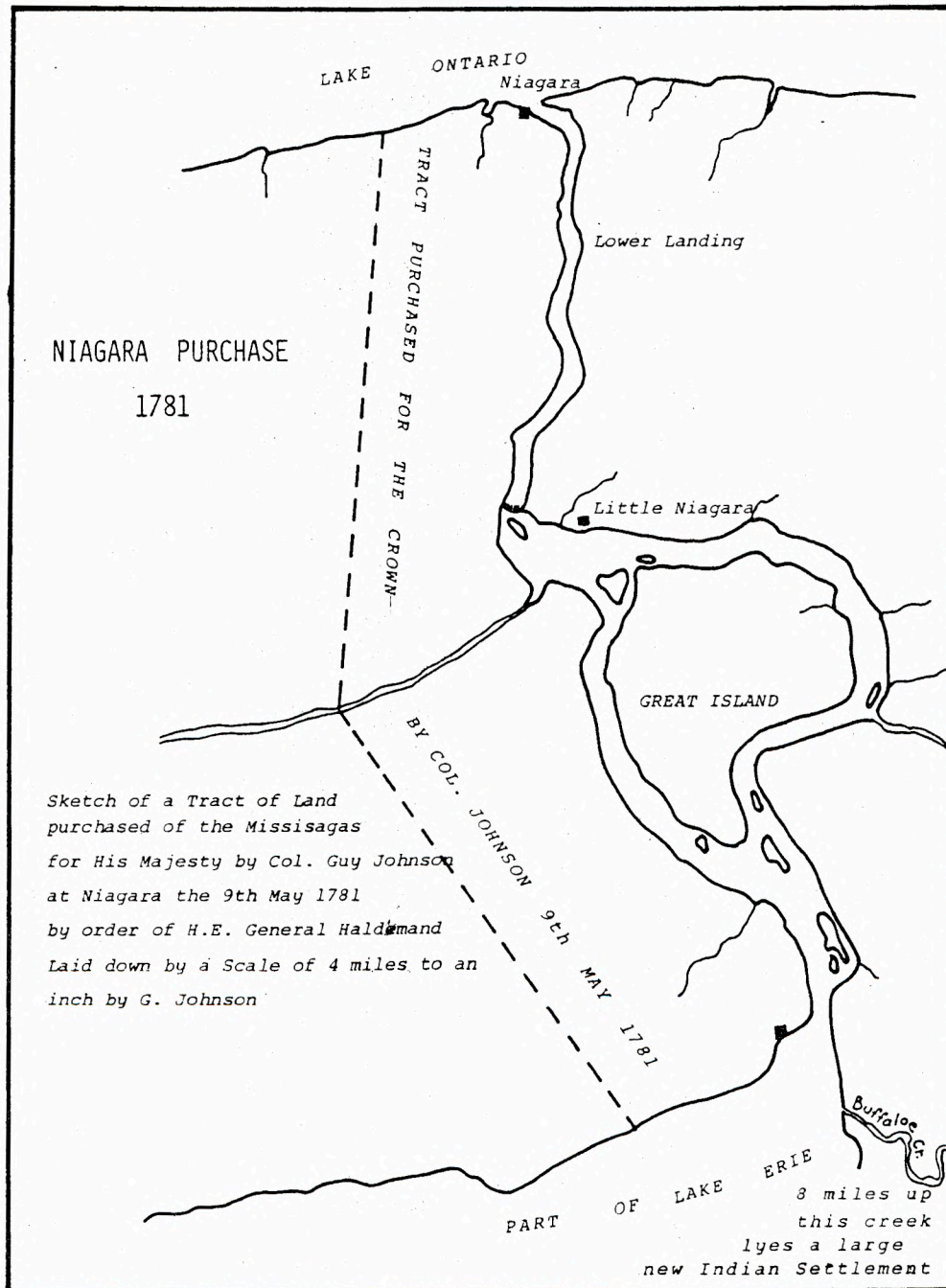
The 1764 agreement had called for the sale of a strip along the Niagara River, four miles wide on the right bank and two miles wide on the left bank. Although this sale had been imposed on the Senecas by Sir William Johnson as a reprimand for their having supported the French during the Seven Years' War, the Iroquois had been able to

stipulate that the land was to be used solely by the Crown. They were willing to permit the use of the Niagara portage and to allow its improvement for transportation around the falls, but they feared settlers, and had jealously insisted on adherence to the agreement. The Mississaugas had also claimed the area for several decades and had not been included in the 1764 treaty. Colonel Guy Johnson, who had drafted that treaty, and who had succeeded his uncle as Superintendent General of Indian Affairs in 1774, supported the Mississauga claim, saying they had "good pretensions to it."⁶

The Six Nations, weakened by the Revolution, apparently agreed verbally in October of 1780 to permit an agricultural settlement on the left bank, opposite Fort Niagara.⁷ The Mississauga claim was extinguished in a more formal fashion by an open council and a written agreement in 1781, after the British had actually begun to settle on the land. On May 9, 1781, the Mississaugas accepted 300 suits of clothing as payment for a four-mile strip along the Niagara River from Lake Ontario to Lake Erie.⁸ Subsequent survey lines, begun when Niagara township was formed in 1787, decreed that this cession included the eastern portions of the townships of Stanford, Willoughby, and Bertie.

Haldimand also wished to begin an agricultural base at the post of Michilimackinac, located on the mainland of the upper peninsula of Michigan. This fort, however, had become obsolete. Reports on its status noted that the village was some distance from the fort, that

Niagara Purchase, 1781



Source: P.A.O., R.G.1

firewood could be obtained only from some distance, and that its harbour was inadequate. In general it was considered to be extremely vulnerable to any attack except one using only small arms.⁹ In 1779, Lieutenant Governor Sinclair, the commanding officer at the post, had reported that the fort could be strengthened by moving it to the island of Michilimackinac which, he said, had a good supply of wood, good available land, an adequate harbour, and safe fisheries close by. The island could also be defended more easily against the rebels who, most observers felt, were quite likely to attack. Haldimand approved the re-location, but stipulated that proper arrangements be made with any Indian bands who might claim the island.¹⁰

In July of 1780, Sinclair reported that this had been done, for the chiefs of eight different "nations" had agreed to surrender the island and had removed their houses from it.¹¹ With that done, Sinclair began to move the garrison to the island, confident that formal ratification by the tribes would follow. It did. On May 12, 1781, for 5000 pounds currency in goods, the Chippewas who claimed ownership sold the island to Britain. The island, of course, was ceded to the United States when the Revolution ended. This surrender is noted here because the transaction was part of the British policy during the war, and was the first treaty included in the compiled Treaties and Surrenders from 1680 to 1890,¹² issued by the Canadian government in 1891.

The Crawford Purchases, 1783 (3) and (4)

The ending of the American Revolution left the Governor of Canada, Frederick Haldimand, with several serious problems. First, he had to provide for the refugee loyalists who had already begun to arrive in Canada and whose numbers could be expected to increase as the last shiploads of refugees left New York. While the vast majority of loyalists chose transportation to Britain, the British West Indies or Nova Scotia, a sufficient number made their way to Quebec to add considerably to the normal post-war difficulties of the Governor. Among these was concern for the safety of the loyalists and of the persons already settled, as the Indian allies of Britain were extremely angry when the terms of the peace treaty between America and Britain were made public. The treaty had failed to mention the Indians or their lands. No provision was made to provide protection for those tribes or bands that had supported Britain. Rather their homelands were doomed to fall within the territory of the new republic.

To Britain, beset with world-wide conflicts, the issue of Indian lands was a minor consideration. But in Canada it was a most serious matter, and Governor Haldimand legitimately feared that Indian anger might be translated into action directed against the British. He therefore ordered Indian agents to attend Indian Councils and distribute gifts in an attempt to allay Indian anger. In addition, he made the significant decision to retain control of Oswegatchie, Niagara, Detroit and Michilimackinac, even though these lay within the

territory of the new American republic. This action had the effect of offering protection to the fur traders operating from Montreal and, more important, it provided a concrete indication that Britain was not abandoning its Indian allies.¹³ This decision would have serious international repercussions and was reversed in 1796 by the Jay Treaty, but it did have the immediate happy effect of reassuring the western Indians that Britain would not abandon them totally. Finally, Haldimand announced that any Indians whose former lands were now part of the United States, or who feared returning to those lands, or who simply wished to remain closer to their British friends, would be offered land in Canada.

Britain did not have any lands to give away, however, for the Royal Proclamation had guaranteed territory beyond the Lake Nipissing line to the Indians who occupied them. Haldimand was prepared to buy some of these in order to honour his pledge to the Indian allies. As events transpired, only two significant groups elected to accept his offer of asylum: a band of about 200 Mohawks, led by Chief John Deseronto, who spent the latter years of the war domiciled at Lachine, and a much larger mixed tribal group of about 1800 who gathered around the war chief Joseph Brant at Niagara and Buffalo Creek. At first it was intended to provide land for both groups in the area of the Bay of Quinte, and preparations were begun to acquire land from the Mississaguas of the region.

The purchase was ultimately concluded, but before it took place two developments altered Haldimand's original plan. The first was Joseph Brant's decision to locate his group not at Quinte which he and John Deseronto had already examined, but on the north shore of Lake Erie in the Grand River valley. The Bay of Quinte was too isolated, he felt, and the interests of his followers could be better served by locating closer to the Senecas and the remnants of the Six Nations who remained in the United States. The Grand River location, furthermore, had the added advantage of closer proximity to the tribes of the Old Northwest.¹⁴

Brant's decision to move to the Grand River, and Deseronto's insistence on locating at Quinte meant that Haldimand had to acquire land in both places. A further development made it necessary to increase the purchase in the Quinte region. A substantial number of the loyalists indicated a preference for land west of Montreal. Haldimand had planned to locate these newcomers in the older settled regions of Quebec. He did not intend that the Indian Country, as defined in the Royal Proclamation, should be invaded by white settlement at this point. The stated preferences of the loyalists, however, and an indication by the Mississaugas that they would be willing to have white neighbours, caused him to agree to loyalist settlement west of Lake St. Francis in the St. Lawrence River.¹⁵ It was a significant decision for it led directly to the conclusion of four large land cession agreements with the Indians of present-day Ontario in 1783 and 1784. A fifth provided the land which Brant wanted on Lake Erie.

The Mississaugas of the Quinte region were first approached in August 1783 by Sir John Johnson, who had recently succeeded his cousin, Colonel Guy Johnson, as Superintendent General of Indian Affairs. Sir John managed to assure the Mississaugas that the lands around Quinte would be plentiful enough to accommodate all newcomers, including the Six Nations and the loyalists.¹⁶ After being convinced that an appropriate land cession could be arranged easily, he turned the task over to Captain William Redford Crawford, a young officer who had been seconded to the Indian branch during the war. Crawford was able to assemble most of the Mississauga chiefs at Carleton Island in October. Also present were some Onondaga chiefs, probably from Oswegatchie, and an old chief named Mynass who normally lived at the Lake of the Two Mountains. Unfortunately neither the proceedings of that council, if recorded, nor the written agreements which apparently were made at the time have survived. The persons in attendance have provided only sketchy accounts of the agreements. Based on these, however, it appears that the following arrangements were made.

On October 9, 1783, Crawford reported that in return for clothing for all their families, guns for those who did not have any, some powder and ball for winter hunting, 12 laced hats, and red cloth sufficient for 12 coats, the Mississauga chiefs agreed to sell all the lands, "From Toniato or Onagara River to a river in the Bay of Quinte within eight leagues of the bottom of the said Bay including all the islands, extending back from the lake so far as a man can travel in a day."¹⁷

He added that the chiefs who claimed "the land at the bottom of the Bay" were not present, but he felt that their lands could be acquired on about the same terms. Chief Mynass had assisted Crawford in reaching an agreement with the Mississaugas, and had also agreed to sell his own lands. Mynass laid claim to the territory between Toniato Creek¹⁸ and the Gananoque River extending from the St. Lawrence River to the Ottawa River. This claim was apparently accepted, although his contention that it had been granted to him by the French is suspect. In return, his family was to be clothed yearly throughout his lifetime. As it turned out, Mynass died shortly afterward, but the bounty extended to his family was continued. Crawford also reported that Mynass and the Mississaugas had been given wampum belts, to document their agreement.¹⁹

Crawford apparently was able later to reach the chiefs of the Quinte peninsula. The following August he reported from Catarqui that the Indians above the Bay of Quinte had come to receive their payment for lands they had sold. He was able to provide the items required and he added that those people "were the last that had or has any demands on us for lands."²⁰

There were, it seems, two separate agreements. That with the Mississaugas included the Quinte peninsula and, probably, the shoreline between the Gananoque and Trent rivers. It seems likely that the eastern boundary was the Gananoque River, as it was generally recognized as the division point between the Mississauga territory

and that of the Iroquois. Mynass's claim to the land to the east of the Gananoque seems to have been accepted. The western boundary, the "River in the Bay of Quinte within eight leagues of the Bottom of said Bay", was the Trent River. This conforms to Major Ross's statement that the purchase extended about 45 miles up the lake.²¹ Furthermore, a subsequent agreement made at the Carrying Place of the Bay of Quinte stipulated that the eastern boundary of the new purchase was to be the Carrying Place,²² located at the isthmus of the head of the Bay.

The actual depth and extent of the purchase were vague. It was certainly considered by British officials to have included the whole of the Quinte peninsula. The term "so far as a man can travel in a day" was subsequently interpreted as meaning two or three townships. Surveys of the area began after the Crawford agreement was completed. The land covered by the agreement with the Mississaugas was divided into the four "royal" townships of Kingston, Ernestown, Fredericksburgh, and Adolphustown. The Quinte peninsula was further divided into the townships of Sophiasburgh, Marysburgh, Ameliasburgh, and Hallowell. On the mainland, 14 townships were surveyed and established on former Mississauga land, running two townships in depth between the Trent River and Richmond township, and three deep east of that point.

Mynass's land supposedly ran from the Gananoque River to the Toniato Creek, actually a small river renamed Jones Creek, just below present-day Brockville. This tract was to have extended from the St. Lawrence to the Ottawa River, an enormous chunk of land to take from a single chief. In the end, surveying ceased at a depth of three townships. This was sometimes an ad hoc decision made by surveyors whose work was stopped by Indian parties. Eleven townships were formed from the land Mynass sold at Carleton Island.²³

Between the Lakes Purchase, 1784 (5)

Governor Haldimand had hoped that all of the Six Nations Indians who chose to live in Canada would settle at the same place. It was not to be. Deseronto wanted to be removed as far as possible from the Americans and moved his band to Quinte in 1784. Here, Tyendinaga township was assigned for their use from the lands recently purchased by Captain Crawford. The next year, Joseph Brant's followers, some 1843²⁴ members of the Six Nations and associated tribes, began settling on the Grand River. A tract six miles wide on each side of the river was confirmed for their use. This grant was made possible by a purchase from the Mississaugas at a council held on May 22, 1784.

The Mississaugas of the Quinte area had expressed concern regarding the advent of the Six Nations in their region, fearing that the Confederacy was so numerous that it would swamp the original inhabitants.²⁵ No such anxiety was heard from the Mississaugas who

held the lands between Lake Ontario and Lake Erie. Indeed, Chief Pokquan, their principal speaker, told Colonel Butler of the Indian branch that the Mississaugas considered themselves and the Six Nations to be "one of the same people" and welcomed their coming.²⁶

Such an attitude made it easy for the British to take advantage of the Mississaugas' generosity by buying not only the Grand River tract but also a large portion of the land surrounding it. This included the Niagara peninsula, land close to the head of Lake Ontario, and the north shore of Lake Erie as far west as the mouth of Cat Fish Creek (81° west longitude). It is an enormous region, containing about 3 million acres, and now includes part of Lincoln, Wentworth, Brant, Oxford, Middlesex, and Welland counties. The cost to the British was 1180.74 pounds currency in goods.²⁷ Although there was no immediate need for the excess land, it was purchased to provide for future needs for loyalists or any other purpose that government might determine.²⁸

St. Regis and Oswegatchie, 1784 (6) and (7)

Haldimand's decision to settle loyalists in the Indian country had therefore led to substantial land purchases on the upper St. Lawrence, the north shore of Lake Ontario, the Niagara peninsula, and the north shore of Lake Ontario. From a military point of view, it was logical that those lands be connected to the already settled regions of Canada, thereby permitting an uninterrupted line of settlement. This consideration prompted the British to acquire the land on the

St. Lawrence River from Point Baudet to Toniato Creek. To do this required settling the land claims of two Iroquois groups: the Mohawks of St. Regis and the Ononadagas of Oswegatchie, both of whom had established their claims in the final years of the French regime.

The St. Regis Mohawks were actually an offshoot of the Caughnawaga settlement. Just before the Seven Years' War, a missionary at that settlement, Father Gordon, led a group westward to a new settlement at the St. Regis River. This was called St. Regis by the French but referred to by the Indians as Akwesasne. The French civil and military authorities approved this move because they were pleased to have a more or less loyal Indian outpost as a small buffer against the English colonies. Father Gordon therefore had Governor Vaudreuil's consent to make the move, and also received a promise "of a Grant of any Spot or Tract of Land he might pitch upon that were uncaded Lands on the St. Lawrence River above Sault St. Louis."²⁹

Following the war, Father Gordon appealed to Colonel Daniel Claus, the British Indian agent, for a grant from the British. Specifically, he requested that the Jesuit Order be given a grant for the lands on both sides of the St. Lawrence from the River Raisin to the Long Sault, to a depth of six leagues. Claus managed "to put him off"³⁰ as well as he could, and thus no grant was ever made by either Crown. When it became evident that the lands of the

St. Lawrence might be required for the loyalists, Haldimand concerned himself with the St. Regis claims. He learned that no grant had been received from Claus's office. A thorough search of the Quebec records failed to turn up any deed or grant of land to the St. Regis Indians. He thus concluded that as this region lay east of the Lake Nipissing Line the St. Regis band had no title to their lands. He was not concerned about the land on the south shore where their village was located, but he did wish to free the land on the north shore in order to provide an unbroken line of settlement above Point Baudet.

