

**Research report on the Moravian of the Thames  
Indian land claim to the bed and water of that part  
of the Thames River located between the  
Aldborough-Orford township line and the Howard-  
Orford township line in Kent County**

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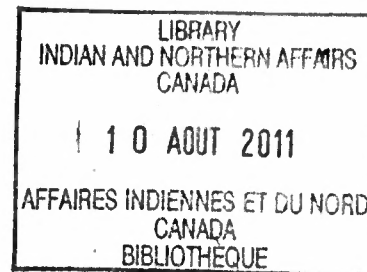
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RESEARCH REPORT  
ON THE MORAVIAN OF THE THAMES INDIAN LAND CLAIM  
TO THE BED AND WATER OF THAT PART OF THE THAMES RIVER  
LOCATED BETWEEN THE ALDBOROUGH-ORFORD TOWNSHIP LINE  
AND THE HOWARD-ORFORD TOWNSHIP LINE IN KENT COUNTY



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## CONTENTS

	Page
I INTRODUCTION	3
II HISTORICAL BACKGROUND	4
a) The Moravian Indian people and Missionaries in the Ohio River Valley	4
b) Cession #2, May 19, 1790	6
c) <u>An Act to introduce the English Law as the         Rule of Decision of 1792 and the common         law principle of <u>ad medium filum aquae</u></u>	7
d) The arrival of the Moravian Indian people and Missionaries in Upper Canada and the Thames River Settlement, 1792-1799	8
e) Abraham Iredell's survey of the Moravian Tract, 1803	16
f) The Moravian Indian people and Missionaries and the War of 1812	17
g) Cession #25, July 8, 1822	19
h) Mahlon Burwell's survey of the Moravian Tract, 1829	20
i) Cession #47, October 25, 1836	21
j) <u>Lord Elgin's Proclamation of November 8, 1850 under         The Indian Protection Act of 1850</u>	25
k) Cessions #83, April 9, 1857 and 83 <sup>2</sup> , May 15, 1857	26
l) Conditions Since 1857	31
III SUMMARY	32
IV APPENDIX: Map 1.      Approximate Boundaries of the Moravian Tract, 1793-1836	43
Map 2.      Land Cessions, 1836-1857	45

## I INTRODUCTION

Chief John Peters of the Moravian of the Thames Indian Band, in his letter of July 7, 1981 to the Honourable Alan W. Pope, Minister of Natural Resources, stated that the Indian Band has an interest in the Thames River and the bed of the Thames River in an area "from the boundaries of the Aldborough - Orford township line to the boundaries of the Howard - Orford township line" in Kent County. He indicated that the Moravian Indian Band maintains that they did not cede this area to the Crown by Cession # 47 of October 25, 1835, or by Cession # 83 of April 9, 1857, or by Cession # 83<sup>2</sup> of May 15, 1857. Chief Peters expressed the Indian Band's position that because this portion of the river remains unceded, it is not subject to the administration and control of the Government of Ontario.

The objective of this Research Report is to present all of the known relevant historical facts concerning the claim of the Moravian of the Thames Indian Band to that part of the water and bed of the Thames River located between the Aldborough - Orford township line and the Howard - Orford township line in Kent County. This Research Report does not attempt to draw any conclusions concerning the facts presented and does not constitute the Government of Ontario's position on the Moravian of the Thames Indian Land Claim. However, it is intended to provide all of the relevant historical information necessary to develop a candidate MNR position on the claim.

II HISTORICAL BACKGROUND

a) The Moravian Indian people and Missionaries in the Ohio River Valley

During the 1730's, members of an Evangelical Protestant Church based in Moravia in Austria, who called themselves Moravians, sent missionaries to christianize Indian people living in various parts of North America.<sup>1</sup> In 1765 the Moravian Missionaries began working among the Delaware Indian people who were then residing in scattered villages in the Ohio River valley.<sup>2</sup> The Moravian Missionaries referred to those Delaware Indian people whom they had converted to Christianity as the "Moravian Indians"\* or the "Christian Indians."<sup>3</sup>

During the American Revolution of 1776-1783, both British and American military officers accused the Moravian Indian people and Missionaries of assisting the enemy and both sides attacked the Moravian communities.<sup>4</sup> The Moravians attempted to protect

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\*The term "Moravian Indians" was used from 1792 until the 1850's by officials in the British Indian Department when referring to the Delaware Indian people who had been converted by the Moravian Missionaries to Christianity. From the 1850's until the 1880's Indian department officials used the appellation "Delaware Nation of Indians residing on the Moravian Reserve." In Cession #199, however, dated November 13, 1882, these Indian people were referred to by the name which they call themselves today, "The Moravian of the Thames Indian Band." In this report the term "Moravian Indian people" refers to the Delaware Indian people who had been converted to Christianity by the Moravian missionaries and to

themselves by relocating their settlements and by cooperating with the British. After the American Revolution formally ended with the signing of the Treaty of Paris in 1783, the safety of their Ohio communities was jeopardized by conflicts between American and Indian forces fighting for control of the American West.<sup>5</sup>

In January 1791 the Moravian Indian people and Missionaries asked Alexander McKee and Matthew Elliott, British Indian agents, if they knew of any available land where they could settle in peace. Although neither Indian agent suggested a location to the Moravians, Matthew Elliott promised that the British government would assist them and provide them with ships for moving if they chose to abandon their settlement in the Ohio Valley.<sup>6</sup> Early in December of 1791 the Moravian Indian people and missionaries decided that they could no longer reside in the Ohio valley and proposed that the British Government allow them to cultivate a tract of unimproved land, indicating that the government would profit from their efforts.<sup>7</sup> In response to this suggestion, Matthew Elliott and Alexander McKee encouraged the Moravian missionaries and Indian people to "seek out a suitable place and settle on it," promising that "no one would drive them from it".<sup>8</sup>

In February 1792 Abiah Parke, then a merchant based in the Thames River region of the Province of Canada,

recommended that the Moravian missionaries and Indian people consider moving to the Thames River valley, which he knew was suitable for agriculture.<sup>9</sup> Later that month when the Moravian missionaries and Indian people told Alexander McKee of Abiah Parke's suggestion, they received his encouragement and assurance that he would "make the matter right" with the Chippewas and other Indian people who occupied and used lands in the Thames River Valley.<sup>10</sup> The Moravian missionaries and Indian people planned to leave the Ohio valley as soon as possible.<sup>11</sup>

b) Cession #2, May 19, 1790

The Royal Proclamation of 1763 had in part reserved the area in which the Thames River valley was located for the Indian people as their "hunting grounds." This document stated that Indian lands could only be alienated to the British Crown after formal negotiations had been conducted with the Indian people and their consent to the cession had been obtained. The Royal Proclamation of 1763 did not state specifically whether or not the Indian people had an interest in water or land under water.<sup>12</sup>

By Cession #2 dated May 19, 1790, the Chiefs of the "Ottawa, Chippewa, Pottawatomy, and Huron Indians Nations [sic] of Detroit "ceded to the British Crown their lands "in the Province of Quebec" described as:

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a certain Tract of land beginning at the mouth of Catfish Creek, commonly called Riviere au Chaudiere on the North Side of Lake Erie being the Western extremity of a Tract purchased by His said Majesty from the Messesagey running Westward along the border of Lake Erie and up the Streight to the mouth of Channail Ecarte to the first fork on the south side, then a due east line until it intersects the Riviere a la Tranche [Thames River], and up the said Riviere a la Tranche to the North West corner of the said cession granted to His Majesty in the year One Thousand Seven Hundred and Eighty Four, then following the Western boundary of said tract being a due South direction until it strikes the mouth of said Catfish Creek or otherwise Riviere au Chaudiere being the first offset [emphasis added] <sup>13</sup>

These lands, purchased for sale to non-Indian settlers,<sup>14</sup> included the area along the Thames River now known as Orford Township in Kent County. From the description in Cession #2 above, it is unclear whether or not the Indian people noted above intended to cede or did in fact cede the Thames River or the bed of that River. No reference was made in that document to the Moravian Indian people and Missionaries.