Haldimand learned from Sir John Johnson that the St. Regis Mohawks felt they had a very strong claim to the land. They had told Daniel Claus that a grant had been made to them, and that Father Gordon had simply refused to show it to them.³¹ On another occasion they claimed that the records of the grant had been destroyed in a fire.³² When they learned that the north shore was to be used to settle loyalists, they complained to Johnson, who was visiting the surveyor's camp opposite their village, on Sunday, March 6, 1783.³³ A large number of chiefs and warriors, representing the 700 members of the village, were present at the meeting. They told Sir John that they sympathized with the loyalists who had suffered for their loyalty to Britain, and that they approved of the efforts being made to help them. But it was unjust, they said, to help the loyalists with the lands of the St. Regis Indians without consulting the Indians or making their intentions known. They too had served in the war, they said, and they had long looked upon those lands as theirs. They added

that the land had been promised to them by Sir William Johnson, that Colonel Claus knew of their claims, and that the Canadians, assuming that it was Indian land, had paid them money for the right to cut timber there. Johnson replied that he was certain that the Governor would not have sent the surveyors into the region had he not been sure that it was Crown land. He then asked them whether, if the Governor was inclined to think they did in fact have a right to the land, they would be willing to sell it for a "reasonable compensation". They replied that this "was a measure of Weight, and merited serious consideration and that they would assemble the whole of their People and send [Johnson] an Answer as soon as possible...".³⁴

Early the next month, Lieutenant Colonel Campbell of the Indian Department was sent to convene the St. Regis Iroquois at Coteau du Lac.³⁵ He advised them in general council that Sir John had carried their message to General Haldimand, that no record of their title had been found, but that the Governor was prepared, as an indulgence, to give them a reasonable monetary compensation for surrendering their claim. The Indians were not swayed. They reasserted their claims, and even produced a wampum belt that, they said, had been given them by Sir William Johnson. They also refused compensation because no other land would be as good for their purposes.³⁶

It seems clear from the proceedings of this council that the St. Regis Indians had accepted the fact that the loyalists would be settled on the north bank, but were also determined to get

compensation. The process of proposal and counter-proposal went on for two days, until the chiefs of St. Regis finally agreed to renounce their claim to the north shore from Point Baudet to the Long Sault in return for a reserve duly accorded them along that strip. In the course of the negotiations they received assurance that they would retain possession of the land on the south shore, where their village was located, as well as of the islands in the river.³⁷

There remained the task of defining the bounds of those three separate holdings: the village lands, the islands, and the reserve on the north shore. The latter two were not determined at this time, but on April 15, 1784, Haldimand declared the village lands to be theirs. He added that it was to be made clear that the land was being accorded them "as an indulgence, during the King's pleasure."³⁸

Haldimand was still loathe to agree that the St. Regis band should receive any land on the north shore. Their claims ran from the Raisin River to the Long Sault, and lay within the territory that the Royal Proclamation had exempted from the regulations regarding Indian lands. As a result, the absence of a written deed was significant and Haldimand was within the rules when he argued that the St. Regis Mohawks did not have a legal claim to any of their lands. But he was also too realistic to be uncompromising. While the Indian crisis was not as severe as it had been a year earlier, there was still some tension. Moreover, at the time, American commissioners were visiting the Caughnawagas, and the St. Regis Indians were also preparing to

meet them with respect to their lands in New York state. Haldimand therefore did not wish to "do anything in the Matter that might be interpreted as injurious to the Indians."³⁹ Thus he agreed to set aside a reserve on the north shore that, like the village lands, was to be construed as an indulgence, not as a right.⁴⁰ The extent of the reserve was determined after another three weeks of juggling by Haldimand, Johnson and Campbell.

It seems that the matter was finally settled through the auspices of Joseph Brant. Brant visited the St. Regis village in April of 1784, and subsequently sent his thoughts and suggestions to Sir John. He reported that the St. Regis were prepared to be reasonable, but that they resented Campbell's threats at the Coteau du Lac meeting. This was the wrong approach, he said, because it created animosity and "it gives the dam rebels larger mouths for many things against us."⁴¹ He urged that the St. Regis Indians be given deeds for their land, and said further that they would be satisfied, he thought, with about two and a half to three miles of frontage.⁴² Thus the St. Regis Mohawks were granted a tract of land about two and a half miles long, between the townships of Charlottenburgh and Cornwall. This area, which became known as the Nutfield tract, was surveyed and confirmed in writing. It remained the possession of the St. Regis band until 1847, when it was sold to the Crown.⁴³

Written titles were not given for the islands or for the south shore land however. This was deliberate, even though both had been spoken of in council as belonging to the Indians. In 1824, Sir John Johnson reported he had been "particularly instructed" by Haldimand in 1784 "not to grant any of the Islands, as they might be required for the future disposition of Government."⁴⁴ Consequently the St. Regis Iroquois's possession of those regions was based only on occupancy and usage. By 1837 the village tract was considered by a government report to have only 21,000 acres,⁴⁵ being a triangular tract bounded by 12 miles of the St. Lawrence, the western boundary of Godmanchester township, and the boundary with the state of New York.

The Oswegatchie Indians occupied the St. Lawrence shoreline west of St. Regis. Their territory, from the Long Sault to the Toniato River, was clearly within the Indian Territory as described by the Royal Proclamation. Like the Iroquois enclaves in Canada at Oka, Caughnawaga and St. Regis, these Indians, also Iroquois, had been enticed to relocate by French missionaries. The mission of La Presentation, at the mouth of the Oswegatchie River on the south shore of the St. Lawrence, had been founded in 1748. By 1751, 396 families⁴⁶ lived in several villages on the north shore across the River from the mission and fort.

These were largely Onondagas, but some other Iroquois tribes, notably the Oneidas and Cayugas, also moved there. There were no Mohawks, however, which may account for the division of territory on

the river at the Long Sault between this settlement (usually called Oswegatchie) and that at St. Regis which was predominantly Mohawk. The Oswegatchie settlement grew rapidly, attracting perhaps half of the full Onondaga tribe before the Seven Years' War began.⁴⁷ By moving to Oswegatchie the Onondagas had placed themselves in the French camp, and thus fought on the French side in the Seven Years' War. During that conflict their numbers declined; only 86 warriors were reported to be at the settlement in 1763 and 100 in 1768. The total population, therefore, would have been about 500, which still ranks significantly when compared to the 1800 that were reported to have been living in the Onondaga homeland in 1771.⁴⁸ When the American Revolution began, the Oswegatchies supported the British.

Following the war, the Oswegatchies continued to occupy their villages near the site of present-day Johnstown. Colonel Campbell met the Oswegatchies at the Cedars in 1784, intending to acquire their lands for loyalist settlement. After lengthy consideration, the Onondagas agreed to let the British have "the Front of the Water" to "give lands to the troops".⁴⁹ Because the British still retained the fort at Oswegatchie, they were able to convince the Onondagas to move their principal settlements to the south shore at the town of Lisbon. The Indians later pointed out that they had not "received one copper" for the land they had left on the north shore.⁵⁰

This agreement opened up the riverfront for the royal townships, but the Indians of Oswegatchie apparently did not feel that they had agreed to surrender the back country. When the surveyor de Pencier was sent to survey Marlborough township on the fork of the Rideau, he encountered Indians from Oswegatchie who objected to his work, and advised him that he was trespassing on Indian land.⁵¹ De Pencier did complete the survey of Marlborough, but the work stopped at that point. It seems likely that the survey was stopped at Marlborough township because of that resistance. When the Jay Treaty gave the western posts to the United States, the Oswegatchies were thrown on the mercy of the Americans. Although by that time the Indian village at Lisbon was clearly a permanent settlement, the Americans forced them to disperse.⁵² About 1806, some were simply removed by order of New York State; others went to Onondaga or elsewhere, and some moved to St. Regis. Their dispersal permitted the British to disregard the Oswegatchie claims to any of the interior lands between the St. Lawrence and Ottawa rivers.

The Collins Purchase, 1785 (8)

The Crawford purchases, and those with the St. Regis Mohawks and the Oswegatchie Onondagas, served the British purpose of securing a virtually unbroken accession of the upper St. Lawrence to accommodate the loyalists. Regrettably, our knowledge of these transactions is scant, for actual surrender agreements, if taken, have not survived nor has any extensive documentation in the form of reports, private

correspondence or public records. The St. Regis land claim file is still open; the Onondaga situation appears to have been resolved with the migrations from the Oswegatchie region; and the Crawford purchases were dealt with by further agreements reached in 1856.⁵³ There was another early cession which remains shrouded in a general ignorance of conditions of the day, but which still apparently rests only on verbal assurances made almost 200 years ago. This was the Collins Purchase of 1785.

As noted already, Governor Haldimand was very anxious about the security of the western posts and their lines of supply. With that in mind he sent a party of soldiers to investigate the communication route known as the "Toronto Carrying Place" which might be used as an alternative route between Niagara and Michilimackinac.⁵⁴ No purchase resulted from the subsequent report, but in 1785 Henry Hamilton, Lieutenant Governor at Quebec, was still interested in the possibility of a second route to Georgian Bay, and he despatched John Collins, the Deputy Surveyor General, to survey the route and report on what lands it might be necessary to purchase from the Indians in the region.⁵⁵ From the scant evidence that exists regarding Collins's expedition, it appears that he exceeded his instructions somewhat by actually making a provisional agreement of some nature.⁵⁶ That document, if it was ever formally taken, has been lost, however, and the descriptions of the extent of territory involved are contradictory.

According to the interpreter who went with the expedition, J.B. Rosseau, Collins was accompanied by Captain Crawford when he met the Chippewa Indians of Lac La Clie (Lake Simcoe) in August 1785. That meeting, said Rosseau, resulted in the purchase of "one mile on each side of the foot path from the Narrows at Lake Simcoe to Matchedash Bay with three miles and a half square at each end" of the road, as well as one mile on each side of the Severn River.⁵⁷ A land cession of 1815, which abuts on this region, describes two sides of a parallelogram which was "said to have been made in the year one thousand seven hundred and eighty-five."⁵⁸ John Collins's memorandum of his trip stated that this agreement also permitted the Crown to make "roads through the Mississauga Country", and it noted further that no payment had been made, or even requested.⁵⁹ The chiefs simply stated that their people were very poor, they desired to have some clothing, and they would let "their good Father" determine the amount to be paid.

Irregularities abound in this transaction. There is no formal cession document in existence; the description of the area purchased, in Rosseau's recollection of the event, is that of a much smaller piece of ground than that implied in the 1815 description; and it seems that no payment was made by the British. Yet the claim of the Crown to the area has never been questioned, and government officials since the eighteenth century have regarded the area as having been given up. A subsequent informal understanding arranged by Lieutenant

Governor Simcoe⁶⁰ has apparently been sufficient to satisfy the bands of the Lake Simcoe area, and their posterity, regarding the Matchedash lands.

The Johnson-Butler Purchase, 1787-88 (9)

The Toronto Carrying Place soon came under official scrutiny again when the Chevalier de Rocheblave requested a grant of land in that location. Born in France in 1727, de Rocheblave had come to America about 1750, and later commanded the British forces in the Illinois country during the American Revolution. He intended to use the grant at Toronto as a fur trading base.⁶¹ He never received his grant but his request directed Lord Dorchester's attention to the area, and the new Governor of Canada issued instructions to Sir John Johnson and John Collins calling for the acquisition of the Carrying Place route from the Indians who claimed it. In addition to securing the water route between Lake Ontario and Georgian Bay, by way of Lake Simcoe, Sir John was also instructed to buy the land on the north shore of Lake Ontario in order to secure for the government the means of connecting the Catarqui loyalist settlement with that at Niagara.⁶² The resulting land cessions, taken in 1787 and 1788 by Sir John Johnson and his subordinate in the Indian department, Colonel John Butler, resulted in the government's taking control of the north shore of Lake Ontario from the Trent River to the Etobicoke River. This acquisition was not clear or clean, and required 135 years to clear up, for neither Johnson nor Butler kept good records or deeds of the event.

Sir John arranged a meeting with selected Mississauga Chiefs at the head of the Bay of Quinte in September 1787. About 626 persons were present; another 391 gathered at Toronto at the same time.⁶³ The two groups were recipients of 2000 pounds currency in goods dispensed by Johnson.⁶⁴ There remains some confusion, however, regarding Sir John's arrangements and intentions at this council. An account of that meeting by the Indian trader, John Long, noted that Sir John showed the Indians a map showing that he desired to have the land "from Toronto to Lake Huron."⁶⁵ A more recent reconstruction of the affair, by Percy Robinson, contends that Johnson took a surrender of the right of transport from Toronto to Matchedash Bay as well as blocks of land (10 miles square) at each end. Robinson's principal source is a letter written by Johnson in 1798 to explain the events of a decade before.⁶⁶

In that letter the only land mentioned was the Toronto-Matchedash area. It seems that he did speak to the assembled Indians about the land on the north shore of Lake Ontario between Quinte and Toronto. Long's account says he did, he was instructed to and, according to the invoice of the goods given out at the time, the Mississaugas who had gathered at Quinte on September 23, 1784, "Made a formal Cession of Lands on the North side of Lake Ontario to the Crown."⁶⁷ This land cession was described more specifically by the Land Board for Nassau in 1790, when it issued instructions to survey the "Land lately purchased by Sir John Johnson from the Missessaga Nation on the North Side of Lake Ontario in the District of Nassau from the head of the Bay of Quinte to Toronto."⁶⁸

Sir John's distribution of presents at this council was later interpreted as payment for lands. These gifts of ammunition, arms and tobacco, however, were a reward for the Mississaugas' fidelity to Britain and for "services during the late American War".⁶⁹ Specific payment for the land was to come later. It appears, however, that a deal was provisionally arranged at Quinte.

Notwithstanding Sir John's denial of having put anything on paper at the time, a deed of sorts has been found and identified as having been drawn up at the Quinte Carrying Place in 1787.⁷⁰ It was witnessed by three chiefs - Wabikane, Neace, and Pakquan - and by John Collins, Louis Kotte and Nathaniel Lines. It does not contain a description of the lands to be sold, but simply leaves blank spaces which evidently were to be filled in after proper surveys determined an accurate description. According to the interpreter, Nathaniel Lines, who recounted the event some eight years later, the land in question was the north shore of Lake Ontario. Others suggest that the land descriptions to be inserted were to include also the region of the Toronto-Matchedash purchase.⁷¹

It is also likely that Sir John's hurried visit to Quinte in 1787 did not allow sufficient time to ascertain the precise areas, particularly in terms of depth, that the government wanted or that the Mississaugas were prepared to offer. In any event those details could be delayed until the following year when payment could be made. The requisitions for supplies to make that payment clearly indicate that

two separate purchases were intended, these being the north shore of Lake Ontario and the Toronto-Matchedash lands.⁷² Little trouble was anticipated as shown by the concurrent despatching of Alexander Aitken, a surveyor to conduct a survey of the Toronto site.

Aitken and the provisions arrived at Toronto on the Seneca on August 1, 1788. He was joined a few days later by Lord Dorchester, Sir John Johnson and Colonel John Butler.⁷³ Dorchester and Johnson remained at Toronto only until the goods had been distributed to the Mississaugas who had gathered for that purpose. However, not all the expected bands arrived on time. Thus Butler remained behind to meet those who were expected from Lake Simcoe and Pawastink (Port Hope), and also to reach some agreement with them regarding the depth of the cession on the Lake Ontario shoreline. Again from fragmentary evidence, we can observe that Butler was successful in coming to an agreement about the depth of the tract. He later reported from Niagara that after the Lake Simcoe and Port Hope Indians arrived, he called all the chiefs into a council and proposed that they surrender the land between Toronto and the Bay of Quinte "as far back as Lake la Clay (Simcoe) and the Rice Lake". Having secured their agreement, "after 2 or 3 meetings", he then proposed that the depth be a straight line beginning 15 or 16 miles back from Toronto. Running the depth in a straight line cost the government an extra 25 guineas to two chiefs, Wabikane and Porqua.⁷⁴ The actual depth was in fact determined by the surveys completed in 1791, when the surveyor, Augustus Jones,

reported having surveyed 11 townships, beginning with the eastern boundary of the District of Nassau and extending two miles west of Toronto.⁷⁵

The issue of the north side and the Toronto-Matachedash section appeared to have been settled at this point. The Indians, at least according to Butler's reports and Johnson's understanding, were satisfied, and the government was pleased to have secured a solid line of settlement between Catarqui and Toronto as well as the communications link between Toronto and Matchedash Bay. There were some clouds on the horizon however. First, Aitken had been prevented by Wabikane from completing a full survey of the Toronto site. It was only through the intervention of Nathaniel Lines that Aiken was permitted to begin at the Etobicoke River rather than the Humber River. And, being left alone after the departure of Butler and Lines, he feared to run his survey more than two and three-quarter miles inland, having been cautioned by Chief Wabikane against crossing the stream located at that point.⁷⁶ Moreover, he did not survey the eastern boundary of the Toronto block, partly because he was wary of the Indians and partly because the Crown had purchased the land to the east of Toronto.⁷⁷

Another problem appeared when one group of the Indians, apparently those from Matchedash, claimed that they had not received payment for their lands. According to Butler, Sir John had given the goods to the wrong people.⁷⁸ The most serious difficulty, however, was the

absence of a territorial description in the deed of surrender prepared at Quinte in 1787. As a result, the problem was not caused by anger on the part of the Indians, but by anxieties expressed by white administrators and settlers who were concerned about the security of their tenure in lands covered by the 1787-88 agreements.

One of the first to make adverse criticisms of these arrangements was John Graves Simcoe, the first Lieutenant Governor of Upper Canada. His concern, apparently, was the general laxity which he perceived in the entire Indian department. He may have been somewhat more than normally interested in this, for such observations could serve to damage the image of his rival, Sir John Johnson. Beyond such personal considerations, however, Simcoe, it should be observed, assumed his role in Upper Canada with the enthusiasm that was typical of the man. And given the very delicate and critical nature of Indian Affairs in the early 1790s, it was hardly surprising that Simcoe would direct much of his energy toward Indian concerns, especially land, and toward the military defenses of the colony.

These two concerns coincided regarding Matchedash Bay. Simcoe wished, very early in his tenure, to acquire the site of Penetanguishene for military purposes.⁷⁹ While coming to that decision he had acquainted himself with the status of land surrenders taken to that point. According to a map which he sent to Henry Dundas in March of 1792, these appeared to be quite clear.⁸⁰ It was later

that he discovered that some Indian bands had complaints and concerns about their land arrangements. This also caused him to inquire into the nature of the cessions, and to seek copies of the arrangements.

It was following this type of inquiry, from a man he did not particularly care for, that Lord Dorchester on January 27, 1794 rendered his judgement regarding the legality of the deed taken by Johnson at the Quinte Carrying Place in 1787.

Enquiry has been made relative to the purchase at Matchedash Bay, a Plan...has been found in the Surveyor General's Office, to which is attached a blank deed, with the names or devices of three chiefs of the Mississauga Nation, on separate pieces of paper annexed thereto, and witnessed by Mr. Collins, Mr. Kotte, a Surveyor, since dead, and Mr. Lines, Indian Interpreter, but not being filled up, is of no validity, or may be applied to all the land they possess; no Fraud has been committed or seems to have been intended. It has, however an omission which will set aside the whole transaction, and throw us entirely on the good faith of the Indians for just so much land as they are willing to allow, and what may be further necessary must be purchased anew, but it will be best not to press that matter or shew any anxiety about it.⁸¹

It was an extremely awkward judgement. The official stance of government had been that the land had been properly taken, surveys had proceeded, and land had been granted to settlers. These new inhabitants were very concerned, of course, for they wanted to feel secure in their possessions. Government officials also wanted to have the matter cleared up. Simcoe attempted to do something about it when he met the Chippewas of Lake Simcoe in a council at York in 1795. That meeting was called to negotiate the sale of a parcel of land at

Penetanguishene harbour, but in the process Simcoe broached the subject of the 1785 and 1787 Matchedash purchase. He received, according his reports to Dorchester, assurance of their satisfaction, as well as their agreement that they would "consider the goods to which by this treaty [i.e., regarding Penetanguishene harbour⁸²], they are to be entitled, as recompense sufficient for what has been supposed to have been purchased on former occasions."⁸³ This assurance satisfied Simcoe regarding the Matchedash purchase, although it should be observed that, when the final indenture for the Penetanguishene harbour purchase was drawn up, it did not mention this understanding. That omission may have occurred simply because this agreement was not finalized until 1798, after Simcoe and Dorchester had both left the province.