- c) An Act to introduce the English Law as the Rule of Decision of 1792 and the common law principle of ad medium filum aquae

On October 15, 1792 the Legislature of Upper Canada passed An Act to introduce the English Law as the Rule of Decision in all matters of controversy relative to Property and Civil Rights. This statute was used by the Ontario Court of Appeal in Keewatin Power Co. vs Kenora in 1908 to decide that the English common law



principle of ad medium filum aquae was operative in Upper Canada from October 15, 1792. Under the common law principle of ad medium filum aquae the ownership of the bed of the waterway is included in the grant of the land adjacent to the waterway unless the terms of the grant or the surrounding circumstances indicate otherwise.<sup>15</sup>

d) The arrival of the Moravian Indian people and Missionaries in Upper Canada and their Thames River Settlement, 1792-1799

In March 1792 Moravian missionary Gottlob Senseman travelled to Detroit to inform Alexander McKee that the Indian people living in the Thames River valley had encouraged the Moravian Indian people and their missionaries to settle in that part of Upper Canada.<sup>16</sup> McKee informed John Graves Simcoe, then Lieutenant Governor of Upper Canada, about the Moravians' plans and agreed to make arrangements with the Chippewa Indian people regarding the proposed settlement. In April 1792 the Moravian Indian people and missionaries travelled to the Thames River area now identified as Orford and Zone Townships (see attached Map 1) where, on May 2, 1792, they selected a site for their settlement. Anxious to ensure that this location was acceptable to the officials of Upper Canada, Senseman visited Colonel Richard England, President of the Land Board of the Western District of Upper Canada.

Colonel England questioned Senseman about the location and condition of the Moravian settlement:

He asked farther [sic] how many Indian families were with us, and said a township would not be too much for us, that is, nine miles square, and we should have it on both sides of the river, for the river divides the townships, which are surveyed below us on both sides. He ... said farther [sic] that if the Governor came here next spring he would help us carry out our affairs; as often as anyone of us came to Detroit, he could call upon him.<sup>17</sup>

By the end of 1792 the Moravian Indian people and Missionaries had cultivated over one hundred acres along the Thames River.<sup>18</sup> The Moravian missionaries believed that their settlement would require a great deal more land than this one hundred acres in order to protect their converted Indian people from what they regarded as the "immoral" and "heathen" behaviour of the non-Indian settlers and the Indian people who resided outside of the Moravian settlement. In response to a request made by the Moravian missionaries asking the Government to keep the area surrounding them free of settlers, Lieutenant Governor Simcoe instructed Colonel Richard England to consult the Moravian Indian people and missionaries before ordering any surveys of the land surrounding their settlement.<sup>19</sup>

On February 16 and 25, 1793 Simcoe visited the Moravian settlement accompanied by his military secretary, Major E.B. Littlehales, who recorded in his journal that although Simcoe was pleased with the

development of agriculture in the settlement, he was concerned about its location. Simcoe thought it possible that that part of the settlement located on the north side of the Thames River had not been included in Cession #2, dated May 19, 1790.<sup>20</sup> When he returned in March, however, Simcoe told the Moravian missionaries and Indian people that he believed that their land had been included in the purchase of 1790 and that the Government would give them this land to compensate for their losses during the American Revolution.<sup>21</sup> He agreed to their request that a patent would be granted to them "in the name of the Society's trustees in England."<sup>22</sup> This patent, however, was apparently never issued.

In a letter to Henry Dundas, the British Government's Secretary of State for War and the Colonies, Simcoe referred to the potential of the Thames River for transportation and communication and noted that the land located between the Thames River and Lake Erie was "the finest for all agricultural purposes in North America, and far exceeds the soil or climate of the Atlantic States".<sup>23</sup> Simcoe envisaged that the Thames River would be valuable in helping to link together the settlements located in the southern part of Upper Canada.<sup>24</sup> He regarded the area located at the forks of the Thames, now known as the city of London, as a suitable site for the location of the capital of Upper

Canada.<sup>25</sup> However, this location was rejected, and instead York was chosen as the seat of Government.

On May 4, 1793, Moravian missionary David Zeisberger recorded in his diary that Patrick McNiff, then deputy surveyor of the Western District, intended to survey the land located to the west of their settlement now identified as Howard and Camden townships and "then to measure off their land, especially all in one piece, and not to lay it out in lots."<sup>26</sup> McNiff considered the Moravians' township "the best on the river, containing the most good land, that is, the greatest bottoms."<sup>27</sup> He described the condition of the Thames River along the Moravian tract:

From the Delaware Village up to the Forks, the general Breadth of the River is Two Chains. On the strong currents, from one and a half to two feet in depth, stony bottom. In the still water the general depth is from Four to Five feet, with sand and small stones at bottom. In the still water the general depth is from Four to Five feet, with sand and small stones at bottom... The River rises in the spring about ten feet at the Delaware Village, and between six and seven feet at the Forks.<sup>28</sup>

McNiff's survey of the land located west of the Moravian tract, which became identified as Howard and Camden Townships, indicated that the western boundary of the Moravian tract "would tall a mile and a half" from the Moravian town and that the Moravian Indian people and missionaries would lose cultivated lands as well as maple sugar bushes.<sup>29</sup> The Moravian missionaries and Indian people hoped that a portion of

the land located north of the Thames River would be given to them to compensate for the loss of this land to the west.<sup>30</sup> McNiff postponed his survey of the Moravian township and indicated that it was necessary to discuss the findings of his survey of the land located west of the Moravian tract with Colonel Richard England, then President of the Land Board of the Western District.<sup>31</sup>

In response to a petition from Gottlob Senseman, the Executive Council of Upper Canada granted to the Moravian Indian people and missionaries "a tract of land on the River La Tranche [Thames River] to be located on a width of six and three quarter miles about their village, extending twelve miles back on the south side and northward to the purchase line," pursuant to an Order-in-Council dated July 17, 1793.<sup>32</sup> The Moravian missionaries noted that although "how many Miles inland could not be determined, since the boundary line of the purchased land had not yet been run to the north side," it seemed certain "that white people who settled [ ] thickly on the river [could not] press close upon [them]."<sup>33</sup> The Order-in-Council dated July 17, 1793 did not indicate whether or not the bed and water of the Thames River were included in the grant to the Moravian missionaries and Indian people.

In January 1794 Mc Niff once again visited the Moravian missionaries and Indian people. This time he had been instructed by Simcoe that the Moravian Tract

would consist of thirty-two lots located "on both sides of the [Thames] river, namely sixteen on each side" thereby making the town located on the north side of the Thames River the centre of the township.<sup>34</sup> For reasons which he apparently did not explain McNiff surveyed the Moravian tract to include "eighteen lots on each side of the river."<sup>35</sup> Senseman and some of the Moravian Indian people "blazed the line on both sides of the river" which delineated the boundaries of the Moravian tract established by McNiff.<sup>36</sup> The instructions issued to McNiff directing him exactly where to locate the boundaries of the Moravian tract are not extant. The location of the boundaries which McNiff claimed to have established is not known.<sup>37</sup>

In 1798 Gottlob Senseman again petitioned the Executive Council of the Province of Canada, "praying for a tract of land on the river Thames six miles in breadth and twelve in depth, whereon [they had] made large improvements, being in the year 1793 permitted by His Excellency Governor Simcoe to occupy same" and requesting a patent to the tract. Pursuant to an Order-in-Council dated June 11, 1798, this request was granted:

Ordered that the Surveyor General be directed to cause a survey to be made of the tract appropriated to the trustees of the Moravian Society by an Order-in-Council dated the 10th July, 1793. And that this tract be reserved forever to the Society in trust for the sole use of their Indian converts. A tract to be laid off at the same time contiguous thereto equal

to two sevenths of the quantity in the said tract, one of which is to be reserved forever (agreeable to the Act) for the support of a protestant clergy in the province.<sup>38</sup>