Simcoe's successor, Peter Russell, tried to clarify the uncertainty surrounding the lands involved in the 1787-88 purchases. An appeal to Sir John Johnson to explain what had taken place resulted in the suggestion that if there was confusion, the Indians should simply be asked to sign a newly prepared agreement.⁸⁴ Given the extreme delicacy of Indian affairs at that point, Russell wanted a far less public solution to the matter. Accordingly, he suggested that the government buy new lands, adjacent to the region in question. When the deed for the new purchases were prepared, he said, it could include a description of the lands that had been purchased earlier.⁸⁵ Such a recapitulation of past arrangements would avoid public discussion of the matter. It would also be somewhat deceitful,

and for this reason the Governor, Robert Prescott, rejected the plan. Rumours of possible invasions by the United States, Spain or France, and the unsettled nature of relations with the Indians coincided to dissuade Prescott from approving any scheme that might appear deceitful.⁸⁶

Russell was disappointed. He was also very anxious to settle the matter. Thus, when the Chippewas from Lake Simcoe visited York in May 1798 to complete the Penetanguishene harbour purchase,⁸⁷ Russell tried one more time. On May 22, 1798, he invited them to a special gathering at his house and asked them what they understood to be the bounds of the 1787-88 agreement. His exact words were worth quoting, for they help us picture this rather anxious administrator posing the question with what must have been considerable false nonchalance and an attempt at minor deception.

Brothers,

I am informed that you have long since ceded the whole of the Country to the Southward and Eastward of the Waters of the Lake to your great father thro' his Servants Sir John Johnson and Col. Butler; and having given 3 or 4 Miles on each side of the Path leading thro' this Tract to Lake Simcoe, there cannot be but a small portion of the Land which I ask which is not already the King's. But as the expression of Miles make no Boundary which may not be ignorantly trespassed upon, It is my desire that you would give the West and the East Branches of the Holland River as the Boundaries, least the King's subjects should by mistake at any time encroach upon the Indian Territory and give offence - For the West branch of that river then becoming the limit of the English possessions on that side, we should take care not to trespass beyond it.⁸⁸

Russell's performance did not deceive the Indians, however, and Chief Yellowhead must have been smiling, at least inwardly, when he replied:

Father,

If you white people forget your transaction with us, we do not. The Lands you have just now shewn to us belongs to you; We have nothing to do with it; We have sold it to Our Great Father the King, and was well paid for it. Therefore make your mind at easy. There may be some of our young people who do not think so; They may tell your people that the Land is ours, but you must not open your ears to them, but take them by the arm and put them out of your houses...⁸⁹

Russell wrote to Prescott the next day. He and his Executive Council felt that since the Indians appeared satisfied that they had indeed surrendered all of the land that Butler claimed to have purchased in 1788, there was no need to pursue the matter further.⁹⁰ And that was how matters were left, rather gratefully one suspects, by the government officials in 1798. The matter would not die, however, and two further major land cessions would be required in the future to set this issue at rest.⁹¹

The Indian Officers' Lands and the McKee Purchase, 1790 (10) and (11)

The post of Detroit clearly fell within the region designated as the Indian territory by the Royal Proclamation of 1763. Equally clearly, some settlement had persisted there since the fort was founded in 1701. From that early date, French settlers had, very gradually, been permitted to develop their holdings and extend their

settlement line as their population grew. Indian grants to French settlers continued after the British conquest of New France. In 1765, for example, the Ottawa war chief, Pontiac, gave away the site of a former Ottawa village on the north shore which his band abandoned in favour of a site on the Maumee River.⁹² Later, French settlers moved to the south shore. In 1776 Charles Reaume accepted a grant of three arpents of frontage there, and in 1781 Pierre Meny⁹³ received a farm of three arpents of frontage at Little River.

The British commanders at Detroit were aware of such grants, which ran contrary to the British policy regarding the alienation of Indian land as set forth in the Royal Proclamation. Moreover, they were chastised by General Gage in 1771 for permitting such grants. He declared that such grants were invalid, that they must cease, and that any buildings erected in the Indian country were to be destroyed.⁹⁴ Gage's orders were followed on the frontier line of western Pennsylvania and elsewhere, but in the Detroit region they were either ignored or not enforced. After the American Revolution and the subsequent creation in 1788 of land boards in the western regions of the old Province of Quebec (i.e., the area that would become Upper Canada) grants of this nature became more precarious. Many were made. Some would stand; others, like that of Sally Ainse,⁹⁵ an Indian woman, would not. One that did stand was a grant of land made to officers of the British Indian Department in 1783.

The group included Alexander McKee, Matthew Elliott, William Caldwell and Henry Bird, all captains in the British Indian Department. The land they coveted, usually referred to as "the Indian Officers' land", consisted of approximately seven miles square fronting on the south shore of the Detroit River, directly opposite Bois Blanc Island. In 1783, relying on the influence they had acquired among the Indians of the region, they convinced the Huron and other chiefs at Detroit to make them a gift of the block in return for past services.⁹⁶ That these men ultimately succeeded in securing the tract on the south shore rested clearly on the importance of their services in the decade of touchy Indian relations which followed the American Revolution. Even so, they had to make full use of the importance of their services and their resulting contacts with leading officials in order to protect their land from the designs of one of their subordinates, Jacob Schlieffen.

Schlieffen was serving as secretary in the Indian Department at Detroit and apparently overheard the captains and their colleagues making plans to acquire the tract from the Indians. Others had speculated in Indian deeds and the Indian officers were obviously planning to follow suit. Jacob Schlieffen saw no reason why he should abstain. Before Caldwell and his fellow officers could move on their plans, Schlieffen collected seven Ottawa chiefs and five witnesses and arranged the purchase, on October 13, 1783, of the same land.⁹⁷ He subsequently registered the sale at Detroit and then proceeded to attempt to have the sale confirmed by Lieutenant Governor Hamilton.⁹⁸ When Schlieffen's actions came to the attention of the

Indian officers, their complaints went in several directions. Alexander McKee wrote to Sir John Johnson, Henry Bird wrote to Captain Mathews, and Sir John Johnson wrote to Governor Haldimand. Similar sales had been permitted to stand; in 1784 Governor Hay advised Haldimand that most of the land "between the Lakes Erie and Huron on both sides the straight" was claimed and "a great part settled upon and improved."⁹⁹ Yet there was obviously a desire to accommodate the officers who wanted the land and who had secured a gift of it from the Indians.

By interpreting the regulations strictly in the case of Schlieffen and loosely in the case of the officers, Haldimand ruled in favour of the latter. By emphasizing certain extenuating circumstances, the senior officials were apparently able to convince themselves that their decision was a valid one. It was stressed that Schlieffen had used liquor to convince the Ottawas to sell him the land,¹⁰⁰ that Schlieffen purchased it from Indians who actually did not possess the land involved,¹⁰¹ and that he planned to sell the land for profit. The officers, on the other hand, were considered men of substance who planned to settle the land themselves. Their actions were conducted openly with the Hurons and Ottawas, unlike the clandestine actions of Schlieffen. It was also considered that the settlement the officers planned would "provide of infinite utility to Strength and Interest" of the province.¹⁰² In rendering this last judgement, Haldimand was undoubtedly thinking that a settlement sponsored and inhabited by the Department's officers would serve both as a focal point for the

protection of the western end of the province and as a base for continuing British influence among the western tribes.

Accordingly, he ruled that Schlieffen had violated the Crown's regulations against individuals acquiring Indian land, and that in doing so his action was doubly reprehensible. As the Secretary to the Indian Department Schlieffen knew the rules and had witnessed "Lt. Governor Hamilton's displeasure on a similar occasion and his positive commands against any practice of the kind".¹⁰³ Schlieffen's claim was declared invalid, he was dismissed from his post and the officers were advised that they should regularize their claim to the land.

Having thwarted Schlieffen's plan, the officers accepted the gift of land from the Hurons and Ottawas. They occupied the shoreline, divided the tract among them and had the area surveyed. Official sanction of a sort was obtained in 1785 when Governor Hay ordered the Deputy Surveyor, Philip Fry, to mark off the lots for the men involved.¹⁰⁴ The acquisition was again confirmed in 1788 by Major Mathews, who accompanied McKee and the Surveyor, Mr. Hughes, when the lots were marked out.¹⁰⁵ Apprehension continued to plague the officers, however, for although it was clear that the officials in Canada at the time were prepared to condone the transaction, the rules had been breached and Haldimand's decision might be reversed. Their concern grew when the land boards were created in 1788. The inclusion of Alexander McKee on the Land Board of Hesse in 1789 provided them

with an ally on the board; but the board observed that it did not have any land to administer since no cessions had been officially taken from the Indians. Moreover, the most desirable portions of territory on the British side of the Detroit River - the Thames valley and the south shore of the Detroit River - had already been entered and occupied. Settlement, therefore, had moved in advance of land cessions, unlike the situation on the St. Lawrence and Lake Ontario.

In an attempt to regularize this situation and secure land that could be placed at the disposal of the Land Board¹⁰⁶ Alexander McKee convened an Indian council in May 1790 at Detroit. It was an impressive gathering. In attendance were officers of the 60th Regiment at Detroit, some fur traders and officials of the Indian Department. The Indians were represented by 27 chiefs of the "Ottawa, Chippewa, Potowatomies and Huron Indian Nations of Detroit".¹⁰⁷ McKee had been instructed to purchase from these chiefs all the shoreline between Long Point on Lake Erie to the Chenial Ecarte River on the St. Clair River. The chiefs were surprisingly co-operative: they agreed to sell the territory for a payment of goods worth 1200 pounds in Quebec currency which McKee had ready for the council. There were some conditions, however. The written agreement contained the stipulation that two tracts of land, known as the Huron Reserve and the Huron Church Reserve, be retained for the use of the Indians. The first stretched from the Indian officer's land to the French settlement on the Detroit River, and extended seven miles inland. The second tract was smaller, stretching along the shore from Knagg's

Creek to the Huron Church, with a depth of 120 arpents. When questioned by the Land Board about this agreement, McKee said that he had to permit the two reserve areas in order to secure the rest of the tract. He was supported in that contention by Major Murray, the commander at Detroit, who witnessed the proceedings and expressed the view that the best possible arrangements had been made for the Crown.

Chenail Ecarte (Sombra Township) Purchase, 1796 (12)

It is difficult to explain why the several chiefs were agreeable to the agreement of 1790. Part of the reason probably stems from the fact that most of the Indians, particularly the Potowatomies and Hurons, could claim the area but lived on the opposite side of the Detroit River and thus would not be seriously affected by the sale.

It also seems likely that they were seeking to consolidate their position with the British in the face of an expected American invasion of their territory. These Indians had successfully battled Generals Harmer and St. Clair in 1790 and 1791 and were then defeated by General Wayne in 1794. The hope for British assistance in these contests never materialized, but after the victory by Wayne, the British offered these tribes a refuge in Canada. Because most of the region of the McKee Purchase had been occupied, either before the agreement was concluded or shortly afterwards, it would not provide a sufficient area to satisfy the expected newcomers. It was suggested, then, that the Chenail Ecarte area be offered to the American Indians.¹¹⁰

Accordingly, Dorchester despatched McKee to make the necessary arrangements with the Chippewas of the Chenail Ecarte, and to report on the possible success of such a venture. McKee's prognostications were highly optimistic. He estimated that 2000 to 3000 Indians¹¹¹ might take advantage of such an offer, including the Ottawas of the Raisin River, the Potowatomies of Swan Creek and the Shawnees and Ottawas of the Miami River.¹¹² Were this to happen, the British would secure, inside British territory, a substantial body of warriors who would be totally committed to the British colours. When McKee reported that he had concluded a provisional agreement with the Chippewas for the surrender of a tract 12 miles square on the St. Clair River, his report was greeted with approval and plans were immediately made to complete the arrangements formally.¹¹³

The appropriate council was held at Chenail Ecarte on August 30, 1790. McKee explained that all the King wanted was four square leagues not for his own use "but for the use of his Indian children and you yourselves [the Chippewas] will be as welcome as any others to come and live thereon".¹¹⁴ The Chippewas agreed readily to the surrender, for which they received 800 pounds in Quebec currency worth of goods.¹¹⁵ For a variety of reasons, the anticipated influx of Indians from the United States never took place. Thus, this newly acquired area, known at the time as Shawnee Township and later renamed Sombra Township, was later simply opened to white settlement.

London Township Purchase, 1796 (13)

Concurrently with his efforts to acquire Sombra, McKee engaged in negotiations with the Chippewas of the Thames River for a second township at the forks of that River. It is well known that Lieutenant Governor Simcoe wished to establish the capital of Upper Canada in the western end of the province. The required land which McKee was ordered to purchase would be called London Township. As with the Sombra lands, he had no difficulty securing agreement from the Indian proprietors. A provisional agreement secured on the 29th of September, 1795, was confirmed on September 7, 1796. It brought to the Crown a tract 12 miles square at the forks of the Thames, in exchange for 1200 pounds in Quebec currency worth of goods.¹¹⁶ London, of course, never became the capital, but the lands were nonetheless lost to the Chippewas.

Land for Joseph Brant, 1797 (14)

Before the old Province of Quebec was divided into Upper and Lower Canada, the land board of Quebec had recommended that the Mohawk war chief, Joseph Brant, be awarded a grant of land as a reward for his, and his family's, military service to the British.¹¹⁷ Brant was pleased to accept such a grant, but he avoided actually selecting a location until 1795, when Lieutenant Governor Simcoe pressured him into making a choice. In the end he chose some land on the site of the present town of Burlington. Accordingly, Simcoe then directed

that that land be purchased from the Mississaugas for that purpose. The Mississaugas sold the required land to the Crown for 100 pounds on October 24, 1795.¹¹⁸ It was then granted to Brant. Regulations issued by Lord Dorchester in December, 1794, prevented the actual transfer of the land to the Crown until the required goods had been obtained in England.¹¹⁹ As a result the final agreement was delayed until August 21, 1797.

Penetanguishene Harbour, 1798 (15)

Lieutenant Governor Simcoe was also anxious to secure land on Georgian Bay at the site of present-day Penetanguishene. He visited it in 1793, and following the receipt of a report from the surveyor, A. Aitken, he became very enthusiastic about the potential of the site as a harbour. He wanted to create a military establishment there in order to effect a British naval presence on Lake Huron.¹²⁰ Such action would permit the British to precede the Americans onto the lake, and also prepare for the day that it might be necessary to evacuate the post at Michilimackinac. Clearly, Simcoe was thinking of maintaining an influence over the Indian tribes of the Lake Huron frontier.¹²¹

It was in anticipation of the eventual creation of the military and civil establishment at Penetanguishene that Simcoe opened negotiations with the Chippewas of the Lake Simcoe-Matchedash Bay region for the surrender of Penetanguishene Harbour.

To that end it was originally intended that a formal council be held in the fall of 1794 at Lake Simcoe, with Simcoe in attendance. This was postponed, however, and Simcoe arranged instead for the meeting to be held at York in the spring of 1795. In the interim, Lord Dorchester altered the rules, in December, by issuing instructions that future purchases would have to be approved by the Commander in Chief, and further that an application for land would have to contain a sketch of the land in question, and that these documents would be examined in order to determine the price to be paid. Finally, arrangements would have to be made for acquiring the goods required and for transporting them from England.¹²²

Simcoe could not comply with these regulations before the Indians from Lake Huron arrived at York. He advised Dorchester of the situation and asked that he be permitted to proceed because, he said, the matter was urgent.¹²³ Through McKee, he further advised Dorchester that he planned to proceed to enter into an agreement with the Indians for Penetanguishene and would leave the fiscal arrangements to be made by the Commander in Chief, Dorchester, at a later date. McKee's report to Dorchester was sent on July 3, 1795.¹²⁴ By then the deal had been made.

On May 19, 1795, Simcoe duly met the Indians concerned at York. They agreed to relinquish the northern tip of the peninsula at Penetanguishene, including the island in Penetanguishene Harbour, in return for goods valued at 101 pounds in Quebec currency.¹²⁵ It was

provisional upon the goods to that value being paid, at which time the Indians would ratify a formal deed of surrender. It was also at this council that Simcoe received assurance from the Chippewas that the Collins and Johnson arrangements regarding the Toronto Carrying Place would be ratified.¹²⁶

No mention of this assurance, however, was made in the final, and formal, deed which was concluded at York on May 22, 1798. By then both Simcoe and Dorchester had departed Canada. It was left to Robert Prescott, the current Commander in Chief, to approve the payment¹²⁷ which was duly made, and the deed was duly executed in the presence of Williams Claus, the Superintendent of Indian Affairs.¹²⁸

St. Joseph Island, 1798 (16)

By the fall of 1794 it had become clear that the British occupation of the western posts would soon end. Dorchester was advised in November that he should begin to prepare for the construction of new posts in British territory that could serve to facilitate the fur trade with the Indians and lessen the impact of the inevitable evacuation. It was this consideration that had urged Simcoe to complete the Penetanguishene purchase. Dorchester's views, respecting the defence of Canada in general and the importance of a post on Lake Huron in particular however, differed from Simcoe's. He felt that maintaining garrisons in the west was an unnecessary drain

on resources that should be kept closer to Montreal and Quebec, the vital centres in Canada.¹²⁹ Simcoe, on the other hand, felt that Upper Canada required a military presence since settlement could not be encouraged without providing some form of protection. His arguments on behalf of a post at Penetanguishene, which could serve to influence the Indians of Lake Huron toward the British interest, were designed to emphasize the need for protection. But it was not to be. The Penetanguishene site would not be developed until after the War of 1812.

Dorchester resisted authorizing a post on Lake Huron for almost 18 months. The orders he finally sent in April of 1796¹³⁰ to Major Doyle at Michilimackinac called for a garrison to be sent not to Penetanguishene but to St. Joseph Island at the opposite end of the Lake. Dorchester declared that a 12-man garrison on St. Joseph Island would form a rendezvous¹³¹ within British territory for the Indians who had hitherto resorted to Michilimackinac, which had to be evacuated, according to the Jay Treaty, by July 1, 1796. His decision surprised most people, for the Island was no one else's first choice; and it angered Simcoe for it negated establishing a post at Penetanguishene. But the decision was made, and in early June, Lieutenant Andrew Foster led his small party to the Island.

The island, though considered to be part of the territory of the Chippewas who dominated the north shore of Lake Huron, was apparently not occupied. Shortly after the garrison had been established and the

Indian department had also moved to the island, the Indians began to visit the post. And they began also to raise the matter of payment for the island.¹³² The command at the St. Joseph Island garrison passed to Ensign Brown, and in the summer of 1796 he proposed that a formal purchase of the island be made that fall.¹³³ It was a matter of some urgency and concern for Brown who must have felt very lonely and very vulnerable: his command was tiny, the fort had yet to be built and the Indians were displeased with the evacuation of Michilimackinac, and with the Jay Treaty which they considered to be another example of British abandonment. Brown was undoubtedly looking for some way of placating that anger, and a formal council to take a land surrender, with the attendant ceremony and a distribution of goods in payment for the island, would serve his purpose admirably.

He must have been severely disappointed to learn, therefore, that Dorchester's regulations of December 26, 1794, required a series of lengthy procedures that prevented him from concluding an agreement that fall. By the summer of 1797 the position was considerably improved. The Chippewas and other western Indians, although wooed assiduously by the Americans, did set aside their differences with the British, and begin to visit St. Joseph Island¹³⁴ as they had formerly visited Michilimackinac. Also, Colonel Alexander McKee arrived to negotiate the terms of an agreement with the Indians for the sale of the island. These apparently proceeded well. The following year, McKee returned with the required trade goods and

completed the sale at a formal council on June 30th. In return for 1200 pounds worth of goods, the Chippewas relinquished their claim to St. Joseph Island.¹³⁵

Head of the Lake Purchase and the Toronto Purchase, 1805-06

(17) and (18)

In 1787 Lord Dorchester had declared that it would be advisable, as observed above, to secure land on the north shore of Lake Ontario in order to connect the loyalist communities at Catarqui and Niagara. The result had been the Crawford and the Johnson-Butler purchases. If those were valid, and government policy held that they were, then only about 30 or 40 miles of shoreline at the head of the lake had yet to be secured. In 1797, after Simcoe left the colony, Peter Russell, as Administrator, and his executive council determined that those lands should be purchased from the Mississaugas. They felt that the new capitol would be less isolated if it were connected to Niagara by an unbroken line of settlement.¹³⁶

The Mississaugas, however, had recently appointed Joseph Brant as their agent in land matters, and at his urging insisted on receiving a payment that government considered to be excessively high. As a result no arrangement could be made, and the Mississauga Tract, as it was known, remained in Indian hands. By 1805, Brant's influence among the Mississaugas had waned, and the Indians were willing to treat. In the interim as well, concern had again been expressed about the Johnson-Butler purchase, particularly concerning the legality of the

Crown's tenure on the land where the town of York was growing. Since York was the seat of government, Peter Hunter, the Lieutenant Governor who had taken office in 1800, was worried, and he directed that a new deed be acquired from the Mississaugas. Sir John Johnson had suggested that in 1798, but the tense circumstances that had prevented it then no longer pertained.

The Deputy Superintendent of Indian Affairs, Williams Claus, had very little difficulty when he met the Mississaugas in formal council at the Credit River on July 31, 1805.¹³⁷ At that time they readily agreed that Sir John Johnson had purchased the land in 1787 and that the only condition had been that the fishery at the mouth of the Etobicoke River be reserved for their use. They also expressed the hope that, although they had already been paid, some gifts would be given to them. The formal deed,¹³⁸ which was drawn up and signed the next day, described the area in question as consisting of 250,800 acres and containing the town of York. It also called for the payment of 1000 pounds Quebec currency worth of goods. The agreement, known as the Toronto Purchase, also stated that the fishery in the Etobicoke River was to be reserved for the sole use of the Mississaugas. This was clearly a greater portion of land than the 10 miles square recalled by Sir John Johnson in 1798. The deed, it is worthy of note, did not make any mention of the land at Matchedash, nor of a strip three miles wide on the water route to Lake Simcoe. It seems that the assurances given by the Lake Simcoe Chippewas to Simcoe in 1795 and to Russell in 1798 were considered to be sufficient.

William Claus had more trouble regarding the head-of-the-lake tract when the Mississaugas met him again in council on August 1.¹³⁹ They agreed to sell the majority of the tract, but wished to retain small pockets at the mouths of the Credit River, Sixteen Mile Creek and Twelve Mile Creek, as well as a tract they had previously sold to the Tuscaroras and a sugar bush they had given to Mrs. Brant. The latter two would have to go to their new owners. It is also worthy of note that they wished to retain the shoreline, to a depth of "two or three chains" for the "whole length of the Beach". In his preliminary remarks, Chief Quinipeno had observed that, contrary to assurances made to them by Colonel Butler in 1788, they had been harrassed by whites and driven off the shoreline of the lands sold in 1787-88. To prevent that, they wanted to keep sole control over the beach in the new agreement. In return for this deal they were content to let Claus determine the amount of compensation. When William Claus refused to accept the conditions, the chiefs told him they would think over the offer and meet the next day.

In the end, they left it to the Crown to repay the Tuscaroras the ox that had been paid for their section of land; they asked that the Crown confirm the sugar bush to Mrs. Brant and they indicated that they would trust the King to protect them in their use of the beach.¹⁴⁰ But they remained firm in their wish to retain the land and fisheries at the mouths of the Credit River, Sixteen Mile Creek and Twelve Mile Creek. This was agreeable to Claus. The final

agreement was concluded a year later on September 5, 1806, when goods valued at 1000 pounds currency were delivered to the Mississaugas in return for the 85,000 acres in the tract.

The Toronto Purchase had not, however, settled the questions concerning the 1787-88 Johnson-Butler arrangements and the debacle of the blank deed. Subsequent sales were required. The area beyond the second township line, as far north as the Trent River-Rice Lake line, was secured by the Rideau Purchase and the Rice Lake Purchase in 1818 and 1819.¹⁴¹ The waterfront of Lake Ontario and a small piece of land along the Toronto Carrying Place were not, however, fully secured until the Williams Treaty finally extinguished Indian title in 1923.¹⁴² In the late eighteenth century, therefore, the government could base its claim to that region - and to the region of the 1785 Collins purchase - only on the assurance given to Peter Russell in 1797. The Collins purchase was not included in the Williams Treaty, and apparently still rests on the reinforcement given to Russell by Chief Yellowhead.

Lake Simcoe Land, 1815 (19)

The Chippewa bands of the Lake Simcoe region were remarkably accommodating when asked to sell portions of their territory. The Collins and Penetanguishene Harbour purchases had been acquired with a minimum of effort; a third request, made in 1811 for the land to the west of Lake Simcoe, was received with similar friendliness. It was a

large tract, consisting of about 250,000 acres between the lake and Penetanguishene, and was desired by government to assist the fur traders of the Northwest Company.

Leading partners of the company had complained to Lieutenant Governor Gore of Upper Canada about "vexatious interference" in their trade by American revenue officers on the Great Lakes route to the west. In particular, it was observed that in 1808 "several boats richly laden with goods" had been seized.¹⁴³ To avoid such harrassment and loss it was suggested that an alternative route to the western fur country be developed, and attention was therefore drawn to the Toronto Carrying Place route to Lake Simcoe. From there the fur brigades could easily reach Penetanguishene on Georgian Bay. The proposed route would not only avoid interference from U.S. Customs agents but would also shorten the overall route considerably. It would, however, also require a road between Lake Simcoe and Penetanguishene, a distance of 28 miles,¹⁴⁴ and that, in turn, would require purchasing the land from the Indians of the region. The project appealed to Gore, who noted that the Lake Huron terminus of the proposed road afforded an excellent harbour that would be safer than Amherstburg should war break out with the United States. Gore also observed that the land was suitable for settlement and would, he predicted, show a profit of 2500 pounds currency over what would have to be paid to the Indians.¹⁴⁵

William Claus, Deputy Superintendent of Indian Affairs, made the government offer of 4000 pounds currency in goods for the land at a meeting of the Lake Simcoe Chippewas at Gwillembury on June 8 and 9, 1811.¹⁴⁶ Chief Yellowhead, the Chippewa spokesman, indicated agreement with that figure, and a tentative agreement was reached at that point. Approval also came from Lieutenant Governor Brock, who succeeded Gore in 1811, and from the Treasury. Goods were shipped from England in 1812 to complete the purchase of the Lake Simcoe land and to buy a small 428-acre tract in Thurlow township, which was desired by government as a site to build mills for the settlement near the mouth of the Moira River.¹⁴⁷ Mississauga approval for that purchase, at a payment of 107 pounds, had been secured by the Indian agent from York, James Givins, at a council held at Port Hope on July 24 and 25.¹⁴⁸ By the time these goods arrived in Canada, the War of 1812 had begun and, because stores were scarce, they were applied to the general purposes of the Indian Department. The sales were delayed, therefore, until the war ended. The Government still wanted the land; indeed, the war had emphasized the military value of the Lake Simcoe region, and the Indians were still willing to part with it. Accordingly new requisitions for goods were issued, in February 1815. Lieutenant Governor Gore, who returned to Canada in September 1815, issued orders to complete the purchases, and formal councils were held subsequently to finalize the agreements. William Claus led a delegation to meet the Chippewas at a council held on November 18, 1815, at Kempenfelt Bay on Lake Simcoe. The goods were duly delivered

and an official deed of surrendered was taken at that time.¹⁴⁹ In August 1816, James Givins delivered the required goods to the Mississaugas who claimed the small parcel in Thurlow and received, in turn, a deed for the land.¹⁵⁰ Neither surrender document mentioned the Indians' request for a blacksmith's services; nor did the Thurlow deed make note of Indian complaints of white encroachments.

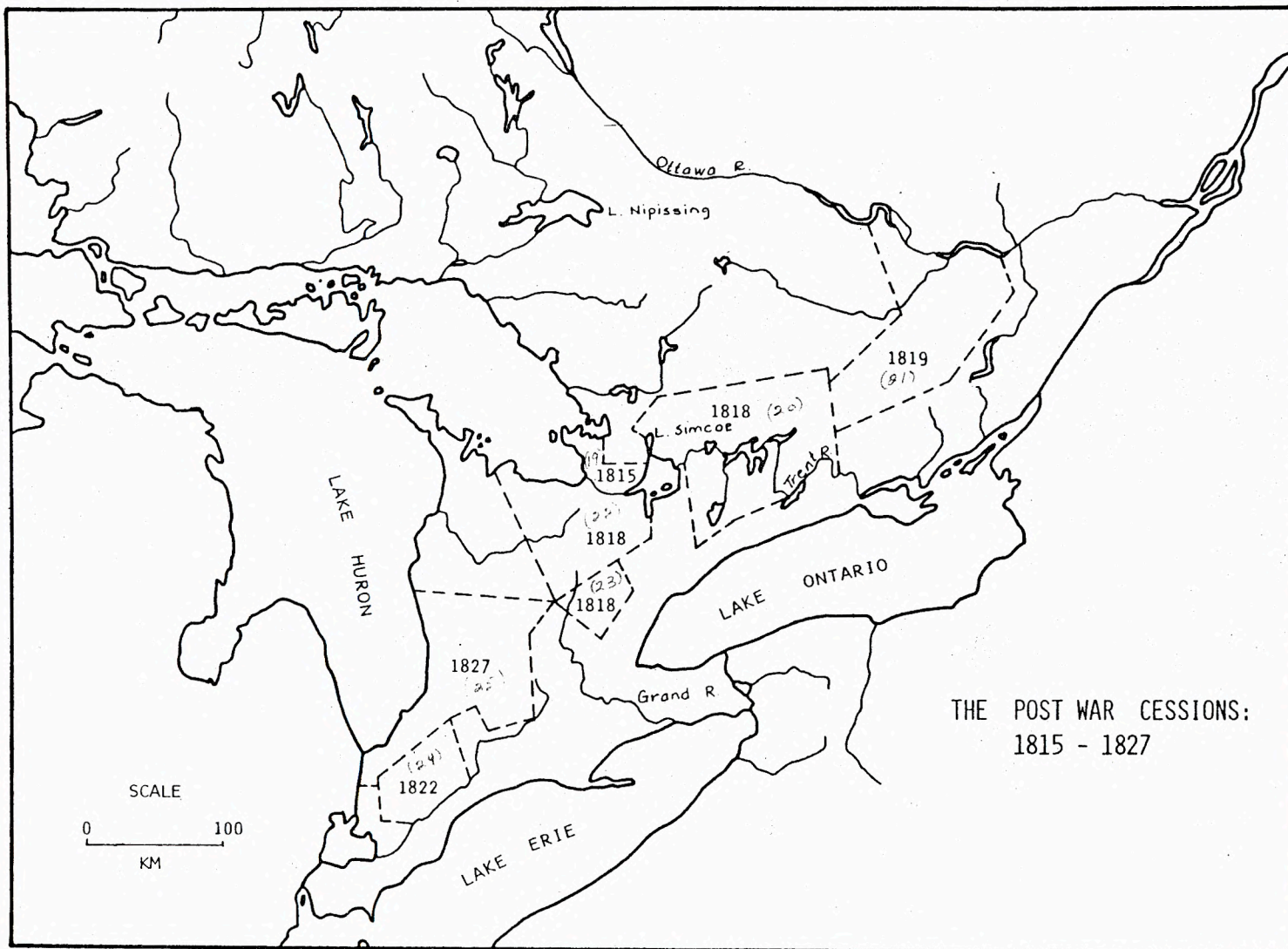
The Post-War Cessions, 1815-1830

During the decade that followed the War of 1812 the government concluded six major land cession agreements with the Indians of Upper Canada. Three unique features characterized these sales which brought about seven million acres of Indian lands under government control.

First, the relative importance of the Indians declined in the post-war years. There were two reasons for this. The post-war years saw British officials increase their efforts to bring immigrants to Canada from the United Kingdom in order to place strongly loyal subjects in the border regions of Upper Canada. This would improve Canadian defences and offset the influence of Americans who had settled there already. Within the following decade or so the white population of Upper Canada increased from about 75,000 to about 250,000. While the Indian population in the southern part of the province remained fairly constant - about 8000 - the importance of the Indian presence declined. Before the War of 1812 the Indians of Upper Canada, especially the Six Nations, had had considerable contact with the Western Confederacy of Indians, centred in the Old Northwest. This contact and interaction enhanced the position of both Indian groups. Following the war, the Americans imposed a series of treaties on the western tribes which removed them from the Detroit border region. In terms of numbers and location, therefore, the Indians of Upper Canada were far more vulnerable to white encroachments and to government demands for land than they had been before.

Second, the British changed the system of payment for lands. Instead of the single payment which characterized the land cession agreements up to 1815, the new system called for annual payments, in perpetuity, to any band that agreed to sell its land. This method of payment was adopted in the hopes of saving money. After land had been purchased from the Indians for a small annuity it could then be sold to new settlers, whose interest payments on their purchases could cover the cost of the Indian annuity. In this fashion the British taxpayer would be relieved of the burden of buying Indian land, for the costs were, in effect, to be borne by the colonists. While this system did not work out in practice quite as neatly as was hoped, it has continued since the first such purchases made in 1818. This method also facilitated arranging land sales. Agents seeking lands from Indians could argue that by selling land they would receive an annual income which would assist them forever. It was a powerful inducement to Indians who were bordering on destitution, and it was used often.

Third, the lands acquired in this period lay well behind the original line of settlement. Because of this, the Indians, who had already been gradually eased from the waterfront lands of the St. Lawrence River and the lower lakes, were then slowly deprived of hunting areas in the more interior regions of the province. Ironically, as these land sales were negotiated, the Indians, whose relative importance had declined, were somewhat more wary and began demanding more sophisticated terms. These were not usually included



THE POST WAR CESSIONS:
1815 - 1827

The Post War Cessions, 1815-1827

in the documents of surrender, but can be found in the records of councils that preceded the transactions. Requests for reserved areas, more protection against encroaching settlers, and guarantees of hunting and fishing rights were among the terms requested by various bands.

Rice Lake Purchase, 1818 (20)

Schemes to bring immigrants to Canada from the United Kingdom were formulated even during the War of 1812. British officials were most concerned about the eastern region of the province where, it was felt, many of the original settlers had divided loyalties. Loyalty to Britain could be strengthened by new arrivals from England. Land close to the American border was not easily available, however, and thus officials looked to the interior lands to provide for the newcomers, who began to arrive as early as 1815.

The interior lands were coveted for another reason. The importance of alternative lines of communication in the province had been demonstrated by American incursions into Upper Canada during the war. Officers and officials, therefore, noted the value of the Rideau waterway system between the St. Lawrence River and the Ottawa River, and of the Trent River-Kawartha Lakes system between the Bay of Quinte and Georgian Bay. Settlement and military reasons seemed to dictate that lands be acquired in the province's interior, and this, in turn, necessitated arrangements with the Mississaugas of the Rice Lake and Rideau River areas.

The Rideau River bands were approached first. John Ferguson, the Resident Agent at Kingston, advised them that the government wished to purchase land from them, but that a purchase would take some time, and he requested that, until it could be done, they not interfere with surveyors or work crews who might enter the area.¹ The Mississaugas agreed not to molest the surveyors and to sell the land that, in their judgement, had not been previously sold. Ferguson himself was of the opinion that lands between the St. Lawrence River and the Ottawa River, including the Rideau River region, may have formed part of Crawford's purchase in 1783-84, but he did express a lack of certainty in that regard.

Later, the government decided as well to buy lands to the west, behind Rice Lake, thereby bringing the Rice Lake Mississaugas into the negotiations. These bands were certain in their minds that no previous bargain had been struck for the land behind Rice Lake. Rather than press the issue, the government of Upper Canada decided to pay for the lands claimed by both groups. This plan was approved by the Treasury, and two large blocks of land were subsequently obtained by the civil authorities. Substantial numbers of new settlers had moved into the area before the sales were completed.

On November 5, 1818, William Claus convened a council at Smith's Creek (Port Hope) with the Mississaugas of the Rice Lake region. It is clear from Claus's remarks that these chiefs had insisted that no previous surrender existed:

Children...My errand is, to put at rest the doubts with respect to the lands in the back parts of this Country which you seem to think were never disposed of to the King, and hope that hereafter none of your young men will be so idle as to remove the Posts or marks which will be put up by the King's surveyors...²

Claus told the chiefs that the King was buying lands in order to provide for the settlement of "his children". He then announced the new method of payment and stressed its advantage by saying the King "...does not mean to do as formerly to pay you at once, but as long as any of you remain on the Earth to give you Cloathing in payment every year, beside the presents he now gives you...". Buckquaquet, the principal chief, replied to Claus' offer. His response revealed clearly the vulnerable position of the Rice Lake Mississaugas.

Father: You see me here, I am to be pitied, I have no old men to instruct me. I am the Head Chief, but a young man. You must pity me, all the old people have gone to the other world. My hands are naked, I cannot speak as our Ancestors were used to.

Father: If I was to refuse what our Father has requested, our Women and Children would be more to be pitied. From our lands we receive scarcely anything and if your words are true we will get more by parting with them, than by keeping them - our hunting is destroyed and we must throw ourselves on the compassion of our Great Father the King.

Father: Our young People & Chief have always thought of not refusing our Father any request he makes to us, and therefore do what he wishes.

Father: If it was not for our Brethren the farmers about the Country we should near starve for our hunting is destroyed.³

Buckuaquet also expressed the hope that his people would be allowed to continue hunting and fishing where they could still find fish and game and that the settlers, when they came, would not mistreat the Indians. Finally he asked that the islands be reserved to the Indians for farming. Claus declared that the rivers and forests were open to all and that the Mississaugas had an equal right to them. He made no promise regarding the islands, but he did say that he was sure the Governor would accede to that wish.