There is no record extant which indicates that a patent was issued by the Government of Upper Canada to the Moravian Indian people and missionaries. A patent was, however, issued to Jacob Henkell by Peter Russell, then Receiver General, on July 12, 1798, for "two hundred acres" in Orford Township and defined as:

Beginning at a Post marked 1/2 on the South Bank of the River Thames, then South 45 degrees East 68 chains, then North Easterly, parallel to the said River 30 chains, then North 45 degrees west to the said River, then along the Bank with the Stream to the place of beginning.<sup>39</sup>

With this one exception, no patents were issued by the Government of Upper Canada for land in Orford Township until 1818 or in Zone Township until 1823.<sup>40</sup>

There is no record extant which indicates that an attempt was made to implement the instructions in the Order-in-Council of June 11, 1798. On February 5, 1799 Gottlob Senseman wrote to D.W. Smith, Acting Surveyor of Upper Canada, inquiring whether or not any survey instructions had been issued. He requested that a patent be granted for the lands on which they had been living for eight years. He emphasized that the missionaries had "the least view of self interest" in the land and that it was "for the sole use of the Indian people, and [the missionaries'] business of converting and civilizing them."<sup>41</sup>



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In a letter of February 26, 1799 Smith instructed Deputy Surveyor Abraham Iredell "to survey the Moravian tract and enclosed for [the surveyor's] guidance two Orders of [sic] Council, relative to the Moravian Indian people settled upon River La Tranche." He directed Iredell to

...commence at the North East Angle of the Township of Howard, upon the said River, and survey the River up, so as to give them a width of six miles and  $3/4$  on a course, running north 45 degrees east; but if you have not good and accurate Tables for working for latitude and departure, you had better run a right line of that distance, and take the course of the River afterwards from each extremity of this line, you will run two lines South 45 degrees east, to Lake Erie and two other lines from the said extremities, to run north 45 degrees west, to the purchase line of 1790, which you have began, and which it will be necessary for you to complete for this purpose.<sup>42</sup>

Iredell explained that since the southern boundary of the land purchased from the Indian people on May 19, 1790 had not been surveyed, he was unable to state exactly where the northern boundary of the Moravian tract would be located.<sup>43</sup> In accordance with the provisions of The Constitutional Act of 1791 Smith instructed Iredell to designate one seventh, or 7405  $5/7$  acres, of the Moravian tract as clergy reserves and another seventh as Crown reserves. To compensate for the loss of the lands reserved in the southern part of the tract the Moravian Indian people and missionaries were to receive an additional 14,811  $3/7$  acres north of the Thames River.<sup>44</sup>



On a sketch entitled "Indian Village in Orford, Western District," and bearing Smith's initials, the eastern and western boundary lines of the Moravian tract, drawn from Lake Erie, extended across the Thames River "to the boundary of the purchase in 1790."<sup>45</sup> Smith advised Iredell to explain to Gottlob Senseman how the survey of Orford Township would be conducted.<sup>46</sup> From Smith's instructions it appears that he intended Iredell to survey the land which became identified as Orford and Zone Townships located on each side of the Thames River. However, no survey of the tract was made in 1799. In a letter of March 25, 1799, Senseman told Smith that Iredell claimed that he had never received the survey instructions and that they "most certainly must have been lost on the Rhoad [sic]."<sup>47</sup> It was not until 1803 that another survey of the Moravian tract was commissioned.

e) Abraham Iredell's survey of the Moravian Tract, 1803

In accordance with instructions issued by James Green, Secretary of the Lieutenant Governor's Office,<sup>48</sup> William Chewitt and Thomas Ridout, who then jointly occupied the post of Surveyor General, directed Deputy Provincial Surveyor Abraham Iredell on June 1, 1803 to survey Orford Township in accordance with the Order-in-Council dated June 11, 1798. Iredell was ordered to continue the southern boundary line of Cession #2 dated May 19, 1790 "to the River Thames." That part

of the Moravian tract located north of the Thames River was described as

... the Land comprehended and bounded on the River Thames on the South - by the continuation of the Western Boundary of Orford on the West - by the continuation of the purchase line on the North ... and on the East, by the continuation of the Eastern Boundary Line, should there be any continuation of the same ... [emphasis added].<sup>49</sup>

On December 12, 1803 Chewitt and Ridout wrote to Iredell informing him of a change in the Lieutenant Governor's instructions. Iredell was instructed to survey the clergy and crown reserves in the southern part of Orford Township and to "let the content of the said Township be whatever it may" without adding any land to the tract to compensate for those reserves. No explanation was provided suggesting why this alteration was made in the area of land to be surveyed for the Moravian Indian people and their missionaries.<sup>50</sup> Despite unfavourable weather conditions Iredell conducted his survey between December 16th and 25th 1803. No reasons were given to explain why this survey "beginning 2 chains North side of the Thames River" did not include at least part of Orford Township.<sup>51</sup> It was not until 1829 that a survey of the southern part of the Moravian Tract was completed.

f) The Moravian Indian people and Missionaries and the War of 1812

Although the Moravian Indian people, in accordance with the wishes of the Moravian missionaries,

initially refused to become involved in the conflict between the United States and Great Britain which had officially begun on June 18, 1812,<sup>52</sup> Matthew Elliott was able to persuade some of them to assist the British during the War of 1812 by promising "that if they would fight faithfully for their Grandfather the King, they should have a double claim to the land on which their town stood."<sup>53</sup> During the Battle of the Thames, fought on October 5, 1813, on the north side of the Thames River where the Moravians had settled, some of the Moravian Indian people who had apparently "always conducted themselves well and with the greatest zeal since the commencement of Hostilities with the United States" were killed and the British forces commanded by Major General Henry Proctor were defeated.<sup>54</sup> The Moravian settlement of Fairfield, located on the north side of the Thames River, was destroyed by American forces commanded by Colonel Richard M. Johnson.<sup>55</sup> The Moravian missionaries and Indian people appealed to<sup>56</sup> and received compensation from the Government of Upper Canada in the form of money for the destruction of their settlement during the War of 1812.<sup>57</sup> With these funds the Moravian Indian people and missionaries built New Fairfield on the south side of the Thames River. Although the land on the north side of the Thames River continued to be cultivated, only one family of Moravian Indian people lived there after 1815 when the construction of New Fairfield was completed.<sup>58</sup>

g) Cession #25, July 8, 1822

The Chippewa Indian people signed a provisional agreement (Cession #21) on March 9, 1819, ceding to the Crown a "tract of land" on the north side of the Thames River which included the area now identified as Zone Township in Kent County. In this cession document no reference was made to the Moravian Indian people. On July 8, 1822 the "Chiefs and Principal Men of the Chippewas" signed an Indenture (Cession #25) confirming the provisional agreements of March 9, 1819 (Cession #21) and May 9, 1820 (Cession #280 1/2) and which surrendered to the Crown "about 580,000 acres."<sup>59</sup> This surrender was described as:

Commencing on the northerly side of the River Thames at the south-west angle of the Township of London; thence along the western boundary line of the Township of London on a course north twenty-one degrees thirty minutes west twelve miles to the north-west angle of the said township; thence on a course about south fifty-eight degrees west forty-eight miles, more or less, until it intersects a line on a course produced north two miles from the north-east angle of the Shawanese Township, now the Township of Sombra; then south two miles to the north-east angle of the said township; then along the eastern boundary line of the said township twelve miles and a-half, more or less, to the northern boundary line of the Township of Chatham; then east sixteen miles more or less, to the River Thames; thence following the water's edge of the said River Thames against the stream to the place of beginning [emphasis added].<sup>60</sup>

The Indenture did not contain any reference to any interest that the Chippewa Indian people may have had in the water or to the bed of the Thames River.