The written agreement did not mention either the islands or the right to continue hunting and fishing.⁴ It was restricted to naming the annuity of 740 pounds per year, and to describing the tract north of Rice Lake, estimated to contain 1.951 million acres of land. The method of paying the annuity gave each man, woman and child 10 dollars yearly.

The Rideau Purchase, 1819-25 (21)

Late the following spring the agent John Ferguson was delegated to treat for the tract of land behind Tweed and Perth. At a council held on May 31, 1819, Ferguson met with 159 Mississaugas of the Bay of Quinte region and 98 from the Kingston area who claimed the area of the intended purchase. The Rideau Purchase tract, as it was known, was enormous - 2.748 million acres - which the Mississaugas agreed to sell for an annuity of 642 pounds, 10 shillings.⁵ It was stipulated that this sum would be distributed at the rate of 50 shillings per

person. This provisional agreement was approved by the Treasury, but because of delays in making some of the annuity payments, a confirmatory surrender was not signed until six years later on April 26, 1825.⁶ At that time the per capita annuity was raised to 2 pounds, 10 shillings. Apparently the changes inherent in designating a per capita payment rather than a lump sum had been noted, for this final agreement included the provision that the number of persons receiving the payment must not be greater than 257, that being the number claiming ownership of the land at the time of the agreement.

Lake Simcoe-Nottawasaga Purchase, 1818 (22)

By acquiring the area of the Rideau and Rice Lakes purchases the government of Upper Canada was able to accommodate new settlers from the United Kingdom and had also secured two of the three inland communication systems that were considered desirable for military purposes. The third had been secured in 1818 by two surrenders from the Chippewas of Lake Simcoe and the Mississaugas of the Credit River. Each required little effort.

Purchases in 1785, 1798 and 1815 had already provided government with the bulk of the lands between Lake Simcoe and Lake Huron (Georgian Bay). In 1816-1817 it was considered necessary only to acquire the portion of the portage route between Kempenfelt Bay and Nottawasaga Bay, which still remained in Indian country. The problem with restricting a new purchase to that small area, according to

William Claus who received word of it on March 15, 1817,⁷ was that the Nottawasaga River would still remain largely the possession of the Chippewas. The Nottawasaga River was an important line of communications. To secure it, Claus suggested buying either all of the land from two miles west of that river, or a piece of the territory enclosed by a line running from the western corner of King township to the deepest point of Nottawasaga Bay. He also expressed the opinion that the Chippewas would readily accede to the surrender of their territory.⁸

Perhaps it was this last consideration that determined the government's decision to request an even greater tract. When William Claus met the assembled Chippewas in council on October 17, 1818, at the house of Nathaniel Gamble, near the Holland River,⁹ he asked them to sell 1.592 million acres of their land to the west and south of Lake Simcoe.¹⁰ It was an enormous tract which included the shoreline of Lake Huron between Wasaga and Vail Point and contained more than three times the acreage of Claus's second option to Gore. In setting forth the proposition, Claus observed that while the ultimate intention was to settle the region, it would be "many years after both of us and most of your people will have left the world before any settlement" would "come near to your villages". At present the land lay idle, he said, and the Chippewas received no benefit from it. By selling it to the King, they could continue to use it as they always had, and still receive yearly clothing, in addition to the

usual presents the King distributed each year. "Consider," he said, "whether it is not better to get some covering for yourselves, your wives and children than letting it lay idle."¹¹

Chief Yellowhead, who had led the delegation of Chippewa chiefs at the 1815 surrender, replied that they could "not withhold a compliance with the subject of your request." For that compliance the government agreed to pay an annuity of 1200 pounds currency in goods.¹² No mention was made of a method for distributing the annual payment. Presumably that task would be the responsibility of the chiefs. The refinement of a per capita designation would come in the agreements of 1819. Yellowhead did not, apparently, mention hunting or fishing. He did, however, ask that a doctor be encouraged to live in the area and tend to the medical needs of his people. Claus replied that his words would "be faithfully communicated" to the Governor, "Who I have no doubt will attend your wishes." This consideration also escaped mention in the formal agreement for the land surrenders. This provision can be said to have been honoured inasmuch as doctors were subsequently stationed at the Penetanguishene naval base and were later attached to the Indian establishment at Coldwater.

Ajetance Purchase, 1818 (23)

After Claus had arranged for the sale of October 17, 1818, he turned his attention to acquiring the lands that lay directly to the south. This consisted of 648,000 acres extending to the purchase line

of September 5, 1806. This area was recognized as the domain of the Credit River Mississaugas who had, in an 1806 agreement, retained three small pieces of land for their exclusive use at the mouths of the Credit River, Sixteen Mile Creek and Twelve Mile Creek. This band had subsequently found itself under consistent pressure from white settlers because of its location between the provincial capital of York and the Niagara River frontier. Despite proclamations to the contrary and efforts by Indian Department officials, the Credit River Band suffered encroachments on its lands and fisheries and found itself the victim of such evils as liquor and disease. In addition, the advancing settlement had, as usual, served to drive the game from the Mississauga hunting areas. The beleaguered band, therefore, declined drastically in both numbers and self-confidence, and was, as a result, in an extremely weakened position by the end of the War of 1812.

Their debilitated state was evident when William Claus met them at a council at the Credit River on October 27, 28 and 29, 1818.¹³ After the customary greetings, Claus remarked that the band appeared to him to be "thin and miserable" and deriving no benefit from their land which was "lying dead". To help them, the King proposed buying that useless land from them and giving them, "Goods yearly to cover" their "Women and Children" in addition to the regular annual presents. The response to this proposal was delivered the following day by Ajetance, who had been elected Chief of the Credit River in 1810. Ajetance agreed to surrender the land as Claus requested, and

asked only that his band be allowed to retain their land at the mouth of the Credit River, adding that "it is but small and we will not have it long; it is all we have to live upon." By this agreement, the Mississaugas of the Credit were to receive goods to the value of 522 pounds, 10 shillings annually.¹⁵ They also retained their three reserves.

One scholar has interpreted Ajetance's sad words as an indication that the Mississaugas believed "that they would soon disappear."¹⁴ The proceedings of the council, including Claus's response, could well have that meaning. It could also have meant, however, that they expected yet another assault on their remaining land. If so, they were prophetic words. The three reserves occupied strategic locations that were desired for roads, mill-sites and harbours. Accordingly, Claus held councils with the Mississaugas in June of 1819 to prepare for further cessions, and on February 18, 1820, concluded an agreement that claimed all of the Mississauga reserve lands except for 200 acres on the Credit River. Upon this small parcel was to be built a village for the use of the Indians where, presumably, the money emanating from the proceeds of the sale of the reserves would be used to "make provision for the maintenance and religious instruction of the people of the Mississauga Nation of Indians and their posterity...". These agreements with the Mississaugas of the Credit River secured virtually all of the lands of the Home District for the government of Upper Canada.

Long Woods Purchase and the Huron Tract Purchase, 1819-27

(24) and (25)

In the western portion of the province the need for land was not quite as urgent. There was, however, a desire to settle loyal subjects in an area where loyalty had been tested during the war and was often found wanting. This was especially the case along the Thames River between London and Chatham, an area that was being somewhat developed, but which had not yet been purchased from the Indians of the region.

The Indians were first approached by John Askin, the Superintendent of Indian Affairs at Amherstberg. On October 16, 1818, acting on instructions from Lieutenant Governor Maitland, through William Claus, Askin met the Chiefs of the Chippewa bands of the Chenail Ecarte, the St. Clair River, Bear Creek, the Sable River and the Thames River.¹⁶ He advised them that the King wished to purchase all of their lands on the Thames River and on Lake Huron just north of the Sable River and extending inland as far as the Grand River tract, and asked the chiefs "to state on what terms they would dispose of the said Tract."

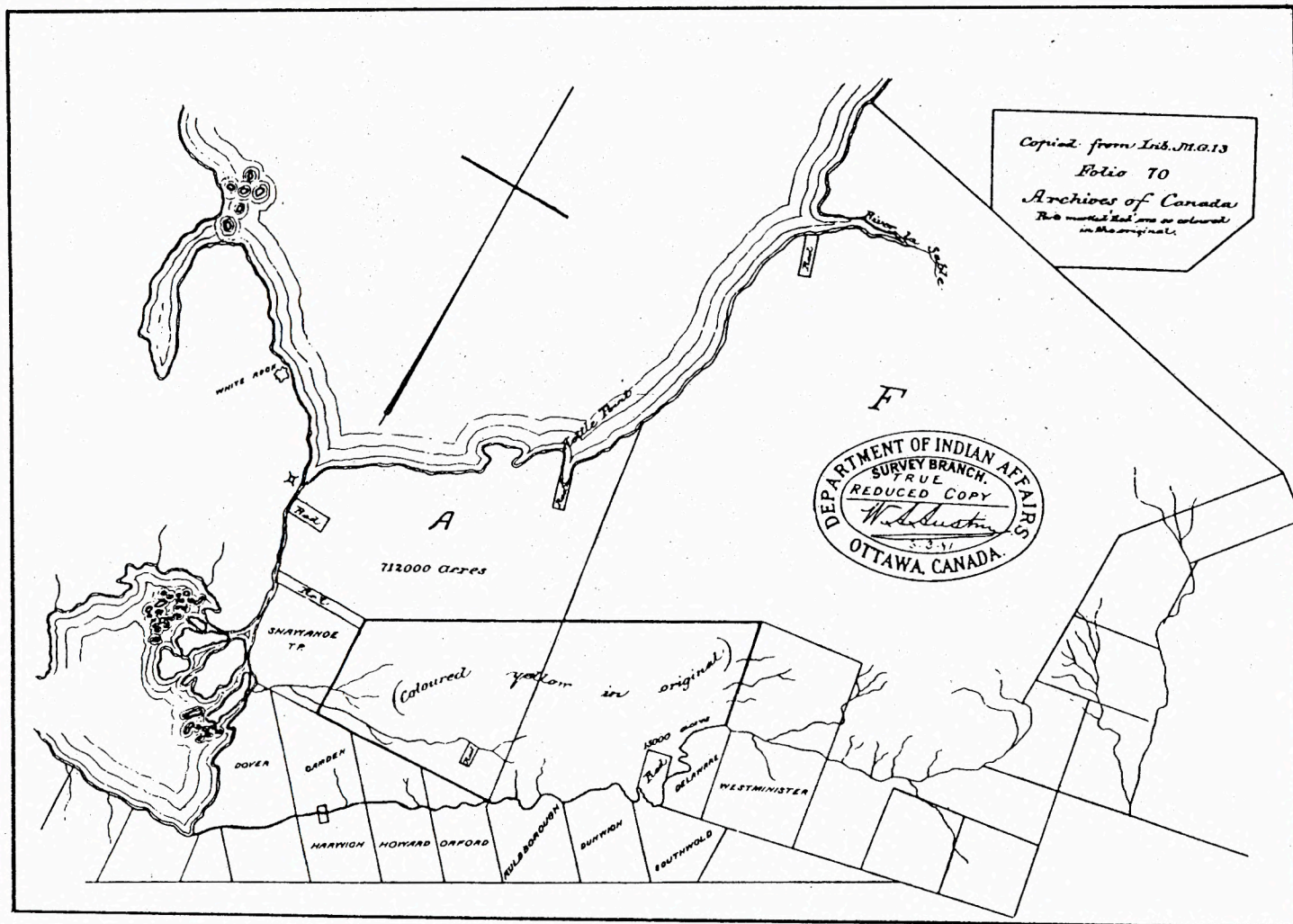
After deliberation, Chief Chawne replied for the assembled chiefs. They agreed to sell the land and left it to Maitland to assess its value. Payment was to be made annually for 50 years. This payment, they said, was to be above and beyond the annual presents;

furthermore, part of the new annuity was to be used to furnish them with a blacksmith and a husbandman, to be stationed near their reserves. The blacksmith would service their axes, traps and guns; the husbandman would be expected to instruct them "in the art of Husbandry." The reserves, they stipulated, should be located:

- 1st. Four miles square at some distance below the Rapids of the river St. Clair.
- 2nd. One mile in front by four deep bordering on the said river and adjoining to the Shawanoe Reserve (Sombra Township).
- 3rd. Six miles at Kettle Point, Lake Huron.
- 4th. Two miles Square at the River au Sable.
- 5th. Two miles square at Bear's Creek, also a reserve for Tomico and his band up the Thames which he will point out when he arrives...

Chawne added that they expected that if the King's representative felt the reserves were too small they would be enlarged at the time of the final agreement.

As a result of Askin's exploratory mission, it was decided to purchase this enormous area through two separate agreements.¹⁷ The section known as the Long Woods, extending on the north bank of the Thames River between the Delaware Village in London Township and the Moravian Village in Oxford Township was of greater interest to the government. The Chippewa owners were invited, independently of their brethren of the Chenail, St. Clair and Ausable rivers, to meet Askin in February of 1819.¹⁸ It was unusual to convene a council at that



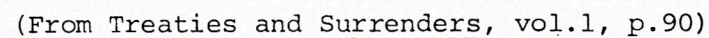
(From Treaties and Surrenders, vol.1, p.58)

time of year, for most bands dispersed to small camps during the winter. It was with some difficulty, therefore, that Askin managed to gather them for a council held on March 9 in Malden Township.

In the provisional agreement which grew out of that Council, the chiefs of the Chippewas agreed to sell the prescribed tract of land, estimated at 552,190 acres, for an annuity of 600 pounds currency, half of which was to be paid in specie and the other half in goods.¹⁹ The agreement also called for two areas of reserved land for the Chippewas. About 15,360 acres were reserved on "the northerly shore of the Thames River, nearly opposite the Township of Southwold." This, it seems, was the reserve called for the previous fall for Chief Tomico. A second reserve was described as "two miles square distant about four miles above the rapids near the source of Big Bear Creek where the Indians have their improvements...".²⁰ Both reserves were shown on the sketch of the proposed purchase sent to Askin before the agreement was made.²¹

At the end of March, the Chippewas of the Chenail Ecarte, the Ausable River and the St. Clair River, having been sent for some weeks earlier, met Askin at Amherstburg to discuss the sale of the remainder of the lands desired by the government. Known as the Huron Tract, and containing some 2,756,960 acres of land, this area was sold by its owners for an annuity of 1375 pounds currency, half to be paid in specie and half in goods.²² The reserved areas named the previous October were duly made by this agreement of March 30, 1819, and shown on the sketch of the proposed surrender.

— 3 —



Neither of these two agreements would stand up, however, for objections were raised regarding the proposal to make payment in cash.²³ As a result, new agreements had to be drawn up and the Indians would have to concur with the proposed changes. This was done, but with some difficulty, and during the several years required to complete the purchase agreements they changed considerably. The Long Woods annuity was altered to provide a per capita payment of 2 pounds, 10 shillings to a maximum of 240 persons, that being the number of persons who claimed and inhabited the area at the time of the original surrender.²⁴ This alteration is easy to understand in view of the arrangements that had been made for the Rideau Tract and the Rice Lake surrenders. More difficult to comprehend, however, is the omission of the two areas reserved in the original agreement. And more difficult still is the fact that the reserve set aside for the Chippewas in Caradoc township continued to be recognized as Indian land (indeed a portion of it remains today), while the reserve on Bear Creek seems never to have been established.

The Huron Tract took longer to settle. Initially Maitland saw no urgency for pushing its conclusion since other land had become available to the government. After John Galt's scheme to form the Canada Company began to take shape, however, the question of the Huron Tract became more important, for the one million²⁵ acres to be given to the Company were to come from the Indian territory. Finally, on April 25, 1825, a second agreement was made with the Chippewas of the Chenail Ecarte, the St. Clair River and the Ausable River. This

provided for the four reserves called for in 1818 and 1819 below the St. Clair River rapids, at Sombra Township, at Kettle Point and at the Ausable River.²⁶ These totalled 23,054 acres, which was no more (or less) than called for at the 1818 council. For this, the several bands were to receive an annuity of 1100 pounds, to be divided equally among the 460 persons said to inhabit the tract in 1825.²⁷ This sum was 275 pounds less than the 1819 provisional agreement. It should also be noted that the 1825 agreement also provided that, should the total population decline by half, the annuity would be reduced by the same amount and would continue to be reduced in like amounts if the population decline continued. There was no mention of a schedule to increase the annuity in the event of a population increase.²⁸ Clear, no one expected that to happen. The final point to be noted in connection with these Indian lands in the western and London districts is that the tract of land known as Walpole Island was not included in any of the land cessions of 1790, 1796, 1819, or 1825. It remained Indian land.

The Era of Civilization, 1830-62

British Indian policy for Upper Canada took an abrupt official turn in 1830. From that date forward, the Indian Branch would no longer serve the military aim of keeping Indian bands loyal to Britain in order to secure their services as warriors. It became instead a branch of the civil administration, with the declared purpose of ameliorating Indian conditions by promoting their adoption of the Christian religion and a civilized and settled way of life. By 1830 it was clear to most observers that the Indians of Canada would form, at best, a group of auxiliary warriors in any subsequent British campaign in North America. That being the case, some observers recommended that the Indian branch be abolished. It would save money and would have little effect, if any, on the efficiency of the public service of Upper Canada.

This pragmatic approach was countered, however, by other interested groups and individuals who looked upon the Indians not as potential warriors but as a backward race whose circumstances had deteriorated as a result of contact with European society. It was the duty of the superior civilization to assist the Indians and help them accommodate themselves to changed conditions. The general goal of performing that duty through a program to civilize was determined by a combination of forces that dictated a more humanitarian approach than that of simple forest diplomacy. The circumstances of this change in policy have been described by several scholars and require no great elaboration here.¹ Two considerations only need be noted.

First, private groups and individuals in Upper Canada were eager for a change in policy. These included the Methodist missionaries who had, in the 1820s, established missions among the Indians in the southern areas of the province, and who had used those missions to promote a settled, agricultural way of life as well as the adoption of Christianity. Their efforts, and their successes, had inspired semi-official efforts of a similar nature by Lieutenant Governor Peregrine Maitland. His experiments among the Credit River Mississaugas were inspired in part by humanitarian considerations and in part because the Methodists were mainly of American origin. To grant those missionaries a free hand was objectionable since they could well promote republican, as well as civilizing, ideals among their Indian charges.

Concurrently, in England, the evangelical movement was gaining a considerable influence in politics. While the grand enterprise of that group was the abolition of slavery and the slave trade, there was also a general sense of responsibility for the aboriginal peoples of the empire. George Murray, who became Colonial Secretary in 1828, was strongly in favour of the concept of trusteeship and it was his administration that approved the program of Indian civilization in Upper Canada. His successors, Viscount Goderich (1830-1833) and Lord Glenelg (1835-1839), were likewise committed to the idea of improving the conditions of the aborigines. The movement which these men represented possessed considerable support for a decade or so in British politics. This influence and its support of the civilization

program affected the actions of individuals in Canadian politics, and, in turn, affected certain aspects of the land alienation process in Upper Canada. It was especially obvious in the two land cession agreements concluded by Lieutenant Governor Francis Bond Head in 1836.

The Bond Head Purchases: Saugeen and Manitoulin Island, 1836

(26) and (27)

Sir Francis Bond Head's Indian policy was closely related to his general political attitudes and his policy for the province of Upper Canada. He recognized that there was considerable discontent in the province which could alter the political hierarchy by securing the acceptance and adoption of more republican principles. Like most colonial administrators in the empire, Bond Head considered such a trend to be dangerous and possibly immoral. By taking an active, even belligerent, role in the June 1836 election in Upper Canada he managed to out-manoeuvre the Reform Party and secure a strong electoral mandate for the government. With the reformers in disarray, he sought to consolidate the government's position, and his methods included a unique approach toward Indians and their lands.

Prior to his active electioneering, Sir Francis had been asked by Lord Glenelg for a report on Indian conditions in Upper Canada.² His response,³ after the election, reflected his solution to the province's political problems tempered by the knowledge that his superior, the Colonial Secretary, was highly sympathetic to the

Indians' condition. Both of these centred around two land cession agreements which he arranged in August, 1836. That year, for the first time, the annual distribution of presents for the Indians of the north and west was scheduled to take place on Manitoulin Island. It was estimated that 7000 persons would be there, so Sir Francis sensibly decided to attend the ceremonies since it would assist him in reporting on Indian conditions. While there, Bond Head sought and received agreements which secured the Saugeen Tract and the Manitoulin Islands for the government.

In setting forth his proposals to the Indians gathered for the distribution of presents, Sir Francis stressed their need of the King's protection as well as the benefits that might be derived from effecting a land surrender. To the Ottawas and the Chippewas who claimed ownership of the Manitoulin Islands he observed that white settlements were everywhere pressing against Indian lands.⁴ If they wished to solidify their claims, he said, they should begin to work the land rather than claim it through the pursuits of hunting and fishing. The Manitoulin chain was suited to such agricultural pursuits and for acquiring other civilized traits, and had the further advantage of being "totally separated from the whites". Three groups claimed the Islands: the British, the Ottawas and the Chippewas. Head declared that the King would renounce his claim if they - the Ottawas and Chippewas - would do likewise and "make them the Property (under your Great Father's Control) of all Indians whom he shall allow to reside on them".⁵

His proposal apparently met with the approval of the gathering, for 16 chiefs, in a "calm deliberate manner",⁶ attached their marks to the memorandum which Head had prepared on the spot. In this fashion the two tribes simply gave "the Twenty-three thousand Islands", which constituted the Manitoulin chain, to the Crown. There was no payment indicated in the memorandum, but it implied that the lands so given up would be protected by the Crown as an Indian territory, and that assistance of some kind would be given to Indians who chose to take up residence on the islands and adopt a sedentary existence there.

The Lieutenant Governor, still talking to the general assembly, then directed a second proposal to the Saugeen Indians of the Bruce Peninsula. These Ojibwa bands had been present when Head had addressed the Ottawas and the Chippewas so that his remarks about advancing white settlements were undoubtedly intended to influence them also. To them he offered the following proposal.

I now propose that you should surrender to your Great Father the Sauking Territory you at present occupy. And that you should repair either to this Island or to that Part of your Territory which lies in the North of Owen's Sound, upon which proper houses shall be built for you, and proper assistance given to enable you to become civilized and to cultivate land, which your Great Father engages for ever to protect for you from the Encroachments of the Whites.⁷

By signing, or making their marks, on the document which contained this proposal, the Saugeen Indians were considered to have willingly given up the 1.5 million acres of land known as the Saugeen Tract. The only payment was the promise to assist and protect Indians who took up residence on Manitoulin Island or on the Bruce Peninsula, north of Owen Sound. Sir Francis would have preferred that all of the Saugeens move to the Island, but in 1836 he was prepared to leave the extreme end of the Peninsula as Indian territory.

Bond Head was indeed pleased with the results of his Manitoulin journey, for it had resulted in the acquisition of a large tract of land that the government could dispense to new settlers. Removal of Indian bands to remote locations, as accomplished by this 1836 arrangement, formed the focus of Bond Head's Indian policy. It was the central reason why he concluded smaller land cessions such as the Coldwater lands and a portion of the Huron Reserve. The land thus acquired would placate Upper Canadian voters, thus reinforcing the position of the government while reducing the support of the Reform Party.⁸ When implementing this policy, however, Sir Francis was aware of the sympathy which his superior, Lord Glenelg, held for native people. His report to the Colonial Secretary, therefore, stressed not the political nature of his land arrangements but rather the advantages that would accrue to the Indians. Contact with whites, he said, had always hurt the Indians. Therefore, it would be in their best interests to be removed from areas where contact was common or

likely. By isolating themselves, the Indians could avoid the evils of contact and continue to engage in their traditional hunting and fishing. They could also advance in terms of civilization and agriculture, unmolested by Europeans.

Lord Glenelg was not unaware of the hidden preference of his Lieutenant Governor, or of the objections raised to Bond Head's land arrangements. These had been brought to his attention by the Methodist missionaries whose memorial to him pointed out that the Saugeens, in particular, were not really very happy with the arrangements and that many had felt intimidated by the Lieutenant Governor. These missionaries also objected to Bond Head's view that the Indians were, in all probability, a doomed race and should be removed to remote locations as the only means of preserving their lifestyle.

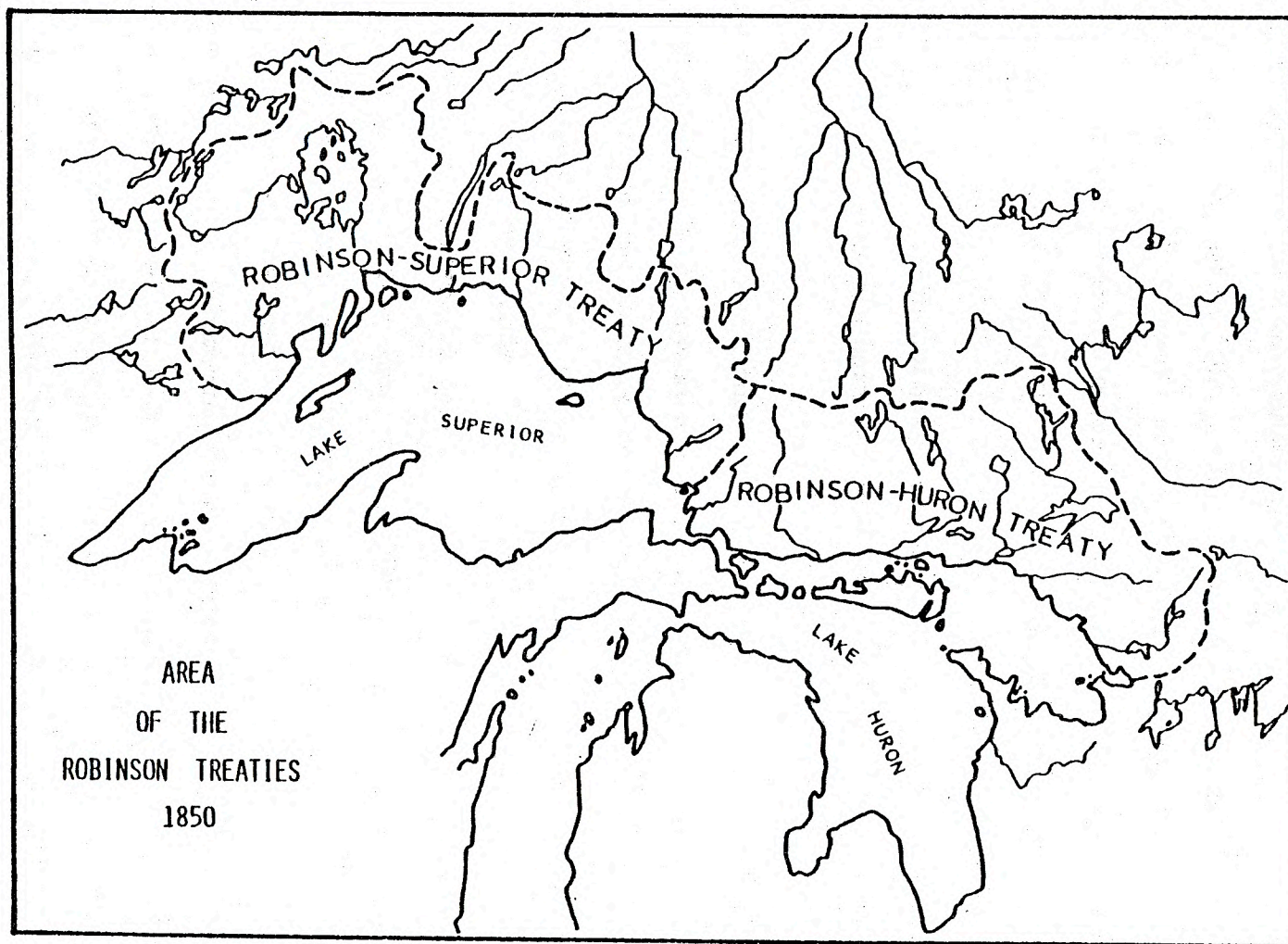
The Colonial Secretary shared that objection. While he felt that the Indians could advance toward a civilized state he also found value in Head's concept of that advancement taking place in isolated locations where control could be more easily exerted over the Indians by persons charged with the task of promoting that progress. He therefore overlooked the objections to Head's 1836 land arrangements and permitted the cessions to stand.⁹ Accordingly, the Saugeen Tract was retained by the government and opened to settlement, and the two isolated regions -- the Manitoulin Islands and the Saugeen

Peninsula -- were considered as Indian territories, to be protected as such. Both would soon become objects of white encroachment, but the next large area to be coveted by white society lay to the north and the northwest.

The Robinson Treaties, 1850 (28) and (29)

Serious interest in Indian lands on the northern shores of Lake Huron and Lake Superior began in the late 1840s. Mining interests, hoping to duplicate the American enterprises on the southern shores, sent prospectors, surveyors and engineers into the region and, at that same time, applied to the Crown Lands department for licences to exploit whatever mineral deposits could be found. Although no policy existed to cover this contingency, the department issued over 30 licences to various mining interests.¹⁰ One firm, the Montreal Mining Company, purchased mining locations totalling 180 square miles. The activities alarmed the Indians, and one chief, Shinguacouse, of the Garden River area, protested by means of a letter to the Indian agent, George Ironside.¹¹

Indian protests embarrassed the government which had obviously neglected Indian interests when issuing the mining licences. At first, Indian claims were simply denied, but the Governor General, Lord Elgin, insisted that these claims be investigated.¹² With the assent of the executive council, two investigating missions were sent into the Indian country. In 1848, T.G. Anderson, an agent with over



Area of the Robinson Treaties, 1850

40 years' service, reported that the Indian claims were valid. In 1849, a two-man commission of Anderson and Alexander Vidal, a land surveyor from Sarnia, also reported the view that the Indians of the region, numbering about 2400, had valid claims to the land and possessed the right to compensation for it.¹³ Based on these findings, the solution was a land cession agreement which would settle Indian claims and open the region to mining activities. When a band of Indians and Metis from the Sault Ste. Marie region attacked and captured the Quebec Mining Company location at Mica Bay in November 1849, the need for a settlement of some kind was emphasized.¹⁴

The man chosen by the Executive Council to effect such a cession, William Benjamin Robinson, was given a budget of 7500 pounds currency and instructed to buy as much land as possible but not to settle for less than "the north shore of Lake Huron and the mining sites along the eastern shore of Lake Superior".¹⁵ After taking an exploratory trip through the region in April and May, Robinson opened negotiations on September 5, 1850 with the several bands of Chippewas who collected at Sault Ste. Marie during late August. The negotiations were tense and difficult, for Indian leaders like Chief Peau de Chat from Lake Superior and Chief Shingacouse were determined to do their best for their people. When Robinson stressed that the bands would continue to enjoy hunting and fishing rights, in addition to receiving an annuity and reserve lands, Peau du Chat and the Lake Superior bands agreed to terms. Shinguacouse and the Lake Huron bands were more reticent, but two days later, on September 9th, they too agreed to terms.¹⁶

Through the two agreements signed in September of 1850 at Sault Ste. Marie, W.B. Robinson secured virtually the whole of the Upper Canadian northwest for government use. Generally referred to as the Robinson-Huron treaty, the agreement of September 9 called for the cession of the Lake Huron shoreline, including the islands, from Matchedash Bay to Batchewana Bay, and inland as far as the height of land. The agreement of September 7, known as the Robinson-Superior treaty, gave the Crown the shoreline of Lake Superior, including islands, from Batchewana Bay to the Pigeon River, inland as far as the height of land. The first contained 35,700¹⁷ square miles, sold by a total Indian population of 1240;¹⁸ the latter was occupied by 1422¹⁹ people and contained 16,700²⁰ square miles of territory. The terms and conditions of these enormous land transfers - the largest by far in the pre-Confederation era - were based on previous sales, but also contained a number of important and interesting innovations.

Both Robinson treaties provided a schedule of reserves. Three were specified on Lake Superior and 21 under the Robinson-Huron treaty.²¹ The individual chiefs were, in most cases, permitted to choose the specific locations, which usually meant an area they had long been accustomed to using as either a fishing station or a summer encampment.²² The nomination of reserves to specified chiefs and bands had been partially done in the Long Woods and Huron Tract negotiations. In the Robinson treaties the principle was formalized and extended. Previous reserves - as at the Credit River or Kettle

Point - appear to have been set apart simply to provide a parcel of land sufficiently large to accommodate a traditional Indian summer encampment - normally about 200 persons - or to secure access to a particular fishery (as at Twelve Mile Creek). Robinson accepted the same principles. An allotment formula of a certain number of acres per capita was discussed but was not written into the Robinson treaties or included in the later Saugeen surrender of 1854. A formula was written into the 1862 Manitoulin Island treaty which called for a ratio of 100 acres per family. The ratio was increased to 160 acres per family of five in Treaty No. 1, in 1871.²³ Both Robinson treaties contained a clause stating that the reserves could not be sold or leased by the Indians without the consent of the Chief Superintendent of Indian Affairs. This principle dated back to the Royal Proclamation, and had been tacitly understood by all parties in the intervening years. The 1850 agreements were the first to have the provision actually included in writing.

It seems likely that this clause was intended to protect mining interests and is consistent with other provisions in the treaties concerning that activity. By signing the treaties, the Indians agreed not to interfere with prospecting activities anywhere in the ceded area. If valuable minerals were found on any of the Indian reserves, and should the band involved wish to dispose of it, the sale would be conducted by the Chief Superintendent of the Indian Department "for their sole use and benefit and to the best advantage". Similarly, the proceeds of mineral rights on reserved lands leased before the treaty were to be directed to the band to which the reserve was granted.²⁴

Hunting and fishing rights for Indians in ceded areas had been implied in the very early treaties, and had formed part of the negotiations in the Rice Lake Purchase of 1819. It was clearly stated in the Robinson agreements that the chiefs and their bands would have "the full and free privilege to hunt over the territory now ceded by them and to fish in the waters thereof as they have heretofore been in the habit of doing"²⁵ except in areas that would become private property.

Remuneration for the lands included the use of annuities, which by 1850 had been in place for over three decades, and several unique initiatives. Each group of Indians received an immediate payment of 2000 pounds currency with an annuity of 500 pounds to follow each year: for the first time these sums were to be paid in cash.²⁶ As in some previous arrangements, the annuities would decrease with a decline in population. In this case if the population decreased to two-thirds, the annuity would be reduced proportionately. If the sale of surrendered lands produced a return that was greater than expected, the annuities might be increased at the Crown's pleasure.²⁷

A postscript should be added regarding the boundaries of the Robinson-Huron treaty. Robinson and the Indians of the north shore of Lake Huron were satisfied that the lands described in the treaty had been duly sold. The Lake Simcoe bands, however, were not. On his return from Sault Ste. Marie, Robinson stopped at Manitoulin Island. There, on September 16, 1850, he was met by the three Chippewa chiefs,

Yellowhead, John Aisence and Snake, who registered their claims to the land near the Severn River. The recently concluded treaty included that territory, and at this meeting Robinson responded to the Chippewas' claim by promising to make inquiries "at the Land and Indian Offices in Toronto".²⁸ After the success of his mission the commissioner very likely considered this claim to be a minor irritant that could be resolved by simply providing the chiefs with expense money. But it was not. The claim would be reiterated over the decades until the investigations and negotiations surrounding the Williams Treaty of 1923 established the rights of the Lake Simcoe Chippewa bands to the lands lying north and east of their village. To clarify this situation, the shoreline between Matchedash Bay and the French River, inland to the height of land, was included in the 1923 arrangements.²⁹

The Indian Strip, 1851 (30)

In the years following the 1836 surrender of the Saugeen Tract, two developments affected the Saugeen bands who had retreated north of Owen Sound. First, the native Chippewa bands were joined by a substantial number of newcomers including a group of Potowatomies who entered the peninsula from the United States by way of Walpole Island and various Ojibwa people from the Lake Simcoe region and the Credit River. By 1855, it was estimated, only about one-sixth of the Indian population of the Saugeen was native to the region.³⁰ Second, the

Saugeen Tract filled with settlers fairly quickly, and by the 1850s this settlement line had begun to look for further land on the Bruce Peninsula. It was no longer an isolated area.

The initial demand for these lands was actually quite moderate. Developers wished to secure a narrow neck of land across the peninsula between the mouths of the Saugeen and Sydenham Rivers. Amounting to 4800 acres, for which the Indians involved were to receive the proceeds of subsequent sales,³¹ it was neither a large parcel nor a large payment; it appears that the Indians agreed to sell this "Indian Strip" largely because they felt that they could benefit from the road which was proposed to be built across it.

The Saugeen Surrenders, 1854 (31)

The acquisition of the Indian Strip in 1851 was simply the first step in a renewed assault on the Indian lands of the Saugeen. The principal impetus came from the pioneers who had begun to cut timber on Indian land and in some instances to settle on it. The Indian Department, although its official policy was to encourage concentration of the Indian population and its removal to Manitoulin Island, had not energetically promoted it. Although the Saugeen Indians who occupied the entire tip of the peninsula were not moving to the Island, they were effectively removed from the line of

settlement on the Bruce Peninsula. Bond Head had been willing to settle for that situation in 1836, and agents of the Indian branch also accepted it during the 1840s. By 1850, however, the line of white settlement had progressed northward, and the Saugeen peninsula was no longer an isolated region. Only with considerable support from either the imperial or the colonial governments could the Indian Department officials stop the encroaching and apparently angry white settlers.

That support was no longer available. The strong government philanthropy of the 1830s had dissipated greatly by the end of the 1840s. Other matters occupied British policy makers at the mid-century point and colonial authorities were busy with such grand issues as responsible government and economic development. In fact, the policy of the Canadian government in the 1840s had been to fill up the area of the original Saugeen Tract. The Americans had opened up their territory on the other side of Lake Huron, and it was considered undesirable to leave Canada's lakefront empty.³² Special immigration schemes and new roads in the region contributed to the advance of settlement on the peninsula. It was unlikely that this progression would willingly stop at the Owen Sound line. In the face of concerted demands by this growing white population, which had long since lost its fear of Indian reprisals, departmental officials, were inclined to favour the pioneers.