h) Mahlon Burwell's survey of the Moravian Tract, 1829

On February 27, 1821 Surveyor General Thomas Ridout requested Deputy Surveyor Mahlon Burwell to survey Zone Township "containing about 66,000 acres" and "bounded on the South by the Southern boundary line of Sombra, and Northern Boundary line of Chatham, Camden, and Orford."<sup>61</sup> The Moravian missionaries and Indian people were told by Burwell that the purchase line of 1790 (Cession #2) had been surveyed and that the northern boundary of their tract, described in the Orders-in-Council as "the purchase line," was, in fact, the Thames River.<sup>62</sup> On June 20, 1821 Moravian missionary Abraham Luckenbach wrote to Lieutenant-Governor Sir Peregrine Maitland suggesting that the boundaries of the Moravian tract be redefined to prevent the Moravian Indian people and missionaries from losing the site of Fairfield and about eighty acres of cultivated land located on the north side of the river.<sup>63</sup> The Moravian Indian people and missionaries requested the Upper Canadian Government to "extend their Lands about six miles northerly of the River Thames", and "retain six miles southerly of the same River" thereby making New Fairfield the centre of the tract. They indicated that in exchange for the lands in Zone "an equal portion off the southerly part of Orford [would] be surrendered to the Crown."<sup>64</sup> The Upper Canadian government accepted the proposal presented by Luckenbach and Ridout informed Burwell:

... the Moravian Village on the south side of the River Thames is to be made a central position in their lands, and to accomplish this the southern part of Orford will be given up, for a like quantity in the Township of Zone north of the River Thames. These two several quantities will be regulated by the quantity contained in the Tract originally granted to the Moravians which is "a Tract of land on the River La Tranche [Thames River] on a width of 6 3/4 miles about their village and extending 12 miles back on the south side and northward to the purchase line."<sup>65</sup>

Burwell began his survey of the Moravian Tract by speaking with Moravian missionaries Abraham Luckenbach and Adam Harnam on September 29, 1829. He showed his maps to the missionaries and to "several of the more intelligent Indian people so that they might know their boundaries."<sup>66</sup> Burwell noted that the Moravian Tract consisted of 26,005 acres in Zone Township and 25,155 acres in Orford Township. His field notes and plan of the survey do not indicate whether or not the bed of the Thames River was considered to be part of the Townships of Orford and Zone.<sup>67</sup>

i) Cession #47, October 25, 1836

On April 27, 1824 Thomas Ridout, then Surveyor General, wrote to George Hillier, Secretary to Lieutenant Governor Maitland, indicating that he had received a number of applications from non-Indian people eager to settle in Zone Township.<sup>68</sup> Although the Government of Upper Canada was unsuccessful in its attempts in 1819 and in 1833 to persuade the Moravian missionaries and Indian people to sell part of their

land for the settlement of non-Indian people, Sir Francis Bond Head, then Lieutenant Governor of Upper Canada, attempted in 1836 to negotiate a surrender. Shortly after the signing of Treaty #45 and 45 1/2 on August 9, 1836 whereby the Ottawa and Chippewa Indian people ceded Manitoulin Island for the settlement of Indian people who had surrendered their lands to the Crown, Head travelled through the Western district. He did not visit the Moravian Missionaries but arranged instead to meet with five Moravian Indian people twelve miles away from New Fairfield and suggested that if they agreed to sell their lands in Orford and Zone Townships they could "move to the Lakes northward, where he would give them as much land as they wanted."<sup>69</sup> Head stated that the Indian people should consider selling their lands in Zone township since they "had more land than they needed, and ... they had neglected to keep that great public road which [ran] through this portion [of their tract] in repair."<sup>70</sup> Although both proposals were rejected by the five Indian people with whom Head met, three councils were held in New Fairfield in October 1836 and twenty-eight of fifty-four Indian people voted to cede their lands in Zone township contrary to the wishes of the missionaries.<sup>71</sup>

On October 25, 1836 by Cession #47 the Moravian Indian people ceded to the Crown "all their interest in the lands occupied by [them] on the north side of the



River Thames" in return for an annuity of \$600 and "reasonable compensation" for the improvements which the Moravian Indian people and missionaries had made on the lands surrendered. The boundaries of the land ceded were not specified.<sup>72</sup> There is no record extant indicating whether or not the Moravian Indian people intended to cede or to not cede the bed of the Thames River at that time.

In the fall of 1836 Abraham Luckenbach, wrote to Bond Head, then Lieutenant Governor of Upper Canada, on behalf of the Moravian missionaries and the twenty-six Moravian Indian people who had opposed the cession (#47). Luckenbach suggested that Head "make the public Road the Boundary between the Two Portions ... as they did not wish to lose the Land between the River and the Road, that being the best cultivated part of their Allotment" and "grant them a Reserve of a Square Mile and a Half opposite to New Fairfield, including the site of the old Town destroyed during the War of 1813."<sup>73</sup> In April 1837 Head agreed to allow the Moravian Indian people to retain land on the north side of the Thames River and to make the southern boundary of the purchase of 1836 the public road. He did not state, however, how many acres surrounding the site of Fairfield would be reserved for the Moravian Indian people.<sup>74</sup> Although those Moravian Indian people who had previously rejected the surrender agreed to its revised terms, the Moravian missionaries refused



to sign the agreement, stating that all of the land in the Moravian tract was required to keep "White People from settling too near them, a Circumstance which has always proved injurious to [their] Indian mission."<sup>75</sup>

Pursuant to an Order-in-Council dated September 21, 1837 "the high road leading to Sandwich" was "considered to be the Southern boundary" of the tract ceded to the Crown by the Moravian Indian people on October 25, 1836.<sup>76</sup> On November 2, 1837, John Macaulay, Surveyor General, directed Alexander MacIntosh, Deputy Surveyor, to "ascertain and lay down with great care, the position and direction of the Road, which forms the southern boundary of the tract intended to be sold" and to extend the concession lines from the north side of the road "to the River," so that if the lots within the reserved tract were at some point sold, the owners of them would have access to the river.<sup>77</sup> MacIntosh's survey, completed on April 26, 1838, did not indicate whether or not that part of the Thames River in Zone Township was considered part of the Moravian Tract.<sup>78</sup> On January 22, 1845 Surveyor General Thomas Parke directed Benjamin Springer to survey "the outlines of the site of the Old Village" of Fairfield which had been reserved from the tract ceded to the Crown on October 25, 1836.<sup>79</sup> In accordance with the wishes of Colonel J.B. Clench, Superintendent of Indian Affairs for the Western Superintendency, Springer noted that the "Indian

Reserve," located on the north side of the public road, consisted of 219 acres.<sup>80</sup> While surveying, Springer noted that the "old [public] road" also referred to as "Long Woods Road", had been rarely used since the construction of the "new plank road" which he believed would "be permanent" and suggested that the "new plank road" be made the southern boundary of the land ceded by the Moravian Indian people in 1835.<sup>81</sup> The Moravian Indian people agreed to this recommendation.<sup>82</sup> On July 23, 1845 T. Bouthillier, of the Crown Lands Department, directed Springer "to establish the Plank Road as the boundary between the Indian Reserve and Crown Lands in the County of Zone."<sup>83</sup> Springer's survey, like that made by Abraham Steers in 1844, did not indicate whether or not that part of the Thames River in Zone Township was at that time considered part of the Moravian Tract.<sup>84</sup>

j) Lord Elgin's Proclamation of November 8, 1850 under The Indian Protection Act, 1850

On August 10, 1850 the Legislature of the Province of Canada passed The Indian Protection Act which provided "protection" of the "property occupied or enjoyed" by the Indian people in Upper Canada "from Trespass and Injury."<sup>85</sup> Lord Elgin's Proclamation dated November 8, 1850 put the lands reserved for the occupation of the Moravian Indian people in Zone and Orford Townships under the provisions of that Legislation. The area reserved in Zone Township was defined as follows:

Bounded on the north-west by the road leading from London to Chatham, on the south-east by the River Thames, on the north-east by the Township of Mosa, and on the south-west by the Township of Camden, including the site of the Old Moravian Village in the said Township of Zone, County of Kent, and bounded on the East by the road allowance between the seventh and eighth concessions, on the north by lot lettered No. in the seventh concession, on the west by lots E. F. H & L in the seventh concession, and on the south-east by the road leading from London to Chatham [emphasis added].<sup>86</sup>

The land reserved in Orford Township was described as being

Bounded on the North-west by the River Thames, on the south-east by the sixth concession of Orford aforesaid, on the north-east by the Township of Aldborough, and on the south-west by the Township of Howard, excepting the lands granted to Jacob Henkill on the River Thames [emphasis added].<sup>87</sup>

Lord Elgin's Proclamation of 1850 made no specific reference to the bed of the Thames River.

k) Cessions #93, April 9, 1857 and #93<sup>2</sup> May 15, 1857

In a report of February 13, 1857, Thomas Worthington, Commissioner of Indian Affairs, stressed the importance of having the "Delaware or Moravian Indian people" surrender to the Crown a large portion of their lands in Zone and Orford Townships.<sup>88</sup> Like Thomas Worthington, R. S. Pennefather, Superintendent General of Indian Affairs, was interested in the Moravian Tract noting that the "peculiar position in which the Moravian Reserve is situated and the control which may be exercised over the Indian people residing on it in

consequence of the incompleteness of their Title" made it a "spot well fitted for [an] experiment of locating the tribe on small lots and throwing open the remainder of the Tract for Settlement".<sup>89</sup> Pennefather suggested that the Moravian Indian people surrender all of their land except "3000 acres including the Moravian Village to be laid out in small farms for the present Indian Occupants" proposing that the Crown pay the Indian people an annuity of £4,000 and compensate them for any of the improvements that they had made.<sup>90</sup>

By the 1850's most of the Moravian Indian people had converted from the Moravian denomination to Methodism. Numerous disagreements occurred between the Indian people and the resident Moravian missionary, Jesse Vogler.<sup>91</sup>

R.T. Pennefather, Froome Talfourd, and Thomas Worthington, Commissioners appointed on September 8, 1855 "to investigate Indian Affairs in Canada," reported that although the "Moravian Delawares" possessed "the richest land in the Country, they raised so little food that within the last two years many families have been in a starving condition."<sup>92</sup> At the recommendation of Pennefather, Sir Edmund Walker Head, Governor General of British North America, including Canada West (Upper Canada) granted the Commissioners permission to negotiate surrenders with the "Moravian Delawares" without consulting the resident Moravian missionary.<sup>93</sup>

On April 9, 1857 the "Chiefs and Leading Men of the Delaware Nation of Indian people residing on the Moravian Reserve" signed an indenture (Cession #83) surrendering to the Crown the "tract adjoining the River Thames, in the Townships of Zone and Orford, known as the Moravian Reserve." Conditions of the surrender included:

Firstly: That a sufficient quantity shall be reserved for the purpose of being divided among the Indian people of the first part in lots as shall be hereafter agreed upon.

Secondly: That each family to whom a farm shall be so allotted shall receive a written document giving to them and their children exclusive occupation of such lot.

Thirdly: That a house shall be built for each family who may be removed from their present farms on the tract now surrendered.

Fourthly: Any Indian family so removed shall receive the value of their improvements as appraised by a competent party.

Fifthly: The whole proceeds of the sale of the tract now surrendered shall, after deducting the expenses incurred in carrying out the above recited conditions, be held in trust for the benefit of the Indian people of the first part, and their children, for ever.

Sixthly: The interest so arising shall be payable half yearly to the Indian people of the first part.<sup>94</sup>

This surrender was witnessed by R. T. Pennefather, T. Worthington and F. Talfourd, sixteen of the "Moravian Delawares" and the two resident Moravian missionaries, J. Vogler and L. E. Vogler. The intent of this surrender was to cede all of the rest of the Moravian

Tract, as originally granted in 1793, that had not already been ceded in exchange for a Indian Reserve that was to be subsequently established from part of the Moravian Tract.

On April 23, 1857 R. T. Pennefather, Superintendent General of Indian Affairs, instructed Francis H. Lynch, Provincial Surveyor, to survey the Moravian Indian Reserve "composed of the north westerly part of the township of Orford, and that portion of Zone which lies opposite it, between the River Thames and the main road leading from Chatham to London." Lynch was told to begin his survey by establishing the boundaries of that part of the tract designated as an Indian Reserve:

Your first operation will be to plant a Post on the south Bank of the River Thames at the Mouth of the Saw Mill Creek, thence running a line southward parallel to the western Boundary line of the said township of Orford, a distance of two Statute Miles, thence Eastward on a line parallel to the northerly boundary of the sixth concession of the Southerly part of the said Township of Orford, a like distance of two miles; and thence Northward on a course parallel to the first mentioned line, a distance of two Miles more or less to the River Thames [emphasis added] 95

He was also to "appraise the value of any Indian improvements outside of [the reserve's] limits, including the frontage on the North Side of the river" in Zone Township before surveying and subdividing the surrendered land into farm lots. The survey plan prepared by Lynch does not clearly indicate the



location of the northern boundary of the Moravian tract in Orford Township.<sup>96</sup> Lynch's survey was based on a "Report of the Committee of the Honorable the Executive Council" dated June 2, 1857 which stated that the reserve would consist of "two miles square, including [the Moravian Indian people's] present village and church thereby giving each family "a small farm of about 35 acres."<sup>97</sup>

On May 15, 1857 the "Chiefs and leading men of the Delaware Nation of Indian people" signed an indenture (Cession #83<sup>2</sup>) ceding "in trust to be sold for their benefit, the tract adjoining the River Thames" in Zone and Orford Townships. This surrender was subject to the same six conditions outlined in Cession #83 and was witnessed by the same representatives of the Crown, the Moravian missionaries, and the "Moravian Delawares."<sup>98</sup>

In his report for the year 1857 R. T. Pennefather stated that "that large block of land in the valley of the Thames" had been surrendered by "the miserable remnant of the Delawares in whose hands it lay so long neglected and waste." He explained the importance of this surrender:

Independent of the intrinsic value of the soil, and the timber which still remains upon it, the condition of the tract situated in the middle of the most fertile parts of Canada West was a great inconvenience to the neighbouring settlers, who might wish to pass through the township or into the adjoining

Counties. So long as the land was kept as an Indian Reserve, they were obliged to travel many miles out of their way.<sup>99</sup>

Sales of the lands surrendered by the "Moravian Delawares" were not, however, as profitable as Pennefather had thought and in 1859 he recorded that 4,774 acres of the 30,000 acres surrendered were unsold and that those lands purchased from the Crown were sold at "about one-half of what it was valued two years ago."<sup>100</sup>

1) Conditions since 1857

Land surrendered or land cessions since 1857, like those made prior to that date by the Moravian of the Thames Indian Band, contain no references to the bed of the Thames River.<sup>101</sup> In addition, on plans of Moravian Indian Reserve #47 prepared by W.G. McGeorge, Ontario Land Surveyor, in 1902, and G. Babbage, Ontario Land Surveyor, in 1959, there is no reference to the bed or the water of the Thames River.<sup>102</sup> Since 1857, the Government of Ontario has administered and controlled the bed of the Thames River as Crown land in right of the Province.<sup>103</sup>



## III SUMMARY

1. With the encouragement and assistance of members of the Indian Department the Moravian Indian people and missionaries migrated in May 1792 from the Ohio River valley to the present day Townships of Orford and Zone in Kent County where they established a settlement called Fairfield. Prior to the arrival of the Moravian Indian people and Missionaries in the Thames River valley, the Chiefs of the Ottawa, Ojibwa (Chippewa), Pottowatomi and Huron Indian People ceded to the British Crown the area along the Thames River now known as Orford Township in Kent County. The historical documentation does not state whether or not the Ojibwa (Chippewa) ceded the Thames River and the bed of that river prior to or after 1793.
2. Pursuant to an Order-in-Council dated July 10, 1793, the Crown granted to the Moravian Indian people and missionaries the tract of land on which they had settled "located on a width of six and three quarter miles about their village, extending twelve miles back on the south side and northward to the purchase line." This document contains no reference to the bed of the Thames River.
3. On July 8, 1822 the Ojibwa (Chippewa) Indian people surrendered to the Crown (Cession #25) the area now known as Zone Township. No reference was made to the bed of the Thames River in this cession. In 1829 Mahlon

Burwell surveyed the boundaries of the Moravian tract to extend six miles north and six miles south of the Thames River. His field notes and plan of the survey contain no reference to the bed of the Thames River.

4. On October 25, 1835 the Moravian Indian people surrendered (Cession #47) their lands north of the Thames River. There is no record extant indicating whether or not the Moravian Indian people intended to cede or to not cede the bed of the Thames River. Pursuant to an Order-in-Council dated September 21, 1837 the Longwoods Road in Zone township was made the southern boundary of the purchase of 1835. Two hundred and nineteen acres located north of the Longwoods Road were reserved for the Moravian Indian people. In 1845 the Moravian Indian people agreed to make the Plank Road rather than the Longwoods Road the southern boundary of the land which they had ceded in 1835.
5. On April 9, 1857 the "Delaware Nations of Indian people residing of the Moravian Reserve" surrendered (Cession #83) their lands in Zone and Orford Townships adjoining the Thames River. By this Cession document the "Delaware Nation of Indian people Residing on the Moravian Reserve" ceded the tract on the Thames River that had been granted in trust to the Moravian Indian people and missionaries in 1793. An Indian Reserve was subsequently established for them south of the Thames

River. There is no record extant indicating whether or not that Indian Reserve included the bed of the Thames River.

6. Land surrenders or other land cessions since 1857, like those made prior to that date by the Moravian of the Thames Indian Band, contain no references to the bed of the Thames River. In addition, on plans of Moravian Indian Reserve #47 prepared by W.G. McGeorge, Ontario Land Surveyor, in 1902, and G. Babbage, Ontario Land Surveyor, in 1959, there is no reference to the bed or the water of the Thames River. Since 1857 the Government of Ontario has administered and controlled the bed of the Thames River as Crown Land in right of the Province.

NOTES

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- 2 Ives Goddard, "Delaware" in Handbook of North American Indian people, Vol. 15, Northeast, edited by Bruce G. Trigger (Washington: Smithsonian Institution, 1978), pp. 213-239.
- 3 For a discussion of the way in which Moravian missionaries converted some of the Delaware Indian people see Wilcomb E. Washburn's The Indian in America (New York: Harper and Row, 1975) and Anthony C. Wallace's biography, King of the Delawares: Teedyuscung 1700-1763 (Philadelphia: University of Pennsylvania Press, 1949).
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- 5 Fred Coyne Hamil, "Fairfield on the River Thames," Ohio Archaeological and Historical Society, Vol. 48, 1939, p.1.
- 6 David Zeisberger, Diary, translated and edited by Eugene F. Bliss, Vol. II, (Cincinnati: Robert Clarke and Co., 1885), p. 154 (Hereafter cited as Zeisberger).
- 7 Zeisberger, p. 232.
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- 12 "The Royal Proclamation of 1763", in Documents Relating to the Constitutional History of Canada, 1759-1791, edited by A. Shortt and A.D. Doughty (Ottawa, 1981), pp. 123-129.
- 13 Canada, Indian Treaties and Surrenders, 1680-1890, Vol. I, (Toronto: Coles Publishing Company, reprinted ed. 1971), p.2.
- 14 Hamil, Valley of the Lower Thames, p.3.
- 15 Kewatin Power Co. V. Kenora (1908) 16 O.L.R. 184 per Meredith, J.A.
- 16 Zeisberger, p. 252.
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- 18 Zeisberger, p. 293.
- 19 Zeisberger, p. 294.
- 20 Zeisberger, p. 300.
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- 22 Zeisberger, p. 302. The Moravian missionaries and Indian people were eager to gain Simcoe's support. In a letter of February 6, 1793, they congratulated him on his appointment "to the government of Upper Canada" and expressed their confidence in his abilities. Archives of Ontario, (hereafter cited OA), Simcoe Papers, Series A-2, MS 517(5), n.p.
- 23 Simcoe to Dundas, September 20, 1793, in The Correspondence of John Graves Simcoe, edited by E.A. Cruikshank, Vol. II (Toronto: Ontario Historical Society), p.56.
- 24 Fred Landon, Western Ontario and the American Frontier (Toronto: McClelland and Stewart Ltd., 1957), p.13.
- 25 Gerald M. Craig, Upper Canada: The Formative Years, 1784-1841. (Toronto: McClelland and Stewart, 1963), p. 35.
- 26 Zeisberger, p. 311.
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- 28 Ontario Ministry of Natural Resources, Survey Records, Survey Notes, Vol. I. Patrick McNiff, "The Course of the River Thames," p. 204.

- 29 Zeisberger, p. 311 and Hamil, The Valley of the Lower Thames p. 36.
- 30 Zeisberger, p. 311.
- 31 Zeisberger, p. 312. See Hamil for a discussion of the problems McNiff encountered when surveying and for Surveyor General D.W. Smith's opinion of the surveyor.
- 32 OA, R.G. 1, A-II-I, Vol. 1, "Report Book of the Crown Lands Department, 1795-1799," p. 119; Report of the Department of Public Records and Archives of Ontario, 1929, p. 39; Public Archives of Canada (hereafter cited PAC), R.G. 10, Vol. 711, Indian Affairs, Indian Department, "Orders in Council", p. 25.
- 33 Zeisberger, p. 320.
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- 42 Ontario Ministry of Natural Resources, Survey Records, Instructions to Land Surveyors Ontario Crown Surveys, Vol. 3, From June 1, 1795 to December 6, 1819, D.W. Smith to A. Iredell, February 26, 1799, p. 89.

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- 44 Ibid., pp. 90-91.
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- 46 Ontario Ministry of Natural Resources, Survey Records, Instructions to Land Surveyors Ontario Crown Surveys, Vol. 3, From June 1, 1795 to December 6, 1819, D.W. Smith to A. Iredell, February 28, 1799, pp. 91-92.
- 47 OA, R.G. 1, A-I-6, Vol. 3 #1, Crown Lands Papers, Letters Received by the Surveyor General, Senseman to Smith, March 25, 1799, p. 2249.
- 48 OA, R.G. 1, A-I-7, Box 7, Crown Lands Department, Letters regarding Indian Lands, 1793-1805, James Green to William Chewitt and Thomas Ridout, May 31, 1803, Letter No. 2, n.p.
- 49 MNR Survey Records, Instructions to Land Surveyors, Ontario Crown Surveys, Vol. 3. From June 1, 1795 to December 6, 1819, William Chewitt and Thomas Ridout to Abraham Iredell, June 3, 1803, p.138.
- 50 MNR Survey Records, Instructions to Land Surveyors, Ontario Crown Surveys, Vol. 3, From June 1, 1795 to December 6, 1819, William Chewitt and Thomas Ridout to Abraham Iredell, December 12, 1803, p. 145.
- 51 MNR Survey Records, "Field Notes of Orford", December 1803 by A. Iredell, Book 558 and Field Notes Transcribed from Original Books, Vol. 13, pp. 176-178. No reference to a survey plan of Orford by Iredell was found in MNR Survey Records or in the Archives of Ontario's Map Collection.
- 52 For a description of the rules governing Moravian Communities see Moravian Missionary John Heckewelder's A Narrative of the Mission of the United Brethren among the Delaware and Mohican sic Indian people from its Commencement, in the year 1740, to the Close of the year 1808 (Reprinted, New York: Arno Press, 1971), pp. 122-124. The Moravian Missionaries stipulated that "No man inclining to go to war, which is the shedding of blood, can remain among us" (p. 124). The circumstances of the War of 1812, however, seem to have made the involvement of the Moravian Indian people acceptable to the missionaries.
- 53 PAC, Upper Canada Sundries, Abraham Luckenbach to Sir Peregrine Maitland, June 20, 1821, and quoted in Hamil, The Valley of the Lower Thames, p. 105.