According to the Chief Superintendent of Indian Affairs, L. Oliphant, the settlers "threatened, in my presence, to settle upon the Indians' reserve in defiance of the Government". So serious were they, and so angry, he said, that the only way to preserve some land for the Saugeen Indians was to arrange for the surrender and then the resale of the bulk of it. "It therefore became," he concluded, "an obligation upon the Indian Department to spare no pains in endeavouring to wring from those whom it protects, some assent, however reluctant, to the adoption of the only means by which this object could be achieved."³³ Lord Elgin, the Governor General, to whom this letter was addressed, may have been amused by the paradox and irony in Oliphant's reasoning. But the decision to seek a surrender of land from the Saugeens was nonetheless made.

The details were left to the local Indian Agent, T.G. Anderson. When he took up the task at a council on August 2, 1854, Anderson discovered that the Indians would assent only with extreme reluctance. Resistance was especially strong from the original Ojibwa inhabitants, led by Chief Wahbahdick of the Saugeen village and supported by other Ojibwa of the Newash settlement. Despite Anderson's initial urgings and later threats that the land would be settled by whites regardless of their wishes, the Ojibwa were firm. When the agent added that it was unlikely that their protector, the Government, would offer any help they remained unyielding. Anderson apparently lost patience after two days of trying to convince the Indians to surrender their land, and declared categorically that the

Government, as the guardian of the Indians, could do as it wished with the land.³⁴ It was clear that Anderson was still angry later that month when he observed to his Chief Superintendent that "they should be compelled by their Guardians to secure civilization that would result from their removal and subsequent concentration." To achieve this end he suggested authorizing the annuities as a weapon and the use of force if necessary.³⁵

Rather than accept Anderson's advice of dictating a settlement, Oliphant arranged a council on the matter for October 1854 at the Saugeen village. Oliphant encountered stern resistance, especially from Chief Madwayosh who had signed the 1836 agreement and was determined not to repeat that error even if it meant "offending His Excellency". Oliphant managed to overcome this resistance. He was careful to prevent the chiefs of the several villages from meeting with each other, he may have exerted pressure on Madwayosh by threatening him with debtor's prison,³⁶ and he addressed the council, resorting to both threats and promises. The threats were familiar, for the Saugeens had been warned often about the advancing settlers. Therefore Oliphant emphasized the benefits that would flow from the annuities, and made some extravagant predictions including, according to one observer, the promises that "they would soon have a large income, that they would all be able to ride in carriages, roll in wealth, and fare sumptuously every day."³⁷

Oliphant was assisted by the approval of the surrender expressed by missionaries like Rev. A. Crib of the Colpoy band and by Rev. Peter Jones, who led the Potowatomies. Missionary support was undoubtedly prompted by the belief that civilization would make greater progress in a more concentrated population. The agreement, which promised some reserve areas, would result in such a concentration. Inter-band factionalism may also have contributed to the successful accomplishment of the treaty: the greater opposition to a surrender came from the Ojibwas, who held the original claim, while newcomers were more inclined to give up the tract.

Although some felt that the agreement obtained was not legal,³⁸ it was permitted to stand. It called for the surrender of the bulk of the Saugeen Peninsula to the government in exchange for "the interest on the principal sum arising out of the sale of the land".³⁹ The goal of preserving some regions for the Indians was achieved by setting apart five separate plots of land at the Saugeen Village (9000 acres), at Chief's Point (1280 acres), at Newash (10,000 acres), at Colpoy Bay (6000 acres) and at Cape Croker (18,686 acres).⁴⁰ These reserves were to be retained "to ourselves and our children in perpetuity".⁴¹ Nonetheless, subsequent treaties were negotiated (or imposed) and caused the Newash Reserve to disappear in 1857⁴² and the Colpoy Bay Reserve to be reduced in 1861.⁴³ Other parcels, including the fishing islands, were taken after Confederation.⁴⁴

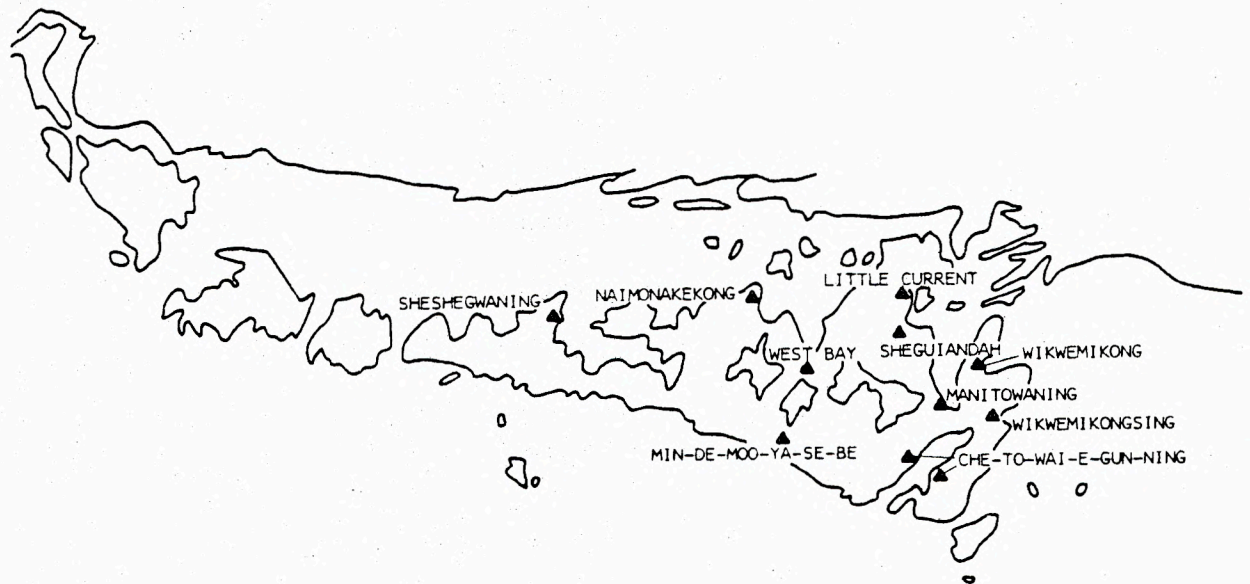
Manitoulin Island, 1862 (32)

The plan to develop a large establishment on Manitoulin Island to assist Indians in their progress toward civilization did not have the success that was hoped for or expected. Historians have cited a variety of factors as retarding success.⁴⁵ These include the relative barrenness of the soil, the competition between the government-sponsored establishment at Manitowaming and the Jesuit mission at Wikwemikong, and the general disinclination of Indians to move to the Island.

Some did come, however, and by 1860 the Indian population of the Island had grown to 1200.⁴⁶ In addition to Manitowaming and Wikwemikong, small villages were established at some 10 other locations. While this was a substantial growth when compared to the 200 or so who used the Island in 1836, it was still disappointing to those who had hoped for more.

Others began to covet the Manitoulin chain. In particular, entrepreneurs sought to exploit the island fisheries, and the government issued licences to commercial fishermen for that purpose.⁴⁷ Such activity was clearly a violation of the Indian territory, and the Indians, especially those at Wikwemikong, resisted and harrassed those fishermen who used their licences. Once again, when a government branch encroached on Indian lands and territory, the solution suggested was a land cession agreement.

Indian Villages and Reserves, Manitoulin Island



INDIAN VILLAGES
MANITOULIN ISLAND
BEFORE TREATY OF 1862



INDIAN RESERVES
MANITOULIN ISLAND

Commissioners were sent to the Island in 1861, therefore, to negotiate a preliminary agreement. They convened a meeting at Manitowaming in October, at which time they argued that since Indians had not moved to the Island in the numbers anticipated, the 1836 promise of protection no longer applied.⁴⁸ The government, as a result, intended to purchase the land in order that other persons could use it. When the Indians refused to agree to sell the land or to permit a survey of it, they were informed that the survey would be done regardless.⁴⁹ The survey was duly conducted in November of 1861 and provided the government with data regarding the resources and potential of the Manitoulin chain. The Superintendent General of Indian Affairs, William McDougall, was then commissioned to negotiate a land purchase. With that end in view, McDougall, accompanied by William Spragge, who had recently been appointed to the post of Deputy Superintendent, called for a general council at Manitowaming in the fall of 1862.

In the interim, the Indians on the Island, especially those at Wikwemikong, prepared to resist the sale. Despite the efforts of the local Indian agent, George Ironside, to win support for a cession, when the council convened, the leading Indian spokesman immediately rejected the proposal McDougall presented to them.⁵¹ It was soon clear to McDougall that the principal resistance to a sale came from the Wikwemikong band. While that group maintained its ascendancy, no agreement was possible. Accordingly, he recessed the council and offered to meet separately with any band willing to treat for their

lands. The tactic worked. When the meeting reconvened on October 6, 1862, the bands living west of Manitowaning Bay agreed to sell their lands to the government,⁵² while the Wikwemikong group maintained its resolve to resist. Rather than try for further gains, McDougall settled for that area, which in fact included most of the Island.

The Wikwemikong bands were therefore excluded from the resulting treaty. The government did promise to protect the Wikwemikong bands in their continued ownership of the eastern peninsula of the Island, and two of their chiefs signed the treaty as an indication of their general approval of the terms.⁵³ The other bands agreed to sell their lands and the adjacent islands to the government. They would retain reserves based on a ratio of 100 acres to each head of a family, 50 acres to each single adult, 100 acres to a family of orphans, and 50 acres to a single orphan. The Indians were to be permitted to select their acreage (friends or relatives were to make the selections for orphans) provided the areas chosen were contiguous thereby allowing the Indian settlements on the Island to be as compact and manageable as possible.⁵⁴ It was expected that the bands would choose areas that had already been developed as village sites, and for the most part this was done. The treaty also permitted the government to claim, from any reserve, any sites that might in its opinion be better used for the public good in terms of building wharfs, harbours or mills. In such a case the displaced Indians would be allowed to select another location and would be reimbursed for any improvements they had made. Six reserve sites were ultimately set apart in addition to the unceded Wikwemikong peninsula.

At the time of signing the treaty, the consenting bands received \$700⁵⁵ as an advance payment against future income. The lands not reserved were to be surveyed and sold by government to incoming settlers. The income would create an investment fund, and the interest from the fund would be distributed annually on a per capita basis, with the chiefs receiving a double share. The treaty also provided that after 100,000 acres had been sold, the government could charge a portion of the resident superintendent's salary against the investment fund. Article six accorded the Indians the same right to fish in the waters of the Island or adjacent shores as was granted to whites. No mention was made of hunting rights. The provision calling for the surrender of adjacent islands was obviously intended not only to acquire those lands but also to secure the various fishing stations that surrounded the main Island. It was a sensible precaution, but the exclusion of the Wikwemikong peninsula from the agreement also left open to question the disposition of the islands and fishing stations surrounding the eastern end of Manitoulin Island.

Special Cases and Surrenders from Reserves

By means of the major land cession agreements described in the foregoing chapters, the native peoples of Upper Canada had relinquished their title to the bulk of the province. With rare exceptions, the process of land alienation had been peaceful, and when violence had occasionally erupted, it had been easily dealt with. But the Indians had not been totally removed and remained a presence throughout the province. Instead, the situation that pertained in 1784, when small white islands of settlement had existed in the midst of Indian country, had been reversed; by 1867 small Indian enclaves persisted ruggedly, although surrounded by a growing and aggressive white community.

Native people could not hold back the advancing alien society; but they did not succumb to it either. As the game disappeared and the forests fell, they withdrew somewhat into their customary beliefs and consolidated themselves in communities that tended to be stable and permanent. Where possible, they chose sites that had been longstanding gathering spots. Ironically, in this regard they were assisted to a degree by a government program that had been assigned to eliminate the Indian style of society by requiring that the bands cease wandering and settle permanently at specific locations, thereby increasing the possibility of assimilation. The reserve system, by providing that some lands be retained for Indian use, also provided a base upon which the Indian lifestyle could be perpetuated. The

Indians would have to accommodate new circumstances but could, as long as land was available, continue to survive in a distinct, although altered, form.

These enclaves of Indian society continued to survive throughout the province. Within and among the terms of the land cession agreements, three areas of Indian-white land arrangements not covered above contributed to the retention of some lands by native people. These involved the Six Nations lands, the islands in major waterways, and the creation and retention of reserved lands.

Six Nations Lands: Tyendinaga (33)

The arrival of the Six Nations Indians in British North America after the American Revolution has been described often.¹ In the course of a few months between 1784 and 1785 almost 2000 Iroquois loyalists moved from their wartime refugee camps to occupy new lands at Tyendinaga and the Grand River. About 200 settled at Tyendinaga under the leadership of John Deseronto and some 1800 followed Joseph Brant to the Grand River. Both areas had been made available from purchases from the Mississaugas the previous year.²

Captain John's Mohawks came from the Fort Hunter region of the Mohawk Valley. During the Revolution they operated from Lachine, near Montreal. Brant's followers moved to Niagara from Canajohorie and spent the revolutionary years conducting raids from that western

location. The division between these two Mohawk groups deepened during the critical years between 1777 and 1783. The Deseronto group became a somewhat isolated enclave similar to the unique villages which had already evolved at St. Regis, Oka and Caughnawaga. They tried to join the Caughnawaga, but Haldimand resisted, possibly because the Caughnawaga were suspect during the war. Haldimand, however, could not overcome the Mohawks' determination to locate at the Bay of Quinte. Despite his preference that they join Brant's forces, Haldimand provided the land for them at the Quinte region, and in May 1784 about 100 Mohawks moved to what would become known as the Tyendinga tract.³

Originally the Tyendinaga tract contained about 7000 acres of land. At the behest of the first Lieutenant Governor of Upper Canada, John Graves Simcoe, and upon urgings from Captain John, this was increased in 1793 to include all of the Tyendinaga Township, a total of 92,700 acres.⁴ The Simcoe adhesion stipulated that these lands could not be sold, except to the Crown.⁵ From the beginning the Tyendinaga Mohawks pursued a course of action independent of the Grand River Iroquois. They did not engage in the wider affairs of the province or in Indian affairs in general, although it should be said that they professed their loyalty when war appeared possible in 1794 and 1807.⁶ Instead they tended to their own reserve which received, in the early years, considerable assistance from the government.⁷ In due course, the tract was pressed by white settlement, and consequently, through a series of land surrenders, the major ones occurring in 1820 and 1835, it was reduced to 17,448 acres.⁸ The

Tyendinaga Mohawks maintained their village, therefore, in a consistent but unremarkable fashion, and in their own way came to terms with their neighbours and with the government. The one serious study of this reserve, by C.H. Torok,⁹ observes that within this process of acculturation, the Indian and Mohawk society was preserved.

Six Nations Lands: Grand River (34)

The Grand River Iroquois figured prominently in the provincial and Indian affairs of the late eighteenth and early nineteenth centuries. In the 1780s the white population of Ontario was restricted to small pockets of settlement at Kingston, Niagara and Detroit. In the 1790s York was established but its population remained small. The white population spread slowly from these bases over the next 20 years, to a large extent through immigration from the United States, but on the eve of the War of 1812 it still totalled under 80,000. As early as 1785 the Grand River Indians numbered over 1800, and included members from all six tribes of the Confederacy as well as small groups from allied tribes.¹⁰ As a sequence they formed a significant power base in the young colony. The government, and the Indian Department in particular, was noticeably anxious about this group for it was led by Brant, an energetic and politically astute chief, who involved himself in several fields of action, any one of which might have either augmented that power base or proven costly or even dangerous to the British in Canada.

It was with considerable anxiety, therefore, that officials observed that the Six Nations of the Grand River were involved in the several councils in 1792 and 1793 which preceded the Anthony Wayne campaign in the Ohio Valley, leading to the Battle of Fallen Timbers. They were also nervous about Brant's continued association with the Iroquois in New York state, and they shuddered at his threats to rejoin them. In the late 1790s Brant was made a chief among the Mississaugas and began to act as their agent in land sales to the Crown, thereby forcing up the cost of land to what was considered an outrageous price.¹¹ Furthermore, from 1784 to 1815 Canada was thought to be in danger of attacks by the Spanish and French.¹² The potential role of the Grand River Indians in any of these circumstances, either as friends or enemies, was critical.

The Grand River Iroquois maintained their attachment to the British cause. This attachment had to be cultivated; it was not automatic. Accordingly, British officials continued to distribute annual presents and other attentions, such as the issuing of provisions, having blacksmiths and interpreters at Indian villages, and supporting the Mohawk chapel. These efforts kept the Grand River Six Nations friendly to the British and to the white settlers who gradually came to fill up the colony. Extra effects and greater generosity also contributed toward winning their active co-operation in the War of 1812. That co-operation, however, was less than wholehearted. Much has been made of their services in such instances as Queenston in 1812, Beaver Dams in 1813 and other engagements. But

in the opening weeks of the War they attempted to remain neutral, and later, in 1814, when the Iroquois of the Grand River learned that they were confronting their American cousins in combat, as in the Battle of Chippawa, they and their counterparts pulled out of the conflict.¹³

In general, then, the Grand River Iroquois adopted an active stance in the circumstances of the day and, where possible, pursued their own interests. As long as their numbers and their location made them a significant element in Upper Canada the British had to be rather more circumspect in their treatment of the Iroquois than they might have wished. It was against this background that the highly delicate issue of the Six Nations lands on the Grand River must be viewed.

Haldimand's 1784 grant to the Iroquois was to include a tract six miles wide on each side of the Grand River from the mouth to the source. Almost immediately thorny questions arose regarding the nature, extent and meaning of the Haldimand grant.

From the beginning Joseph Brant was determined that non-Indians would be invited to live on the Grand River. And he was determined to encourage their coming without using the Crown as an intermediary. It has been argued that he sought white neighbours through sale or lease of Indian lands in order to provide a source of income for his tribe beyond the traditional occupations of the chase and rudimentary agriculture. Such neighbours were also expected, by example, to

encourage the Six Nations to cultivate their own lands more effectively. Some have also suggested that Brant expected to gain personally from the policy. Regardless of the chief's motives, his determination to bring whites onto the tract brought him into conflict with Lieutenant Governor Simcoe, who held the view that Indian lands could legally pass into white hands only through disposition by the Crown, as stipulated in the 1763 Royal Proclamation. Brant's system of sales and leases, therefore, was invalid. Brant argued that the Royal Proclamation did not apply to the Grand River lands on the grounds that Haldimand's grant had conferred the land in fee simple to the Iroquois.¹⁴ Furthermore, he added that the grant recognized the Six Nations as allies, not subjects, of the Crown. And he proceeded to sell or lease some 350,000 acres of Grand River lands to non-Indians. Simcoe denied Brant's interpretation, and in 1793 when he issued the document known as the Simcoe Patent,¹⁵ he included the rule that all land transactions by the Six Nations required the Crown's approval.

Brant refused to recognize the Simcoe Patent because of its restrictions on land sales; other Mohawks, then and since, complained that the Simcoe deed denied them the headwaters of the Grand River, which lie above the present township of Nichol. The quarrel over the extent and meaning of the Haldimand grant continued for several decades.