- 54 PAC, R.G. 10, Vol. 715, Indian Department, Indian Claims, R. James, President of the Board of Claims at Sandwich to Lieutenant General Sir G. Drummond, December 12, 1815, n.p.
- 55 See O.K. Watson "Moraviantown," Ontario Historical Society Papers and Records Vol. 38, (1932), pp. 125-131, C.A. Weslanger, The Delaware Indian people: A History (New Brunswick: Rutgers University Press, 1972), pp. 347-348, and Frederick Coyne Hamil, "Fairfield on the River Thames," Ohio Archaeological and Historical Society, Vol. 48 (1939), pp. 1-19.
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- 57 Hamil, Valley of the Lower Thames, p. 106.
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- 59 Canada, Indian Treaties and Surrenders, 1680-1890, Vol. 1, pp. 49-50, and 58-60, Vol. 2, pp. 281-282 (Toronto: Coles Publishing Company, reprinted ed. 1971).
- 60 Ibid., Vol. I, p. 59.
- 61 MNR Survey Records, Instructions to Land Surveyors, Ontario Crown Surveys. From January 4, 1820 to August 5, 1844. Vol. 4, Thomas Ridout to Mahlon Burwell, February 27, 1821, pp. 60-63.
- 62 Hamil, The Valley of the Lower Thames, p. 108.
- 63 PAC, Upper Canada Sundries, Abraham Luckenbach to Sir Peregrine Maitland, June 20, 1821, and noted in Hamil, The Valley of the Lower Thames, p. 108.
- 64 OA, R.G. 1, A-I-2, Vol. 25, Surveyor General's Letter Books, Thomas Ridout to Mahlon Burwell, July 2, 1821, p. 207.
- 65 OA, R.G. 1, A-I-2, Vol. 25, Surveyor General's Letter Books, Thomas Ridout to Mahlon Burwell, July 30, 1821, pp. 243-244. See also OA, R.G. 1, A-I-7, Box 7, No. 5, "Letters regarding Indian Lands," notation dated June 30, 1821, n.p.
- 66 MNR Survey Records, Field Note Book 666, "Diary of Zone, Orford, and Caradoc Indian Reserves" by Mahlon Burwell, p. 2.
- 67 MNR Survey Records, "Map showing the boundaries and extent of the Reservation for the Moravian Indian people, in the Townships of Zone and Orford", by Mahlon Burwell, dated June 18, 1830. Burwell was given 2,400 acres of land in Zone township "reserving all navigable waters within the same as



payment for his surveying (Ontario Ministry of Government Services, Official Documents Section, Province of Upper Canada Patent to Mahlon Burwell, August 25, 1823).

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- 69 OA, Imperial Blue Books, Box 9, No. 93, 1839, "Correspondence Respecting the Indian people in the British North American Colonies", Reverend Andrew Benade, Bishop of the Brethren's Church and President of the Society for Propogating the Gospel Among The Heathen, to Reverend P. Latrobe, July 5, 1837, p. 105.
- 70 Ibid., p. 105.
- 71 Ibid., p. 105.
- 72 Canada, Indian Treaties and Surrenders, 1630-1890, Vol. 1, (Toronto: Coles Publishing Company, reprinted ed. 1971), pp. 115-117.
- 73 Op. cit., p. 105.
- 74 Ibid., p. 105.
- 75 Ibid., p. 105. See also PAC, R.G. 10, Vol. 117, Indian Department, 1839-1850, Macaulay Report (1839), pp. 168741-168742; 168764-168771; ~~168845-168846~~.
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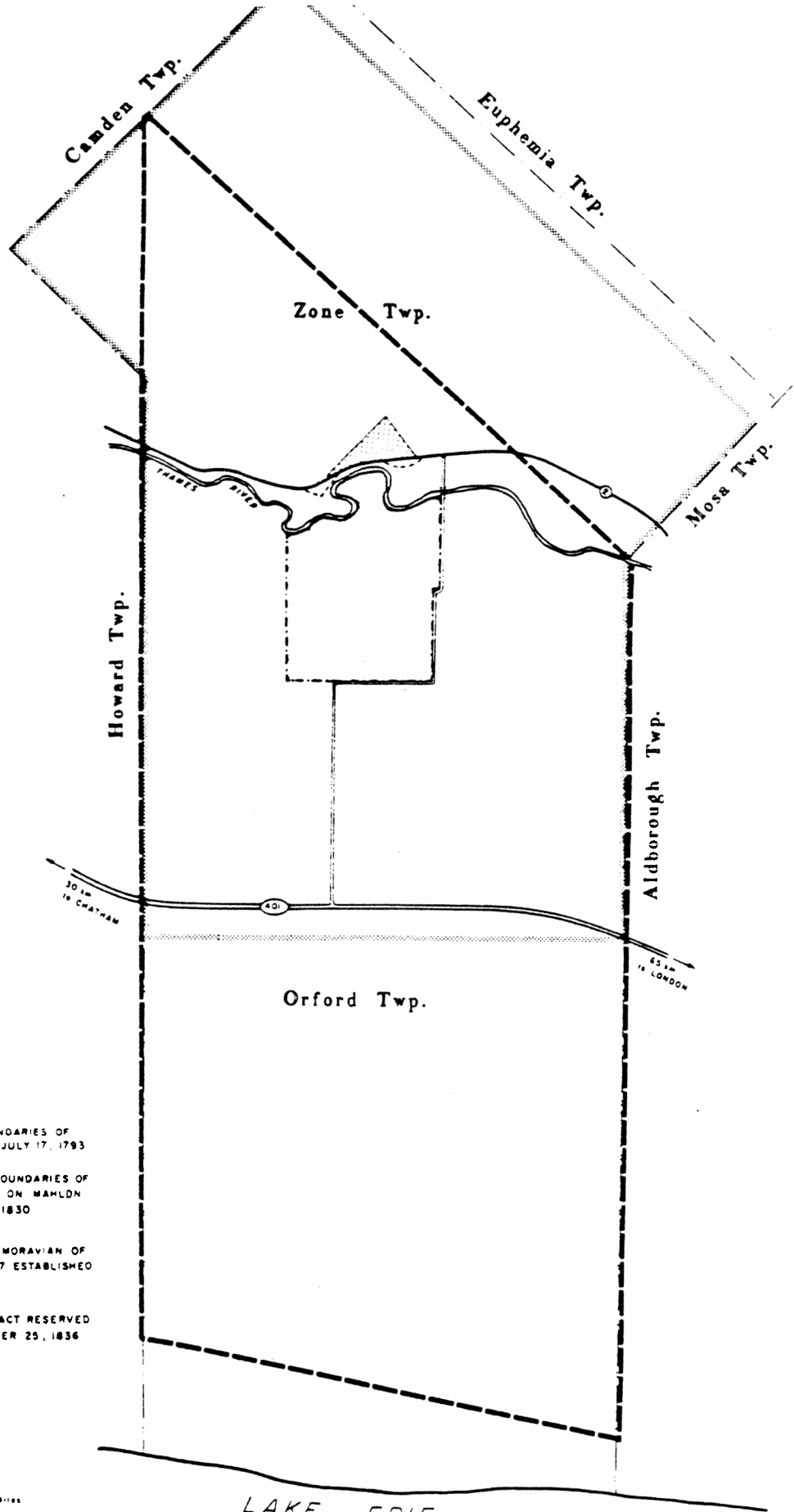
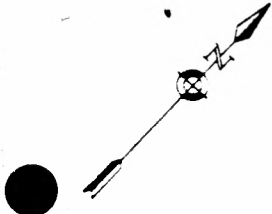
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- 90 R.T. Pennefather in Ibid., p. 145.
- 91 Hamil, The Valley of the Lower Thames, p. 198.
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- 94 Canada, Indian Treaties and Surrenders, 1580-1890, pp. 215-215.
- 95 OA, R.G. 1, A-I-7, Box 8, Indian Lands, 1857-1859, R.T. Pennefather to Francis H. Lynch, April 23, 1857, n.p.