As long as the Indian presence was perceived as potentially ominous, Brant was able to exert his will to a large degree. The lands he leased and sold were, in fact, confirmed by a compromise agreement which Brant virtually forced on Peter Russell, who succeeded Simcoe as the chief executive of Upper Canada. The 350,000 acres in contention were sold to the Crown and then confirmed to their owners according to the arrangements made with Brant. This was "parcelled out in six large but unequal blocks" in 1798.¹⁶ The remaining 220,000 acres were retained by the Indians, who spread out over the entire tract.

Two developments confused the land situations over the next three decades. First, despite government disapproval, white squatters continued to move into the valley. The Indian Branch was simply too weak, and the general government too pre-occupied, to prevent this movement.¹⁷ Second, although Indian communities were located at the Tuscarora Village and at the Mohawk village, most of the Indians were spread between the growing town of Brantford and the lower river. Families generally worked small farms averaging about 20 acres,¹⁸ and squatters mixed among them. Fearing that the combination of white encroachments and the scattering of the Indian farmers might create a situation where the Indians would not control any sizable contiguous block, the government suggested that the Indians sell their 220,000 acres to the Crown. In return they would receive the money from land sales as well as a reserve of 20,000 acres in a single block. They would also retain the lands they were currently cultivating. This was

intended to preserve the Indian community and, concurrently, promote the recently established policy of using reserve communities to promote civilization. The deal was struck in 1841,¹⁹ but its completion was costly and lengthy. The squatters had to be removed in order to provide the 20,000-acre reserve and the additional 35,000 acres which the Indians claimed they required to subsist. The squatters did not go easily, and the Indians had to be convinced to accept the reserve policy. By 1853 most of this had been accomplished and the government program of consolidating the lands and the Indians was termed successful.²⁰ Some small surrenders reduced the main reserve from 55,000 acres to 44,914, located on the southwest bank of the Grand River just downstream from Brantford. One of the surrenders was actually a gift of 6000 acres which the Six Nations chief made in 1848 to the Credit River Mississaugas who in the previous year had turned over the last small portion of their reserve on the Credit River to the government. This formed the New Credit Mississaugas reserve located in the southeast corner of the main Six Nations reserve.

Islands

The British, as we have observed, initiated each negotiation to acquire Indian lands for specific purposes. It is not surprising, then, that the terms of the agreements, particularly when the sale was urgent, did not cover all possible contingencies. One area that was often omitted, whether by accident or design, was the ownership of the islands lying adjacent to shorelines of sold lands.

This matter is relevant, of course, only where the land cessions used a river, lake or other body of water as a boundary. About 1850 the question of island ownership became critical and later land cession treaties, such as the Robinson treaties and the 1862 Manitoulin Island treaty covered this contingency by including the adjacent islands within the terms of the sale. Thus, ceded shorelines of Lake Huron from Matchedash Bay westward, of Lake Superior, and of most of the Manitoulin Islands (west of Heywood Sound) included islands.

It should not be assumed that no one thought about the islands before this time. As early as 1781 the British made a point of purchasing the island of Michilimackinac.²¹ In 1796 they bought St. Joseph's Island,²² and after 1815 would have purchased Drummond Island, where they maintained a military outpost until 1828, had not the Boundary Commission determined that it was the property of the United States. Likewise, as early as 1785, Sir John Johnson refused to give assurances to the St. Regis Indians that they held title to the islands in the St. Lawrence near Cornwall on the grounds that the Crown might want to use them one day.²³ Governor Simcoe, always meticulous, ensured that the 1798 purchase of Penetanguishene Harbour included the islands in the harbour area, and the unorthodox surrender of Bois Blanc Island in the Detroit River in 1786 was permitted to stand.²⁴ All of these arrangements can be explained by noting the military value of the islands involved. Questions were also raised in

the early part of the nineteenth century with respect to Turkey Island and Fighting Island in the Detroit River and the islands in Lake Simcoe and Rice Lake.²⁵

While the question of islands remained outside the principal concerns of either the government or the senior levels of the Indian Department they were not ignored by everyone. Obviously the whites and Indians who gradually occupied the several fairly distinct portions of the province were aware of the islands. Occasionally, there were disputes between the races for occupation or timber cutting rights on specific islands, just as there were for those same rights on other patches of land. These instances appear to have been fairly rare and were invariably settled among the individuals involved or through the intervention of the local Indian agents. A modus vivendi usually prevailed whereby certain areas were recognized as being Indian territory and were thus avoided by non-Indians. Islands were normally among the areas conceded to be in Indian possession. For example, when Chief Snake and his band abandoned the Coldwater Reserve in 1836 it was thought perfectly natural that they should then occupy Snake Island, in Lake Simcoe, for the islands in that lake were considered at the time as belonging to the Chippewas. Likewise, the islands in Rice Lake, although never mentioned in the correspondence surrounding the Johnson and Butler arrangements of 1787-88, were recognized by the surrounding white communities as belonging to the Mississaugas,²⁶ a sentiment that continued to prevail 70 years later. In the upper St. Lawrence, the St. Regis Mohawks, according to

D.C. Napier, Superintendent of Indian Affairs in 1829, "possessed" nine islands along the front of the townships of Charlottenburgh, Cornwall, Onasburg and Edwardsburg.²⁷

Some minor arrangements were made in the 1830s, such as the 1838 surrender of Wahboose Island in Prince Edward County and the assumption by the government of control of Kettle Island in the Ottawa River in 1839. But the issue of the islands did not require serious attention until the middle of the nineteenth century when the land hunger of Upper Canadian settlers became acute.

When this situation developed, the Indians' right to the islands, like their right to the entire region in 1784, was not questioned. Rather, the process which had been followed earlier - and was being pursued in the northern and western reaches of the province - was called into play. The bands who claimed the islands were met in public council and the government then negotiated a treaty or land sale for the islands which local pressures dictated should be acquired by government.

The most contentious area was the St. Lawrence River west of Cornwall. The St. Regis band claimed possession of islands of the river from Lake St. Francis to Long Sault. They did so based on their occupation of the river which dated back to the cessions of 1783-84. Because the Oswegatchies (or a portion of them) joined the St. Regis band after 1796, the combined claims could be said to have extended

westward as far as Toniato Creek (Brockville) and the Gananoque River.²⁸ Furthermore, the St. Regis band pointed out that they had been collecting rents for the use of several islands. They made these claims known in a variety of ways, including a petition to Governor General Elgin in 1848.

These claims, however, were not recognized by the Indian Department which held the view that this group of islands was possessed by the Mississaugas of Alnwick. It was with this band, therefore, that governments officials met in council at Alnwick on June 29, 1856. According to the resulting agreement, the Mississaugas surrendered all the islands in the Bay of Quinte, in Lake Ontario, in Wellers Bay and in the St. Lawrence River.²⁹ The terms included a provision that the band also surrender its claim to all parcels of land on the mainland except the reserve at Alnwick. In a similar council five days later the Mississaugas of Rice Lake, Mud Lake and Scugog Lake agreed to surrender the islands in Rice Lake "which have not heretofore ceded to the Crown", other islands and their mainland possessions. The reserves on the three lakes were exempted from these sales. The ceded lands and islands were to be sold and the proceeds deposited in a land investment fund, from which the accrued interest would be distributed annually to the bands.³⁰

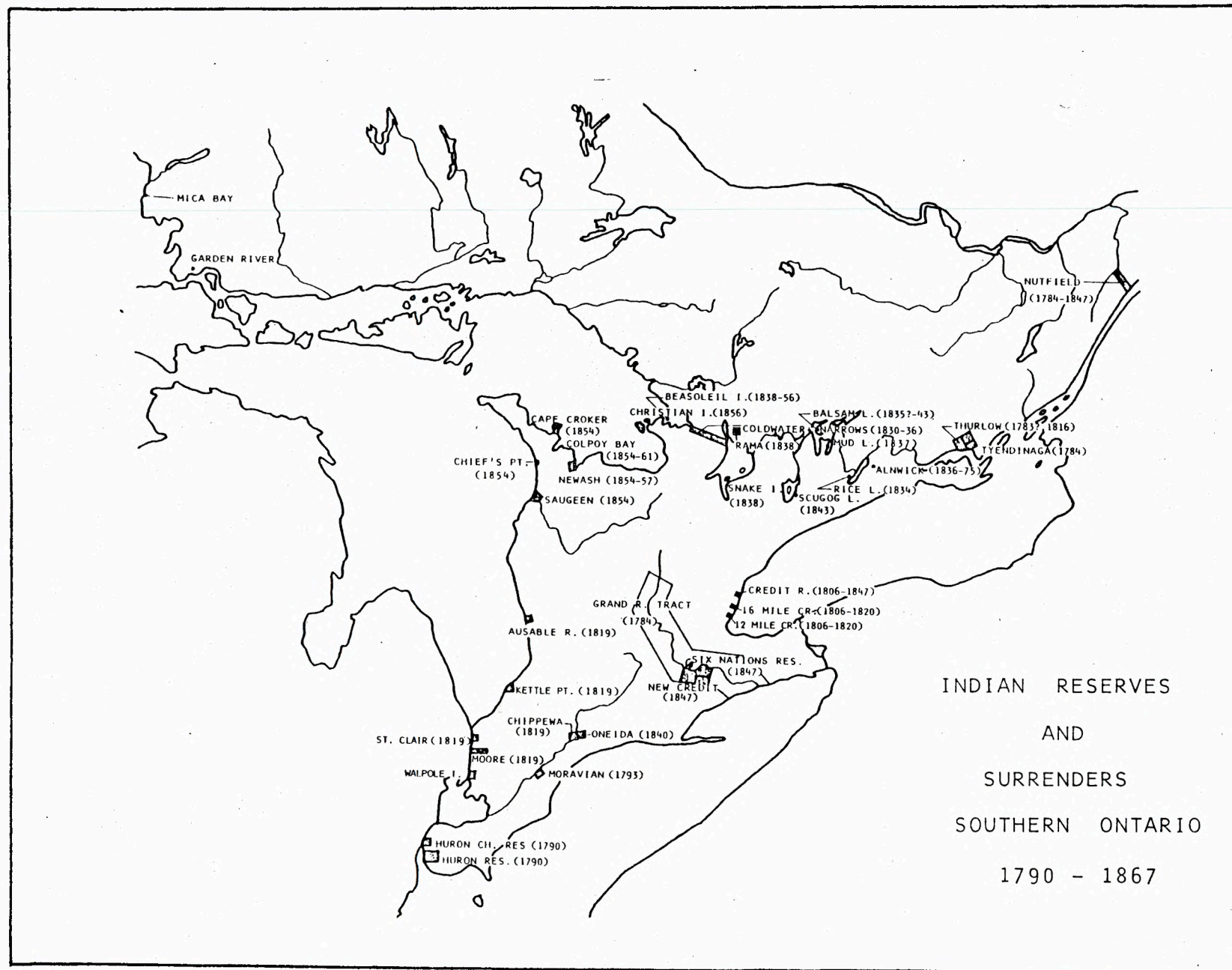
The claims of the St. Regis Mohawks had been noted, however. The report which accompanied the agreement observed that there were other claimants to the islands in the St. Lawrence and to some of the

mainland parcels. Because of this, it was suggested that the agreements stipulate that "the covenant as to the investment of the proceeds for the benefit of the Mississaugas of Alnwick should be held binding only as far as the title of that band shall be found to be good".³¹ Although not totally confirmed, the right of the Alnwick Mississaugas to the islands and land continued to be recognized. The St. Regis band, however, continues to press its claim. A century after the agreement, the matter is still in dispute.

Other islands in principal bodies of water have been ceded in piecemeal fashion through the same treaty process including Stag Island in the St. Clair River (1856),³² Peach Island in the Detroit River (1857),³³ Squirrel Island in Lake Huron (1859)³⁴ and Fighting Island in the Detroit River (1863).³⁵ Since Confederation, cessions have been arranged for important islands or island groups such as the Fishing Islands off the Saugeen Peninsula (1855),³⁶ Cape Hurd Island in Lake Huron (1885)³⁷ and Huron Island in Lake Couchiching (1888). This same piecemeal process of land acquisition was applied to those small parcels known as Indian reserves.

Surrenders from Reserves: Some Examples

During the treaty-making process of the pre-Confederation era in Upper Canada some small pieces of land were overlooked by the large land cession agreements. In some cases this was done inadvertently, in others deliberately; and occasionally, reserves were set apart in



areas already sold. In a variety of ways, therefore, the Indians managed to retain scattered pockets of land throughout Ontario, although most were in the more distant reaches of the province. For a number of reasons these pockets also came under attack from the invading white population that swept across the province after 1783.

The three reserves retained by the Credit River Mississaugas in 1805 and 1806 were very quickly pressured by nearby settlement and the government which wished to command an uninterrupted shoreline on Lake Ontario. In 1820, the reserves at Twelve Mile Creek and Sixteen Mile Creek and most of that at the Credit River, were sold to the government.³⁸ In the western end of the province two reserves felt the effects of Sir Francis Bond Head's removal policy and were reduced in size as a result.

In October 1836, after his successful acquisition of the Manitoulin Island and Saugeen Tract, Head convinced the Thames River Moravians to sell the land they held on the north shore of the Thames River. This was about six miles square, for which they received an annuity of \$600 and compensation for their improvements.³⁹ The Wyandots of Anderdon, who had previously disposed of the Huron Church Reserve in 1800 for 300 pounds currency in goods⁴⁰ in order that a road could be built along the Detroit River, also received a visit from Sir Francis. In September, they agreed that the southern third of their land, known as the Huron Reserve, be sold for the benefit of

Indians of the province, provided the northern third be sold for their exclusive benefit.⁴¹ They were to retain the central portion of the reserve.

Subsequent small sales continued to reduce the Huron Reserve. Finally, in 1876, the band applied for enfranchisement. The application was approved and in 1880-81, the whole band was enfranchised,⁴² thereby losing its Indian status according to the then recently passed Indian Act. It is the only case in Ontario of a band using that provision to enfranchise as a group.

Neither the Moravians nor the Wyandots elected to move to Manitoulin Island as Head hoped, but the 1836 agreements nonetheless reduced their land holdings. Sir Francis was pleased by this and with the successful purchase of the Coldwater and Narrows Reserve in November, 1836. That reserve had been set apart in 1830 as a special project to promote civilization among the Chippewas of Lake Simcoe and, although deemed a highly successful experiment in 1835, the three bands associated with the project gave the reserve back to the government. One-third of the income from the subsequent sale of the reserve was to be used for the benefit of the three bands involved, one-third was to be applied to the benefit of Indians in general, and the remaining third was to be used for any purpose that the government might choose.⁴³ The three bands, led by Chiefs Yellowhead, Snake and John Aisence, separated to found new reserves at Rama and on Snake and Beausoleil Islands. John Aisence's band sold Beausoleil Island in 1856 and moved to new locations on the Christian Islands.

The Coldwater-Narrows Reserve was rejected by the three bands for a variety of reasons, principally to remove themselves from a growing white population in the area of Orillia. In this case, the Indians apparently made the decision to move. In other cases, reserves were reduced, or sometimes eliminated, because the surrounding white population made demands which could not be resisted. It was certainly this consideration that caused the reduction of the Chippewa's Reserve on the Thames River by 3225 acres in 1834.⁴⁴

The most intricate and interesting set of arrangements regarding reserved lands occurred in the eastern portion of the province. In the region along the shoreline of Lake Ontario between Port Hope and Gananoque the land question had not been completely settled. It has been observed that the original and major land cession agreements had not been recorded properly and were often misunderstood, and that when the islands were ceded in 1856, there were also outstanding issues regarding the mainland.⁴⁵

Beginning in the 1830s, several special reserve areas were established to provide locations upon which missionaries and agents could promote the policy of civilization. These reserves included the Rice Lake reserve which had been granted in 1834 to trustees for "the benefit of the Indian Tribes in the province";⁴⁶ the Mud Lake Reserve in Smith Township which had been given to the New England Company in 1837⁴⁷ in trust for the Mississaugas; the Scugog Reserve which the band had purchased in Cartwright township;⁴⁸ and the

Alnwick Reserve which had been granted in 1830 by Sir John Colbourne.⁴⁹ This last reserve held the collected remnants of the group known as the Mississaugas of the Bay of Quinte. The first three provided reserves for the bands that had formerly been known as the Rice Lake Mississaugas.

The four reserved areas had all been acquired with assistance from the provincial government. Such assistance had been necessary because, in the mind of the government and of the Department of Indian Affairs, the entire region had been ceded by the arrangements of Crawford in 1783-84 and Sir John Johnson and Colonel John Butler in 1787-88. This view prevailed in spite of protests over the years from the Indians, especially those of Alnwick, and in spite of the obvious presence of several bands at longstanding locations such as Grape Island and Balsalm Lake,⁵⁰ as well as more mobile bands who lived near the white communities of Belleville, Peterborough, and Kingston.

The Mississaugas, for their part, claimed possession of substantial amounts of land. In addition to the islands in Lake Ontario and Rice Lake they argued that several areas on the mainland had been retained by them for their exclusive use. The Alnwick band, for example, asserted its right to several specific locations.⁵¹

The demand for land that inspired the need to settle the islands question also dictated that the Indian claims to oddments of territory be dealt with. The four reserves noted above were perfectly

acceptable to the government as these areas were clearly Indian settlements, and also locations at which the Mississaugas were under control. Thus, when the government sent its officials out to negotiate with the Indians in the late spring of 1856, those four sites were not in doubt. The final terms which emerged at the Alnwick meeting on June 19th and the Mud Lake meeting of June 24th did contain provisions, however, for the cession of all other lands that the Indians of those four bands might claim.⁵²

In the rest of the province, the established reserves were recognized as valid Indian possessions. But they were not free from assault from would-be buyers. Two of them - Newash and Colpoy Bay on the Saugeen Peninsula - were purchased totally. The Nutfield Tract, established in 1784, was under almost constant attack. William McGillivray attempted to purchase it as early as 1809. Because the shape of the reserve did not really provide a good area for hunting and fishing, the St. Regis band, very early in the nineteenth century, began to lease portions of it. The entire tract came to be leased in this fashion and the government of Upper Canada finally proposed that the St. Regis band simply surrender it to the government. The government would then sell the various sections as the leases expired, and the proceeds would be applied to the benefit of the St. Regis Indians.⁵³ This was done in 1847.

Other reserves in all regions of the province have suffered minor reductions to provide for such things as wharfs or road allowances or, much later, for a right-of-way for hydro or telephone lines.

When the Canadian government extended its jurisdiction into the West, the Indians there very quickly felt pressures to give up traditional lands. Seven land cessions agreements quickly resulted shortly after Confederation. Two of these, Treaty No. 3 (1873) and Treaty No. 5 (1875), involved lands in Northwestern Ontario. Somewhat later, in 1905, Treaty No. 9 (with adhesions in 1929) secured the region north of the height of land in Ontario for the federal government. And in 1923, the two arrangements known as the Williams Treaties brought the north central portion of the province into government hands.

The procedures by which these post-Confederation demands were made on the three substantial sections of territory⁵⁴ that were still in Indian possession had been firmly established by 1867. A system calling for recognition of Indian tenure, followed by negotiations and terminated by the conclusion of a formal land surrender document and payment, was firmly in place. It was a system that had evolved gradually between 1764 and 1867, and one which served the government, if not the Indians, very well.

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