- 96 MNR Survey Records, "Plan of the Reserve of the Delaware Indian people in the Township of Orford, County of Kent, Known as Moravian Indian Reserve," by Francis H. Lynch, September 23, 1857, Map #90185.
- 97 Canada, Indian Treaties and Surrenders, 1680-1890, Vol. 1, p. 216. The recommendations contained in the "Report of the Committee of the Executive Council" were approved on June 3, 1857 by the Governor General. See PAC, R.G. 10, Vol. 711, Orders-in-Council, p. 180.
- 98 Canada, Indian Treaties and Surrenders, 1680-1890, Vol. 1, p. 217.
- 99 PAC, R.G. 10, Vol. 714, Blue Pages, R.T. Pennefather, "Report of the Indian Department for the Year 1857," dated December 28, 1857, n.p.
- 100 OA, R.G. 1, A-I-7, Box 8, Indian Lands, R.T. Pennefather to the Governor General, January 11, 1859, in "Correspondence Respecting Alterations in the Indian Department," p. 27.
- 101 Department of Indian and Northern Affairs, Reserve General Register for the Moravian or Orford Indian Reserve #47.
- 102 MNR Survey Records, "Plan of the Moravian Indian REserve in the Township of Orford," resurveyed by W.G. McGeorge and dated 1902, #90177, and "Plan of Reserve and Subdivision of Moravian Indian Reserve," by G. Babbage, dated 1959, #90254.
- 103 The British North American Act, 30 & 31 Victoria, Chap. 3 (U.K.).








## APPENDIX

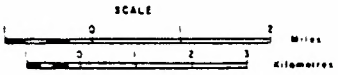
MAP 1:

Approximate Boundaries of the Moravian Tract,  
1793-1835



**LEGEND**

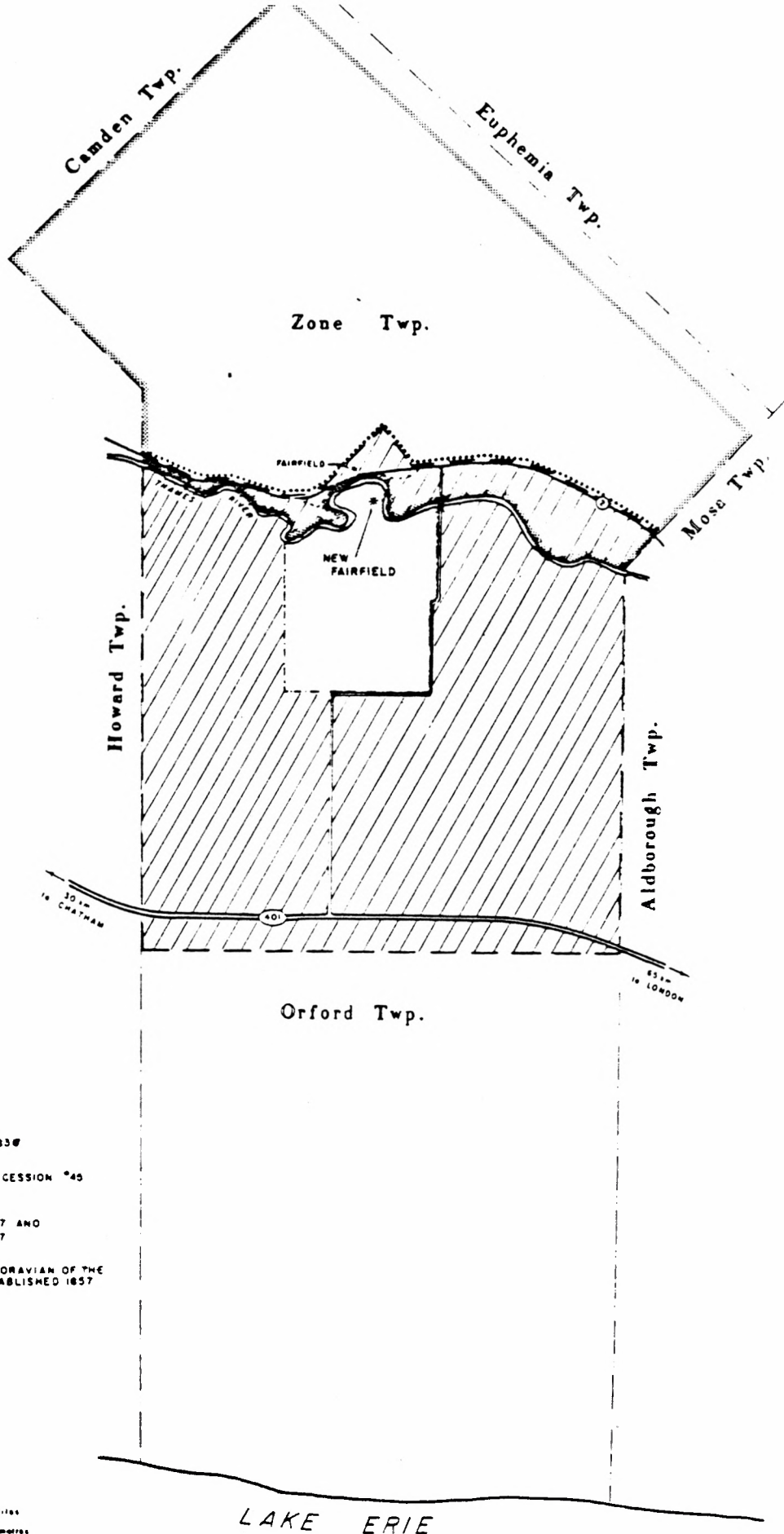
-  APPROXIMATE LOCATION OF THE BOUNDARIES OF THE "MORAVIAN TRACT" GRANTED JULY 17, 1793
-  APPROXIMATE LOCATION OF THE BOUNDARIES OF THE MORAVIAN "TRACT" INDICATED ON MAHLDN BURWELL'S MAP DATED JUNE 18, 1830
-  APPROXIMATE LOCATION OF THE MORAVIAN OF THE THAMES INDIAN RESERVE #47 ESTABLISHED 1827
-  APPROXIMATE LOCATION OF THE TRACT RESERVED FROM CESSION #45 DATED OCTOBER 25, 1836
-  TOWNSHIP BOUNDARY
-  PLANK ROAD (Hwy 2)
-  LONGWOOD ROAD



**MORAVIAN OF THE THAMES INDIAN LAND CLAIM  
APPROXIMATE BOUNDARIES OF THE MORAVIAN TRACT 1793-1836**

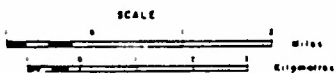
Map 2:

Land Cessions, 1836-1857



**LEGEND**

- ..... CESSION #45 DATED OCTOBER 25, 1837
- ..... REVISED SOUTHERN BOUNDARY OF CESSION #45 DATED JUNE 25, 1845
- ▨▨▨ CESSION #83 DATED MARCH 10, 1857 AND CESSION #83 DATED JUNE 16, 1857
- ▨▨▨ APPROXIMATE LOCATION OF THE MORAVIAN OF THE THAMES INDIAN RESERVE #47 ESTABLISHED 1857
- (2)— PLANK ROAD (May 2)
- LONGWOOD ROAD



**MORAVIAN OF THE THAMES INDIAN LAND CLAIM  
LAND CESSIONS, 1836-1857**